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**OUTSOURCING IN AUSTRALIA
AND THE TRADE UNION
RESPONSE: ELECTRICITY
GENERATION IN VICTORIA**

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INTRODUCTION

While 'outsourcing' tends to be thought of as a private sector initiative often taken in conjunction with downsizing, in Australia outsourcing has been most commonly adopted in the public sector, particularly among the utilities: gas, water and electricity. The development of outsourcing has led organisations to question the provision of services once seen as exclusively in-house and is no longer delimited in terms of non-core activities. In the public sector during the 1990s the rise of outsourcing was typically associated with privatisation through contracting out and competitive tendering and was also a catalyst for the spread of non-standard employment in the public sector (Industry Commission, 1996; Teicher & Van Gramberg, 1998). For the trade union movement the development of these patterns of work has proved a serious challenge.

In this paper we explore union responses to outsourcing in the context of one major public utility in the state of Victoria, the power industry. Here the outsourcing of what were ostensibly non-core functions was almost inseparable from the process of selling the major generation and distribution assets of the industry. Interestingly, outsourcing sometimes directly involved asset sales with businesses being excised from the former State Electricity Commission of Victoria (SECV) and sold to contracting companies which provided those services to the power generators both before and after their privatisation. Many former SECV employees were hired by the contractors nominally leaving the power industry but performing similar duties for a private employer on different wages and conditions. The central task of this paper is to explain the atypically pacific union response to these major changes.

From the 1960s industrial relations in the Victorian power industry were volatile and the generation sector was characterised by shop-floor militancy which had little regard for the views of the official trade union movement. Underlying this militancy were a series of longstanding divisions both within the SECV workforce and between the multiplicity of unions. During the 1990s, as the SECV management implemented a major restructuring, these divisions came to the fore. Instead of a militant confrontation, these divisions were a major contributor to a response which, following Foster & Scott (1998), can only be described as 'pragmatic compliance'. In order to understand the union response two other factors need to be taken into account. Firstly, a process of union restructuring occurring at the same time as the upheavals in the electricity industry and this absorbed resources and diverted the unions into internecine struggles. Secondly, an uncharacteristically proactive management strategy created a groundswell in favour of accepting voluntary redundancy rather than resisting the process of downsizing and outsourcing. In retrospect both the unions and the workforce have had cause to reflect on the wisdom of their responses over the course of the 1990s.

The research on which the case study draws is part of a larger project on the industrial relations and labour process implications of Australian privatisations. Interviews with key informants among management (including former managers), union officials and delegates are the primary resource. These interviews were conducted over the period January 1998 to July 2000. The most recent interviews provided an opportunity to focus more narrowly on the issues pertaining to the process of downsizing and outsourcing. This resource was supplemented with various public record documents including government reports and newspaper articles.

OUTSOURCING IN AUSTRALIA

Outsourcing typically involves an external agent providing a service to an organisation which was traditionally performed by the organisation itself. According to Ganz (1990: 24) it involves the 'the transfer

of assets from a using organisation to a service vendor, where the vendor takes over responsibility for the outsourced activity under long-term contract'. It commonly takes the form of outworking and sub-contracting (Benson, 1999).

In Australia the spread of outsourcing occurred at the same time as a process of labour market de-regulation and de-collectivisation which lowered the locus of employment regulation from industrial tribunals to the workplace. In general terms legislative innovation at both federal and state levels and across both the major political groupings, the social democratically inclined Labor Party and the right wing Liberal and National parties, have attempted to achieve increased flexibility by intensifying the focus on the direct relationship between employers and employees. This led to an increase in the types and varieties of contract-based employee relations (ACIRRT, 1999).

The spread of outsourcing has been inextricably linked to 'downsizing' in the sense of workforce reductions resulting from some form of 'strategic intention' (Littler; Dumford, Bramble & Hede, 1996) and the introduction of various forms of externalisation. For instance, work may be performed outside the workplace by contracting to another organisation or it may be performed within the workplace by staff employed by the agency. Duration of employment may be fixed either for a specific project or for a specified time by offering fixed term contracts (for a detailed discussion of externalisation, see Hartmann & Patrickson, 2000; Berg & Berg, 1997).

