



HIGH COURT OF AUSTRALIA

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Details of Filing

File Number: P5/2022
File Title: Electricity Networks Corporation Trading as Western Power v.
Registry: Perth
Document filed: Form 27B - Appellant's chronology
Filing party: Appellant
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Important Information

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IN THE HIGH COURT OF AUSTRALIA
PERTH REGISTRY

No. P5 of 2022

BETWEEN:

**ELECTRICITY NETWORKS CORPORATION T/AS
WESTERN POWER (ABN 18 540 492 861)**
Appellant

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and

**HERRIDGE PARTIES (PER ORDER MADE BY
JUSTICE MITCHELL ON 28 OCTOBER 2019)**
First Respondents

and

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**IAG/ALLIANZ PARTIES (PER ORDER MADE BY
JUSTICE MITCHELL ON 28 OCTOBER 2019)**
Second Respondents

and

**RAC PARTIES (PER ORDER MADE BY
JUSTICE MITCHELL ON 28 OCTOBER 2019)**
Third Respondents

and

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NOREEN MERLE CAMPBELL
Fourth Respondent

and

**VENTIA UTILITY SERVICES PTY LTD (ACN 010 725 247)
(FORMERLY KNOWN AS THIESS SERVICES LTD)**
Fifth Respondent

APPELLANT'S CHRONOLOGY

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PART I:

1. This chronology is in a form suitable for publication on the internet.

PART II:

2. The following table sets out a chronology of principal events in the litigation:

DATE	EVENT	CAB REF
Since approx. 1970	The fourth respondent (Mrs C) and her late husband commenced occupation of 180 Granite Road, Parkerville (Property).	Trial Judgment (TJ)[44]; Core Appeal Book (CAB) 32
Between 1978 and 1983	<p>The following was provided and installed by Mrs C's late husband: the PA pole, a mains connection box, an attachment hook, a consumer mains cable in a PVC conduit, a switchboard enclosure, a meter panel, 3 submains fuses, a mains neutral link, a mains switch and a submains cable in a PVC conduit.</p> <p>When the above was provided and installed, the predecessor of the appellant (WP) connected electricity to the Property, by hooking an aerial service cable to the PA pole's attachment hook and connecting it to the mains connection box at the top of the PA pole.</p> <p>The PA pole and the land in which it was embedded were owned by the Campbells (and since Mr C's death, by Mrs C alone).</p>	TJ[34], [45]; CAB 29, 32 Court of Appeal Judgment (J) [16], [31]-[35]; CAB 408, 411-412
1 April 2006	WP was established by s 4 of the <i>Electricity Corporations Act 2005</i> (WA) and was allocated assets, rights and liabilities of the former Electricity Corporation, relating to	TJ[29]; CAB 27 J[14]; CAB 408

	WP's position as the network operator of the electricity distribution system in the South West Interconnected System (SWIS).	
Before 2010	The PA pole probably ceased to be serviceable. It lacked the structural capacity to withstand forces likely to be applied to it, even though it was strong enough to remain standing at that time.	TJ[136]; CAB 51 J[50]; CAB 416
February 2011	Mrs C's husband passed away.	TJ[44]; CAB 32
28 March 2013	WP and Thiess made a "Deed of Amendment and Restatement Services Umbrella Deed – Distribution Network Construction, Maintenance and Management Services" (Umbrella Deed).	TJ[37], [228]; CAB 30, 74 J[23]-[27]; CAB 409-410
27 June 2013	Pursuant to the Umbrella Deed, WP and Thiess made a contract by the execution of Works Order 3999. Works Order 3999 provided for services to be provided by Thiess, which included replacing the PA pole.	TJ[149]; CAB 53 J[39]-[40]; CAB 413
11 July 2013	Clinton Duffy, an Area Supervisor for Thiess for Works Order 3999, attended the Property to scope the works required on 19 July 2013.	TJ[40]; CAB 30-31 J[40]; CAB 413
19 July 2013	Work under Works Order 3999 was carried out by a Thiess line crew. The assigned tasks were to replace three poles during the outage: (1) the termination pole (pole 252260) from which the service cable	TJ[41]-[42]; CAB 31-32 J[41]-[44]; CAB 414

	<p>was strung to the mains connection box at the top of the PA pole; (2) a pole across the road from the cross-arm pole adjacent to the termination pole; and (3) a pole further uphill (at 1190 Johnstone Road).</p> <p>As part of the job of replacing the termination pole, Works Order 3999 required the removal and replacement of the existing aerial service cable with a new 6mm cross-linked polyethylene insulated 415V, three-phase aerial service cable between the termination pole and the PA pole.</p> <p>The line crew detached the old service cable from the mains connection box on the PA pole and from the attachment hook and lowered it to the ground. The line crew detached the other end of the old service cable from the termination pole. The line crew installed a new termination pole. The line crew shifted the aerial bundled cable between the cross-arm pole and the termination pole from the old termination pole to the new termination pole. The line crew attached the new service cable to the wedge clamps on the new termination pole and attached the new service cable to the new wedge clamp on the PA pole. They then tested the new connections.</p> <p>Leonard Bartosch, a leading hand employed by Thiess and the leader of the line crew, inspected the PA pole before work</p>	<p>TJ[166]-[167], [453]; CAB 59, 134</p>
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	<p>commenced. Mr Bartosch did not dig around the base of the PA pole to a depth and a distance away from the PA pole to enable him to carry out a hammer test at and below the zone of the PA pole which ultimately failed.</p>	J[43]; CAB 414
12 January 2014	<p>The PA pole failed below the ground line due to fungal decay and damage by termites and fell towards the ground.</p> <p>As the PA pole fell, a conductor owned by Mrs C, the submains cable, was pulled through the cable hole at the base of Mrs C's switchboard enclosure affixed to the PA pole. This exposed the conductor's insulation to the sharp metallic edges of the hole, damaging the insulation. This caused an unplanned discharge of electricity (a short circuit fault) resulting in arcing, igniting the dry vegetation around the base of the PA pole and starting the Parkerville bushfire.</p> <p>The fire burnt approximately 392 ha of bushland resulting in the destruction of 57 homes and a number of outbuildings. Six more homes were partially damaged.</p>	<p>TJ[1]-[2], [17], [19], [21], [105]-[111]; CAB 20, 23-25, 44-45</p> <p>J[46]-[49]; CAB 415</p>
11 August 2015	<p>The Herridge parties commenced proceeding CIV 2259 of 2015 against WP and Thiess in the Supreme Court of Western Australia.</p>	<p>TJ[3]; CAB 20</p> <p>J[3]; CAB 404</p> <p>CAB 729</p>

