



**A•S•U**

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Tuesday May 26, 2015

General Manager  
Fair Work Commission  
GPO Box 1944  
MELBOURNE VIC 3001

By E-mail: [orgs@fwc.gov.au](mailto:orgs@fwc.gov.au)

**Australian  
Services  
Union**

**National Office  
Melbourne & Sydney**

*All correspondence to:*

Ground Floor  
116 Queensberry St  
Carlton South VIC 3053

T: (03) 9342 1400  
F: (03) 9342 1499  
E: [info@asu.asn.au](mailto:info@asu.asn.au)  
W: [www.asu.asn.au](http://www.asu.asn.au)

**National Secretary**  
David Smith

**Assistant National Secretaries**  
Greg McLean  
Linda White

Dear Sir/Madam

**Re: Application by the Australian Municipal, Administrative, Clerical and Services Union for an Alteration to Eligibility Rules**

Please find attached an Application by the Australian Services Union for consent to an alteration to its Eligibility Rules.

The Application is by way of the attached Form F68 and signed by the authorised National Officer, and the attached Declaration that the alteration was made in accordance with the Rules stating the actions taken under the Rules and verifying the facts stated in the application.

If you require further information, please do not hesitate to contact me at this office or Michael Rizzo email [mrizzo@asu.asn.au](mailto:mrizzo@asu.asn.au) or 03) 9342 1440.

Yours faithfully

**David Smith**  
National Secretary

Tel: +61 3 9342 1401  
Mobile: 0419 644 238  
E-mail: [dsmith@asu.asn.au](mailto:dsmith@asu.asn.au)

encl: Form F68  
Declaration  
Annexure A1  
Annexure A2

## Form F68 Application for consent to the alteration of eligibility rules of an organisation

Fair Work (Registered Organisations) Act 2009

Fair Work (Registered Organisations) Regulations 2009, paragraph 121(1)(b)

FAIR WORK COMMISSION

*FWC use only*

**FWC Matter No.:**

### Applicant Organisation

<b>Name:</b>	Australian Municipal, Administrative, Clerical and Services Union		
	<b>ABN:</b>	28 519 971 998	
<b>Address:</b>	Ground Floor, 116-124 Queensberry Street		
<b>Suburb:</b>	Carlton South	<b>State:</b> VIC	<b>Postcode:</b> 3053
<b>Contact person:</b>	David Smith, National Secretary		
	<b>Title [if applicable]</b>	Mr [ <input type="checkbox"/> ] Mrs [ <input type="checkbox"/> ] Ms [ <input type="checkbox"/> ] Other [ <input type="checkbox"/> ] specify:	
<b>Telephone:</b>	03 9342 1400	<b>Mobile:</b>	
<b>Fax:</b>	03 9342 1499	<b>Email:</b>	<a href="mailto:info@asu.asn.au">info@asu.asn.au</a>

### A. The Alteration

The alteration of the eligibility rules of the organisation for which consent is sought is that rule 5 INDUSTRY AND ELIGIBILITY be altered by amending PART XXI and by adding a new PART XXVIII of sub rule 5 b as follows:

**1. Amend Rule 5 b. PART XXI by deleting the following employers in paragraph 2:**

ETSA Corporation  
ETSA Power Pty Ltd  
ETSA Utilities Pty Ltd  
Transmission Lessor Corporation - (Trading as ElectraNet SA)  
SA Generation Corporation

**2. Amend Rule 5 b. PART XXI by adding “(a)” to paragraph 2 and inserting the following new employers:**

- (a) • SA Power Networks
- Electranet Pty Ltd
  - AGL Energy
  - Alinta Energy
  - International Power Ltd/GDF Suez
  - Synergen Power Pty Ltd
  - Energy Australia Pty Ltd (formerly TRUENERGY Pty Ltd)
  - Origin Energy Ltd
  - ATCO Australia Pty Ltd
  - Osborne Co-generation Pty Ltd, South Australia
  - Infigen Energy Ltd
  - AGL Hydro
  - Infratil Energy Australia Pty Ltd
  - Meridian Energy Australia
  - Pacific Hydro Pty Ltd
  - RATCH Australia Corporation Ltd
  - Flinders Operating Services Pty Ltd
  - Envestra Ltd