The Rise of Outsourcing

The uptake of outsourcing options by Australian businesses has been rapid though these changes have occurred off a relatively low base. Agency employment, defined as 'paid by a placement or employment agency while working at the workplace' (Australian Workplace Industrial Relations Survey, 1995: 408), more than doubled between 1990 and 1995 with the number of workplaces using agency staff increasing from 14 to 21 percent in the same period (AWIRS, 1995). Further analysis of this data revealed an annual growth of 7.5 percent per annum in the use of contractors and their employees compared to a 1.6 percent per annum growth in direct employment (Wooden, 1999; AWIRS, 1995). Hartmann & Patrickson (2000) reported that in 1998, 52 percent of Australia's top 500 companies used contract labour and a further 27 percent were planning to use it.

In the public sector the use of contracting out, particularly in Victoria, has been widespread (Industry Commission, 1996; Teicher & Van Gramberg 1998; Teicher & Van Gramberg, 2000), with utilities at the forefront of these changes. For example the 1995 Australian Workplace Industrial Relations Survey (1995) found that among 12 industry groups, outsourcing was highest in public utilities (69 percent of respondent firms) and fifth highest in government administration (52 percent) leading Burgess and Macdonald (1999: 37) to observe:

The extent and speed of outsourcing implementation in the Australian public sector has been so extensive that it is the public sector which is seen to be leading the way over a more cautious and conservative private sector.

Evidence also indicates that the proportion of employees in non-standard employment (which includes part time and casual employees and 'subordinate' contractors) has increased by 40 percent since 1990 (AWIRS, 1995; Australian Bureau of Statistics, 1999; Campbell, 1999). The Productivity Commission report *Productivity and the Structure of Employment* (Barnes, Johnson, Kulys & Hook, 1999) provides evidence of the shift towards recruiting workers from labour hire companies and outsourcing. For example, in the case of 'own account' or self employed workers, their numbers rose from 816,800 in 1992/93 to 857,400 in 1997/98, a 9.5 percent increase compared with a 9.0 percent rise for total employment (Australian Bureau of Statistics, 1999). A significant feature of this change is that although nominally self-employed, many of these workers are effectively subordinate, working for one or a small number of 'employers' and subject to detailed direction (Ross, 1999).

The Rationale for Outsourcing

The underlying themes of cost reduction and increased flexibility have driven the outsourcing phenomenon (Hartmann & Patrickson, 2000). In the human resource management literature outsourcing is often portrayed as a means of enabling organisations to focus their resources on the core business while facilitating new forms of work for other business areas. By matching organisational resources more closely with customer or product demand organisations should reduce fixed labour costs and increase efficiency and competitiveness (Domberger, 1994; 1999; Zappala, 2000). The ability to combine the internal and an external labour force enables a quick response to market demands with minimum disruption. For example a firm may choose to move employees between jobs or adjust the level of human resources in response to fluctuation or changes in demand as the market dictates (Brewster, Dowling, Grobler, Holland & Warnich, 2000). The ability to change the structure of the workforce or work patterns has been described as a key to efficient and effective utilisation of human resources (Emmott & Hutchinson, 1998). Outsourcing also provides organisations with expertise not available in-house (Young, 2000).

Quiggin (1996) explains that the mainstream economic rationale for outsourcing is that it provides a means of transferring the significant or unpredictable risks associated with running a business, particularly financial risks, to contractors whilst still enabling the principal to retain control over the service. Alternatively this can be explained in terms of increased reliability, that is, reducing vulnerability to disruption including that caused by labour disputes (Perry, 1996). Additionally, outsourcing offers opportunities for organisations to transfer the responsibility for industrial relations to a third party thereby avoiding strong or militant unions and/or side-stepping provisions of agreements and arbitrated awards. This indicates that outsourcing may be used strategically by employers, particularly in cases where they "have not been able to implement numerical flexibility or casualisation, and have therefore chosen to contract in new groups of workers who are not covered by the usual protections" (ACIRRT, 1999:142).

