

# Form F37 Application for an order for suspension or termination of protected industrial action

Fair Work Act 2009 – ss. 423 – 426

This is an application to the Fair Work Commission for an order for suspension or termination of protected industrial action in accordance with Part 3-3 of the [Fair Work Act 2009](#).

## The Applicant

<b>Legal name of business</b>	Endeavour Energy Network Management Pty Ltd
<b>Trading name of business</b>	Endeavour Energy
<b>ABN/ACN</b>	22 617 221 495
<b>Contact person</b>	Claire Don

### Do you need an interpreter?

- Yes  
 No

### Do you require any special assistance at the hearing or conference (eg a hearing loop)?

- Yes  
 No

### Do you have a representative?

- Yes  
 No

### Your representative

<b>Name of person</b>	Lucy Shanahan		
<b>Firm</b>	Kingston Reid		
<b>Postal address</b>	Level 5, 1 Bligh St		
<b>Suburb</b>	Sydney		
<b>State or territory</b>	NSW	<b>Postcode</b>	2000
<b>Phone number</b>	9169 8405	<b>Fax number</b>	n/a
<b>Email address</b>	lucy.shanahan@kingstonreid.com		

### Is your representative a lawyer or paid agent?

- Yes - lawyer  
 No

## The Respondent

<b>Legal name of business</b>	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia, Electrical and Energy Division		
<b>Trading name of business</b>	Communications, Electrical and Plumbing Union (CEPU)		
<b>ABN/ACN</b>			
<b>Contact person</b>	Alana Heffernan		
<b>First name(s)</b>	Alana		
<b>Surname</b>	Heffernan		
<b>Postal address</b>	Level 5, 370 Pitt Street		
<b>Suburb</b>	Sydney		
<b>State or territory</b>	NSW	<b>Postcode</b>	2000
<b>Phone number</b>	(02) 9267 4844	<b>Fax number</b>	
<b>Email address</b>	alana@etunsw.com.au		

### 1. Preliminary

#### 1.1 What industry is the employer in?

Electrical Power Industry

### 2. What orders are you seeking in relation to the protected industrial action?

the protected industrial action be terminated;

the protected industrial action be suspended for a period of [specify period]:

### 3. Is protected industrial action:

being engaged in; and/or,

threatened, impending or probable (applies where the application relates to endangering life, the personal safety or health or the welfare of the population or part of it see s.424)

Specify by name or reference to a class who is taking and/or threatening to take protected industrial action.

Employees of Endeavour Energy for whom the CEPU is the bargaining representative and who will be covered by a proposed enterprise agreement to replace the *Endeavour Energy Enterprise Agreement 2021*.

#### 4. What is the basis for your application?

- Protected industrial action is causing, or threatening to cause significant economic harm (see s.423)
- Protected industrial action is endangering life, or personal safety, health or welfare of the population or part of it, or is causing significant damage to the Australian economy or an important part of it (see s.424)
- A cooling off period is appropriate (see s. 425)
- Protected industrial action is threatening to cause significant harm to a third party (see s.426)

##### 4.1 Particulars

Briefly describe the industrial action that is being engaged in or that is threatened, impending or probable (in which case, specify the basis upon which the Applicant contends that such action is threatened, impending or probable).

An unlimited number of indefinite and/or periodic total work bans and partial work bans set out in PR769697 and PR774683, with notification of industrial action from the CEPU having been provided on a daily basis since February 2024 up until mid-end August 2024.

#### 5. What grounds are being relied on?

##### 5.1 Using numbered paragraphs, specify:

- the provision(s) of Division 6 of Part 3-3 of the Act upon which the Applicant relies; and
- by reference to those provision(s) in Division 6 of Part 3-3 of the Act briefly specify how the requirements of such provision(s) are satisfied.


1. Endeavour Energy is a “poles and wires” electricity distribution business, responsible for the supply of electricity to approximately 1.1 million customers with a residential population of over 2.5 million. The area serviced by Endeavour Energy covers Greater Western Sydney, the Blue Mountains and the Mid-West, the Southern Highlands, the Illawarra area and the South Coast. The area spans 24,980 square kilometers.
2. Endeavour Energy’s services are an ‘essential service’ under the *Essential Services Act 1988 (NSW)* and a critical infrastructure asset under the *Security of Critical Infrastructure Act 2018 (Cth)*.
3. Endeavour Energy has approximately 1,580 employees. Endeavour Energy employees are employed across 17 locations spread across the area serviced by Endeavour Energy.
4. The infrastructure of Endeavour Energy includes:
  - a. 209 Major Zone or Transmission Substations or Sub-transmission switching stations
  - b. 33,850 Distribution Substations
  - c. 227,849 streetlights

- d. approximately 400,000 poles
- e. 24,000 km of overhead lines
5. Within the Endeavour Energy supply area there are approximately:
  - a. 80 major hospitals
  - b. 40,000 life support customers that require continuous and essential supply of electricity
  - c. 8,700 essential telecommunications hubs
  - d. 96 Police stations
  - e. 28 State Emergency Service depots
  - f. 82 fire stations
  - g. 87 rural fire stations
  - h. 1,500 utility stations/plants for water and/or sewerage
  - i. 223 aged care homes
  - j. 880 schools
  - k. 1,400 traffic lights
  - l. 337,000 hot water systems
6. Endeavour Energy is currently covered by the *Endeavour Energy Enterprise Agreement 2021*.
7. On 22 December 2023, the Fair Work Commission made a protected action ballot order on application by the CEPU (see: PR769697).
8. On 9 May 2024, the Fair Work Commission made a second protected action ballot order on application by the CEPU (see: PR774683) with a number of additional actions with increased scope and impact.
9. Since February 2024, Endeavour Energy has received notices of protected industrial action from the CEPU on a near daily basis. The industrial action is being engaged in, and is threatened, impending and probable.
10. The industrial action has threatened and is threatening:
  - a. to endanger the life of members of the population or of part of it;
  - b. the personal safety and health of members of the population or of part of it; and/or
  - c. the welfare of part of the population or of part of it.
11. The threats are resulting from the following circumstances, which have arisen due to prolonged industrial action that has been taking place since February 2024:
  - a. The network has become degraded, which is:
    - i. increasing the likelihood and potential length of blackouts;
    - ii. resulting in lengthy delays in essential repairs or projects to provide power to people who need it;
    - iii. leaving customers reliant on unstable diesel generators which produce harmful fumes and are loud;
    - iv. increasing the risk of life-threatening accidents as a result of switching errors.

- b. The network is lacking in redundancy, meaning if an unexpected event (e.g. a car hitting an electricity pole or severe winds) occurred, it will result in more severe outages, potentially impacting thousands of customers including schools, hospitals and those on life support.
- c. The security of the network is threatened due to overloading as a result of work not being completed due to industrial action.
- d. The increasing cancellation of planned maintenance work (and the associated planned outages), resulting in:
  - i. customers being significantly impacted by alternative arrangements having been made to accommodate planned outages; and/or
  - ii. notices (required by the Australian Energy Regulator) of planned maintenance work being ignored by customers due to an increase in the last-minute cancellation of planned work (due to industrial action). This may have the effect of customers failing to seriously take note of when they will be without power and failing to ensure they have an adequate contingency plan if the notified planned work is able to progress.

12. Each of the circumstances is the result of the industrial action that has been engaged in, is being engaged, is impending and probable.

## Signature

<b>Signature</b>	
<b>Name</b>	Lucy Shanahan
<b>Date</b>	7 August 2024
<b>Capacity/Position</b>	Solicitor for the Applicant

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