3. **Amend Rule 5 b. PART XXI by deleting paragraph 3 commencing with the words “hereinafter.....”.**
4. **Amend Rule 5 b. PART XXI by deleting paragraphs 4 to 12 ending in the words “...immediate or not;”.**
5. **Amend Rule 5 b. PART XXI by deleting paragraph 13 the words “shall be eligible to be members of the Union”.**
6. **Amend Rule 5 b. PART XXI by deleting paragraph 14 commencing with the words “Provided that, .....”.**
7. **Amend Rule 5 b. PART XXI by deleting paragraph 15 commencing with the words “joint venture, .....”.**
8. **Amend Rule 5 b. PART XXI by inserting a new paragraph (“the primary employers”) after the new PART XXI (a).**
9. **Amend Rule 5 b. PART XXI by inserting the following new paragraphs (b) to (f):**
  - (b) or any subsidiary or joint venture of any of the primary employers;
  - (c) or any successor, assignee or transferee to the business or part of the business of any of the primary employers whether immediate or not;
  - (d) or any or joint subsidiary or joint venture of any successor, assignee or transferee to the business or part of the business of any of the primary employers whether immediate or not;
  - (e) or any employer:
    - i. resulting from one primary employer taking over or otherwise acquiring the business or part of the business of another primary employer; or
    - ii. being a related body corporate to a primary employer within the meaning of the Corporations Law; or
    - iii. resulting from a series of relationships that can be traced between it and a primary employer under paragraph i or ii;

provided that the employers referred to in sub-paragraphs (b) to (e) are performing a substantial part of the same activities in or in connection with the South Australian power industry, as were performed by the primary employers and the employees of the employers referred to in sub-paragraphs (b) to (e) are performing some or all of the activities which were undertaken by the employees of the primary employers;
  - (f) or any other employer that under contract, lease, labour hire or outsourcing arrangement undertakes works, operations, functions, or services undertaken previously by a primary employer or undertaken previously by any successor, assignee or transferee whether immediate or not to the business or part of the business of a primary employer;
10. **Amend Rule 5 b PART XXI by a new paragraph immediately following sub paragraph (f) “shall be eligible to be members of the Union;”**
11. **Amend Rule 5 b PART XXI by deleting paragraph 18 commencing with the words “Note 1: ....”.**

**12. Add to Rule 5 b a new PART XXVIII as follows:**

**PART XXVIII**

Employees within the State of South Australia engaged in the generation, transmission, distribution and/or retailing of electricity in administrative, clerical, technical, engineering, scientific, professional, supervisory, managerial and operational classes of work; shall be eligible to be a member of the Union provided that:

employees eligible to be members of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Workers Union pursuant to its eligibility rules as at 1 October 2000 and/or employees of electrical and communication contractors who are employed and/or classified as general skilled workers as defined in the ETSA (Interim) Wages Award 1990 or who perform line tree clearance work or employees whose employment requires electrical skills as a requirement for their work and who perform electronic trades work, electronic communications work, electrical trades work, electrical trade assistants work, electrical fitting work, electrical mechanic work, electrical/electronic cable jointing work, powerline trade skilled work, mechanical trades work, electrical meter repair work or who also co-ordinate work teams as an ancillary function to their performance of any of the above primary work shall not be eligible to be members of the Union;

and provided further that under this Part employees who are eligible to be members of the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union of Australia (the AMWU) and who are performing mechanical and fabrication tradesperson or trade assistants work shall not be eligible to be members of the Union.

**B. Reason for the proposed alteration**

**PART XXI** is to name the successors to former employers named in Part XXI.


**PART XXVIII** is to provide for the continued existing coverage of defined classes of employees in the South Australian energy industry but without the requirement of naming each employer in the industry in the rule and to prevent a further necessity of ASU introducing new rules to name successor business each time a company changes hands or a new company enters the industry.

**C. Effect of the proposed alteration**

**PART XXI** will clarify the names of the current successors to employers named in PART XXI of rule 5b and will define the ASU's current coverage in the South Australia energy industry.