The Political Dimensions of Outsourcing

Conciliation and arbitration legislation at both national and state levels was a key expression of the traditionally interventionist nature of the Australian state. Through a network of industry and occupation awards there developed a centralised system which determined minimum rates of pay and conditions of employment for most employees. While there was a loose consensus supporting the system of conciliation and arbitration for much of the twentieth century, this came under pressure beginning in the 1970s as Australia became more open to the international economy. Early changes were aimed at relocating the economy internationally by floating the dollar and abolishing exchange controls (1983) and deregulating the financial sector (1983-1986). Since the 1980s the focus has centred on microeconomic reform and labour market deregulation as both major political groupings moved to embrace the tenets of neo-liberalism (Pusey, 1991: 31; Hughes, 1998: 9).

At the state level in Victoria, an efficiency-oriented rationale was ostensibly at the core of the radical agenda pursued by the Kennett Liberal-National Party government between 1992 and 1999. Here the Treasurer endorsed the system of compulsory competitive tendering (CCT) in local government as providing an injection of private sector best practice and superior performance; significantly reducing business risks; allowing organisations to focus on their core activities; and accessing technology and expertise (Stockdale, 1985: 27-28). Similar arguments were applied across the entire public sector including in public service departments and off budget entities. Such accounts however obscure the underlying ideological dimension of public sector outsourcing. In the UK case it is clear that for the Thatcher government the desire to weaken trade unions was a driving concern as was a preoccupation with reducing the size of the public sector (Pollit, 1990; Heery & Abbott, 2000). In Victoria and at the national level in Australia neo-liberal ideas have held sway over both Labor and Liberal-National governments so that along with other forms of privatisation, contracting out was viewed as a mechanism for shrinking the public sector and eliminating budget deficits (Bell, 1997; Fairbrother, Svensen & Teicher, 1997; Teicher & Van Gramberg, 1998).

The need to undermine union organisation and individualise the employment relationship is both a theoretical proposition and an ideological cornerstone of neo-liberalism. At both the national and state levels, but particularly under the national *Workplace Relations Act* 1996 (Cth) the emphasis on individualising employment regulation supplemented by guarantees of 'freedom of association' has assisted in the rise of non-union 'collective' agreements and individual agreements. Additionally, the Liberal-National government has actively marketed its preferred form of individual agreement, the Australian Workplace Agreement (Burgess & Strachan, 1999; Teicher & Van Gramberg, 1999a). Thus, outsourcing and other forms of non-standard work has been facilitated by governments through legislation and at the same time by example in their own workforces (Teicher, 1998). These reforms are almost invariably justified as a means to for bringing about improved international competitiveness and are a key component of the managerial changes being implemented in the public sector (Griffin & Teicher, 1997)

Outsourcing is also a means by which governments can distance themselves from the management of public sector industrial relations. This apparent depoliticisation puts the government at arms-length from political decision making by separating politics from administration. The separation of public policy from its implementation has clear resonances with the 'steering' and 'rowing' distinctions of Osborne & Gaebler (1992) and their proposal that governments abandon service delivery in order to concentrate on formulating policy and strategy. Apparent depoliticisation also occurs through the establishment of rules and legislative regimes such as financial restraints or codes of practice which form the framework for public management decision making. These rules subject both public managers and the government to the same limitations and thus enable government "to externalise the imposition of financial discipline on labour and capital" (Burnham, 1999: 45). This has the effect of shielding government from the political consequences of their policies.

Concomitant with depoliticisation initiatives is the concept of small government. The International Monetary Fund and the World Bank have been key proponents of small government and have sought to encourage 'sound management practice' and 'government that concentrates its efforts less on direct intervention and more on enabling others to be productive (Vandana & Imrie, 1998: 637). This has contributed to a convergence in the nature of government reforms undertaken around the world which have promoted smaller, less interventionist government with the public sector operating along private sector lines.