14 December 2015	The Herridge parties joined Mrs C as a defendant to proceeding CIV 2259 of 2015 in the Supreme Court of Western Australia.	TJ[3]; CAB 20 J[3]; CAB 404 CAB 729
18 February 2016	The Allianz parties commenced proceeding CIV 1239 of 2016 against WP, Thiess and Mrs C in the Supreme Court of Western Australia.	TJ[3]; CAB 20 J[3]; CAB 404
18 March 2016	The RAC parties commenced proceeding CIV 1445 of 2016 against WP, Thiess and Mrs C in the Supreme Court of Western Australia.	TJ[3]; CAB 20 J[3]; CAB 404 CAB 729
23 May 2016	The IAG parties commenced proceeding CIV 1841 of 2016 against WP, Thiess and Mrs C in the Supreme Court of Western Australia.	TJ[3]; CAB 20 J[3]; CAB 404
16 July 2018 – 30 August 2018	Trial in the Supreme Court of Western Australia before Le Miere J.	CAB 9
27 March 2019	Reasons for judgment published by the Supreme Court of Western Australia (Le Miere J): <i>Herridge v Electricity Networks Corporation t/as Western Power [No 4]</i> [2019] WASC 94.	CAB 9-176
20 September 2019	Supplementary reasons for judgment published by the Supreme Court of Western Australia (Le Miere J): <i>Herridge v Electricity Networks Corporation t/as Western Power [No 4]</i> [2019] WASC 94 (S).	CAB 177-215

20 September 2019	Orders made by the Supreme Court of Western Australia (Le Miere J).	CAB 219-224, 227-238, 241-246, 249-255
3 October 2019	Mrs C filed notices of appeal in the Court of Appeal of the Supreme Court of Western Australia.	CAB 272-282, 284-290, 296-301, 303-312
4 October 2019	The Allianz parties filed a notice of appeal in the Court of Appeal of the Supreme Court of Western Australia.	CAB 314-319
8 October 2019	The RAC parties filed a notice of appeal in the Court of Appeal of the Supreme Court of Western Australia.	CAB 324-329
9 October 2019	The RAC parties filed a notice of cross appeal in the Court of Appeal of the Supreme Court of Western Australia.	CAB 291-294
11 October 2019	The IAG parties and Thiess filed notices of appeal in the Court of Appeal of the Supreme Court of Western Australia; and Thiess filed notices of cross appeal in the Court of Appeal of the Supreme Court of Western Australia.	CAB 331-346, 354-358, 363-366, 370-376, 377-383 CAB 271, 283, 295, 302, 313, 320-323, 330, 347-353
15 October 2019	The RAC parties and IAG/Allianz parties filed notices of cross appeal in the Court of Appeal of the Supreme Court of Western Australia.	CAB 359-362, 367-369, 384-394

22 October 2019	Orders made by the Supreme Court of Western Australia (Le Miere J) in CIV 1445 of 2019 amending the orders of 20 September 2019.	CAB 225-226, 239-240, 247-248
30 October 2019	The Herridge parties filed a notice of appeal in the Court of Appeal of the Supreme Court of Western Australia.	CAB 258-270
8 March 2021 – 12 March 2021	Hearing of the appeals before the Court of Appeal of the Supreme Court of Western Australia (Buss P, Murphy and Mitchell JJA).	CAB 395
2 July 2021	Reasons for decision published and orders made by the Court of Appeal of the Supreme Court of Western Australia (Buss P, Murphy and Mitchell JJA): <i>Herridge Parties v Electricity Networks Corporation t/as Western Power</i> [2021] WASCA 111.	CAB 395-693
27 July 2021	WP filed 12 applications for special leave to appeal from the whole of the judgment of the Court of Appeal of the Supreme Court of Western Australia in this Court.	
17 March 2022	WP was granted special leave to appeal to this Court (Kiefel CJ, Gageler and Steward JJ) in each application and orders were made consolidating the appeals.	CAB 856-944
30 March 2022	WP filed its notice of appeal in this Court.	CAB 945
4 April 2022	The RAC parties filed a notice of submitting appearance in this Court.	CAB 963

6 April 2022	The Herridge parties, Mrs C and IAG/Allianz parties filed notices of cross appeal in this Court.	CAB 949-962
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Dated: 4 May 2022



Brahma Dharmananda SC
(08) 9460 5255
brahma@quaysidechambers.com