**PART XXVIII** This variation will within the current scope of the ASU South Australian energy industry coverage (of defined classes of employees) continue to provide existing coverage of the employees in the industry but without the inclusion of the name of each business in the rule and regardless of whether employment is in the public or private sector.

The defined classes are: employees engaged in administrative, clerical, technical, engineering, scientific, professional, supervisory, managerial and operational classes of work.

<b>Date:</b>	Tuesday May 26, 2015
<b>Signature or Common Seal:</b>	
	<b>David Smith</b> National Secretary Australian Municipal, Administrative, Clerical and Services Union

# APPLICATION FOR CONSENT TO THE ALTERATION OF ELIGIBILITY RULES OF AN ORGANISATION

*Fair Work (Registered Organisations) Act 2009*

*Fair Work (Registered Organisations) Regulations 2009*, paragraph 121(1)(b)

**FAIR WORK COMMISSION**

*FWC use only*

**FWC Matter No.:**

## DECLARATION

I, David Smith, of Ground Floor, 116-124 Queensberry Street, Carlton South in the State of Victoria declare as follows:

- A. The Australian Municipal, Administrative, Clerical and Services Union (“ASU”) is an organisation registered under the *Fair Work (Registered Organisations) Act 2009*.
- B. I am the National Secretary of the ASU and am authorised to make this Declaration.
- C. The National Executive of the ASU has resolved to amend PART XXI and to add a new PART XXVIII to sub rule 5 b – Eligibility for Membership as follows:

**1. Amend Rule 5 b. PART XXI by deleting the following employers in paragraph 2:**

ETSA Corporation  
ETSA Power Pty Ltd  
ETSA Utilities Pty Ltd  
Transmission Lessor Corporation - (Trading as ElectraNet SA)  
SA Generation Corporation

**2. Amend Rule 5 b. PART XXI by adding “(a)” to paragraph 2 and inserting the following new employers:**

- (a) • SA Power Networks
  - Electranet Pty Ltd
  - AGL Energy
  - Alinta Energy
  - International Power Ltd/GDF Suez
  - Synergen Power Pty Ltd
  - Energy Australia Pty Ltd (formerly TRUENERGY Pty Ltd)
  - Origin Energy Ltd
  - ATCO Australia Pty Ltd
  - Osborne Co-generation Pty Ltd, South Australia
  - Infigen Energy Ltd
  - AGL Hydro
  - Infratil Energy Australia Pty Ltd
  - Meridian Energy Australia
  - Pacific Hydro Pty Ltd
  - RATCH Australia Corporation Ltd
  - Flinders Operating Services Pty Ltd
  - Envestra Ltd

**3. Amend Rule 5 b. PART XXI by deleting paragraph 3 commencing with the words “hereinafter.....”.**

**4. Amend Rule 5 b. PART XXI by deleting paragraphs 4 to 12 ending in the words “....immediate or not;”.**

5. **Amend Rule 5 b. PART XXI by deleting paragraph 13 the words “shall be eligible to be members of the Union”.**
6. **Amend Rule 5 b. PART XXI by deleting paragraph 14 commencing with the words “Provided that, .....”.**
7. **Amend Rule 5 b. PART XXI by deleting paragraph 15 commencing with the words “joint venture, .....”.**
8. **Amend Rule 5 b. PART XXI by inserting a new paragraph (“the primary employers”) after the new PART XXI (a).**
9. **Amend Rule 5 b. PART XXI by inserting the following new paragraphs (b) to (f):**
  - (b) or any subsidiary or joint venture of any of the primary employers;
  - (c) or any successor, assignee or transferee to the business or part of the business of any of the primary employers whether immediate or not;
  - (d) or any or joint subsidiary or joint venture of any successor, assignee or transferee to the business or part of the business of any of the primary employers whether immediate or not;
  - (e) or any employer:
    - i. resulting from one primary employer taking over or otherwise acquiring the business or part of the business of another primary employer; or
    - ii. being a related body corporate to a primary employer within the meaning of the Corporations Law; or
    - iii. resulting from a series of relationships that can be traced between it and a primary employer under paragraph i or ii;

provided that the employers referred to in sub-paragraphs (b) to (e) are performing a substantial part of the same activities in or in connection with the South Australian power industry, as were performed by the primary employers and the employees of the employers referred to in sub-paragraphs (b) to (e) are performing some or all of the activities which were undertaken by the employees of the primary employers;
  - (f) or any other employer that under contract, lease, labour hire or outsourcing arrangement undertakes works, operations, functions, or services undertaken previously by a primary employer or undertaken previously by any successor, assignee or transferee whether immediate or not to the business or part of the business of a primary employer;
10. **Amend Rule 5 b PART XXI by a new paragraph immediately following sub paragraph (f) “shall be eligible to be members of the Union;”**
11. **Amend Rule 5 b PART XXI by deleting paragraph 18 commencing with the words “Note 1: ....”.**
12. **Add to Rule 5 b a new PART XXVIII as follows:**

PART XXVIII

Employees within the State of South Australia engaged in the generation, transmission, distribution and/or retailing of electricity in administrative, clerical, technical, engineering, scientific, professional, supervisory, managerial and operational classes of work; shall be eligible to be a member of the Union provided that:

employees eligible to be members of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Workers Union pursuant to its eligibility rules as at 1 October 2000 and/or employees of electrical and communication contractors who are employed and/or classified as general skilled workers as defined in the ETSA (Interim) Wages Award 1990 or who perform line tree

clearance work or employees whose employment requires electrical skills as a requirement for their work and who perform electronic trades work, electronic communications work, electrical trades work, electrical trade assistants work, electrical fitting work, electrical mechanic work, electrical/electronic cable jointing work, powerline trade skilled work, mechanical trades work, electrical meter repair work or who also co-ordinate work teams as an ancillary function to their performance of any of the above primary work shall not be eligible to be members of the Union;

and provided further that under this Part employees who are eligible to be members of the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union of Australia (the AMWU) and who are performing mechanical and fabrication tradesperson or trade assistants work shall not be eligible to be members of the Union.

- D. Attached in “**Annexure A1**” is a copy of the original rule with tracked changes to reflect the amendments.

**The action taken pursuant to the ASU rules was as follows:**

- E. The manner in which compliance with the rules of the ASU was obtained is as follows: I confirm that on **19 May 2015**, in accordance with rule 49 I submitted a rule change recommendation to the National Executive.
- F. On the **19 May 2015**, in accordance with sub-rule 8j a Postal/Facsimile/Email Vote was submitted to all National Executive members via email and members were provided with a copy of the proposed amendment to PART XXI and new rule PART XXVIII of the rules.
- G. A total of 138 affirmative votes were received. Of the total of 138 votes allocated to members of the National Executive in accordance with sub-rule 8c, I declared the vote carried pursuant to sub-rule 8j of the rules of the ASU. Attached hereto and marked “**Annexure A2**” is a copy of my correspondence to National Executive members of the **22 May 2015** declaring the result of the ballot.
- H. Pursuant to Regulation 126(1)(b) the notice for this rule alteration has been published on the ASU website and can be viewed at [www.asu.asn.au/about/rules](http://www.asu.asn.au/about/rules).
- I. I declare that the particulars set out in this notice are true and correct to the best of my knowledge and belief.

**DATED:** Tuesday May 26, 2015



David Smith  
**National Secretary**  
Australian Municipal, Administrative, Clerical and Services Union

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**Attachment: PART XXI and new XXVIII with tracked changes in the SA/NT Energy Industry**


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## 5 - INDUSTRY AND ELIGIBILITY

## b. Eligibility for Membership

## PART XXI

Employees within the state of South Australia engaged in administrative, clerical, technical, engineering, scientific, professional, supervisory, managerial and operational classes of work of the following employers:

~~ETSA Corporation,  
ETSA Power Pty Ltd  
ETSA Utilities Pty Ltd  
Transmission Lessor Corporation (Trading as ElectraNet SA)  
SA Generation Corporation~~

- (a) • SA Power Networks
- Electranet Pty Ltd
  - Terra Gas Trader Pty Ltd
  - AGL Energy
  - Alinta Energy
  - International Power Ltd/GDF Suez
  - Synergen Power Pty Ltd
  - Energy Australia Pty Ltd (formerly TRUENERGY Pty Ltd)
  - Origin Energy Ltd
  - ATCO Australia Pty Ltd
  - Osborne Co-generation Pty Ltd, South Australia
  - Infigen Energy Ltd
  - AGL Hydro
  - Infratil Energy Australia Pty Ltd
  - Meridian Energy Australia
  - Pacific Hydro Pty Ltd
  - RATCH Australia Corporation Ltd
  - Optima Energy Pty Ltd
  - Flinders Power Pty Ltd
  - Flinders Operating Services Pty Ltd
  - Envestra Ltd

~~‘hereinafter referred to in this Part as the publicly owned employers’~~

~~or any subsidiary or joint venture of the publicly owned employers;~~

~~or any successor, assignee or transferee to the business or part of the business of the publicly owned employers whether immediate or not;~~

~~or any subsidiary or joint venture of any successor, assignee or transferee to the business or part of the business of the publicly owned employers whether immediate or not;~~

~~or any employers defined in paragraph (14) of clause 23 of PART 4 STAFF in the Electricity Corporations (Restructuring and Disposal) Act 1999 as follows:~~

~~‘14—Employers are related for the purposes of this section if—~~

~~(a)—one takes over or otherwise acquires the business or part of the business of the other; or~~



~~(b) — they are related bodies corporate within the meaning of the Corporations Law; or~~

~~(c) — a series of relationships can be traced between them under paragraph (a) or (b):<sup>2</sup>~~

~~or any other employer that under contract lease or outsourcing arrangement undertakes works, operations, functions, or services undertaken previously by the publicly owned employers or undertaken previously by any successor, assignee or transferee to the business or part of the business of the publicly owned employers whether immediate or not;~~

~~shall be eligible to be members of the Union.~~

~~Provided that, where such employees are employed by a publicly owned employer which subsequently becomes privately controlled through a sale or lease or any subsidiary or joint venture of the publicly owned employers, or any successor, assignee or transferee to the business or part of the business of the publicly owned employers whether immediate or not, or any subsidiary or joint venture of any successor, assignee or transferee to the business or part of the business of the publicly owned employers whether immediate or not, or any employers defined in paragraph (14) of clause 23 of PART 4 STAFF in the Electricity Corporations (Restructuring and Disposal) Act 1999, or any other employer that under contract lease or outsourcing arrangement undertakes works, operations, functions, or services undertaken previously by the publicly owned employers or undertaken previously by any successor, assignee or transferee to the business or part of the business of the publicly owned employers whether immediate or not, such employees will not be eligible to be members of the Union under this Part unless the subsidiary or~~

~~joint venture, successor, assignee, transferee or employer is performing a substantial part of the same activities in or in connection with the South Australian Electricity Industry, as were performed by the publicly owned employers prior to becoming privately controlled through a sale or lease and the employees are performing some or all of the activities which were undertaken by the publicly owned employers;~~

("the primary employers")

(b) or any subsidiary or joint venture of any of the primary employers;

(c) or any successor, assignee or transferee to the business or part of the business of any of the primary employers whether immediate or not;

(d) or any or joint subsidiary or joint venture of any successor, assignee or transferee to the business or part of the business of any of the primary employers whether immediate or not;

(e) or any employer:

i. resulting from one primary employer taking over or otherwise acquiring the business or part of the business of another primary employer; or

ii. being a related body corporate to a primary employer within the meaning of the Corporations Law; or

iii. resulting from a series of relationships that can be traced between it and a primary employer under paragraph i or ii;

provided that the employers referred to in sub-paragraphs (b) to (e) are performing a substantial part of the same activities in or in connection with the South Australian power industry, as were performed by the primary employers and the employees of the employers referred to in sub-paragraphs (b) to (e) are performing some or all of the activities which were undertaken by the employees of the primary employers;

(f) or any other employer that under contract, lease, labour hire or outsourcing arrangement undertakes works, operations, functions, or services undertaken previously by a primary employer or undertaken previously by any successor, assignee or transmittee whether immediate or not to the business or part of the business of a primary employer;

shall be eligible to be members of the Union;

and provided further that employees eligible to be members of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Workers Union pursuant to its eligibility rules as at 1 October 2000 and/or employees of electrical and communication contractors who are employed and/or classified as general skilled workers as defined in the ETSA (Interim) Wages Award 1990 or who perform line tree clearance work or employees whose employment requires electrical skills as a requirement for their work and who perform electronic trades work, electronic communications work, electrical trades work, electrical trade assistants work, electrical fitting work, electrical mechanic work, electrical/electronic cable jointing work, powerline trade skilled work, mechanical trades work, electrical meter repair work or who also co-ordinate work teams as an ancillary function to their performance of any of the above primary work shall not be eligible to be members of the Union;

and provided further that under this Part employees who are eligible to be members of the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union of Australia (the AMWU) and who are performing mechanical and fabrication tradesperson or trade assistants work shall not be eligible to be members of the Union.”

*Note 1: — A copy of the agreement between the Union and the CEPU, a copy of which was tendered and marked ASU7 in proceedings in matter D No. 30002 of 2000 and a copy of the agreement between the Union and the AMWU, a copy of which was tendered and marked ASU2 in proceedings in matter D No. 30002 of 2000 may be inspected at any of the Registries of the Industrial Registrar.*

## **Part XXVIII**

Employees within the State of South Australia engaged in the generation, transmission, distribution and/or retailing of electricity in administrative, clerical, technical, engineering, scientific, professional, supervisory, managerial and operational classes of work; shall be eligible to be a member of the Union provided that:

employees eligible to be members of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Workers Union pursuant to its eligibility rules as at 1 October 2000 and/or employees of electrical and communication contractors who are employed and/or classified as general skilled workers as defined in the ETSA (Interim) Wages Award 1990 or who perform line tree clearance work or employees whose employment requires electrical skills as a requirement for their work and who perform electronic trades work, electronic communications work, electrical trades work, electrical trade assistants work, electrical fitting work, electrical mechanic work, electrical/electronic cable jointing work, powerline trade skilled work, mechanical trades work, electrical meter repair work or who also co-ordinate work teams as an ancillary function to their performance of any of the above primary work shall not be eligible to be members of the Union;

and provided further that under this Part employees who are eligible to be members of the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union of Australia (the AMWU) and who are performing mechanical and fabrication tradesperson or trade assistants work shall not be eligible to be members of the Union.



**A•S•U**

Annexure A2.

File/Our Ref: DS/db 12.21  
Your Ref:  
Please quote in reply

Friday, 22 May 2015

TO: All National Executive Members  
As addressed

**By E-mail**

Dear National Executive Member

**Postal/Fax/Email Vote No. 05/2015  
Proposed National Rule Change re South Australian Energy Industry**

The result of the e-mail ballot submitted to members of National Executive via e-mail on 19 May 2015, regarding the above is as follows:

A total of 138 affirmative votes were received from:

David Smith  
Linda White  
Greg McLean  
Alex Scott  
Irene Monro  
Vivienne Doogan  
Natalie Lang  
Judith Wright  
Angus McFarland  
Graeme Kelly  
Stephen Birney  
Sharon Sewell  
Neil Henderson  
Jennifer Thomas  
Lynette Henson  
Joseph Scales  
Abbie Spencer  
Jeff Lapidis  
Ancel Greenwood  
Richard Duffy  
Lisa Darmanin  
Wendy Phillips  
Ingrid Stitt  
David Leydon  
Paul O'Neill  
Wayne Wood

No negative votes were received.

I advise that National Executive E-mail Vote No. 05/2015 is carried.

Yours faithfully

**David Smith**  
National Secretary

Tel: +61 3 9342 1401  
Mobile: 0419 644 238  
E-mail: [dsmith@asu.asn.au](mailto:dsmith@asu.asn.au)

**Australian  
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Union**

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W: [www.asu.asn.au](http://www.asu.asn.au)

**National Secretary**  
David Smith

**Assistant National Secretaries**  
Greg McLean  
Linda White