Implications of Outsourcing for Employees

One consequence arising from the continuing rapid uptake of outsourcing is the continuing contraction of award coverage and an associated reduction in the proportion of the workforce covered by the safety net of minimum wages and conditions prescribed by arbitral tribunals. Award coverage has fallen from around 85 percent in 1985 to an estimated 70 percent in 1999 (Ross, 1999). The likely continuing decline in award coverage means that a large proportion of the workforce will lack protections such as minimum wages and hours of work (ACIRRT, 1999; Burgess & Strachan, 1999; Holland, Nelson & Fisher, 2000). Robinson (1996) explained that such changes may also result in a re-contractualising of the public sector employment model in which the employment relationship may be ended at short notice with limited termination compensation and little or no reason. This contrasts to the traditional model with its implicit contract that public servants traded remuneration for job security based on legislated protection against dismissal. Given that workers affected by these changes are unlikely to be union members, few will have access to the generally superior negotiated benefits applying to unionised sectors.

Benson (1999) noted that trade unions have generally expressed concern about the shift in the employment and bargaining relationship of contract workers. Way (1993) argued that this market-mediated employment relationship can make enforcement of basic terms and conditions difficult. Similarly, Heery and Abbott (2000) noted that insecurity increases when the protective shield of trade unionism is removed. Further, Walsh and Wetzel (1993) reported that outsourcing may undermine unionism, particularly when members find that their union is powerless to stop job losses. They found that the industrial relations environment in these cases shifts from pluralism and consensus to managerial autocracy.

This shift in power in the employment relationship provides management with the opportunity to further reduce costs through the reduction of terms and conditions and the increased use of part time and flexible patterns of work (Morgan & Potter, 1995; Walsh, 1995; Horton, 1996; Corby, 1998). Certainly, in the Australian public sector, there is general agreement that outsourcing through CCT led to the erosion of wages and conditions of employment. Several studies (e.g. Aulich, 1997; Ernst et. al., 1997; Kenna, 1998; Paddon, 1999; Walsh & O'Flynn, 1999) argue that the main ways of achieving savings were through lowering wage rates, increasing the spread of ordinary weekly working hours, reducing or removing penalty rates and allowances and cutting training opportunities. For those on fixed-term contracts, casual or part-time work, the lack of entitlements, job insecurity and increased stress, go hand-in-hand with the almost non-existent career prospects (Emmott & Hutchinson, 1998; Teicher & Van Gramberg, 2000). Further, savings to organisations through outsourcing services were found to arise through cost shifting and work intensification (e.g. Hartley & Huby, 1986; Ascher, 1987; Milne & McGee, 1992; Quiggin, 1996).

Much research and debate has surrounded the development of these work practices as part of an integrated management strategy in the use of internal and external labour markets (Atkinson, 1987; Procter, Rowlinson, McArdle, Hassard & Forrester, 1994; Burgess, 1997). However, there has been less attention paid to role and influence of unions in outsourcing process. The progressive deregulation of the Australian labour market, decline in union membership base and increased job insecurity has apparently directed unions toward a more conciliatory stance (Hartmann & Patrickson, 2000).

UNIONS AND OUTSOURCING

Although there have been various attempts to analyse union strategy; (e.g. Bacon & Storey, 1996; Boxall & Haynes, 1997) there has been little attempt to examine the specific issue of union response to outsourcing. Foster & Scott (1998) identified three types of union response to contracting out: defiance (either through industrial action or non-involvement); incorporation; and external appeal, primarily by legal challenge. Each of these strategies and responses have been utilised in varying degrees by Australian unions.

Union action through defiance has often been the starting point for union response to contracting out; see for example, Teicher & Van Gramberg, 2000. By responding in this adversarial way unions can find themselves at odds with workers' wishes to pursue 'work-site unionism' and may risk retaliation from employers and recalcitrance from union members already concerned with job insecurity (Heery & Abbott, 2000). Indeed, in our study of union responses to contracting out in local government in Victoria, we found that in local government the Australian Services Union (ASU) had difficulty mustering membership support for industrial action. One official reported that it was impossible to conduct a meaningful dialogue with members about 'the good fight against CCT' while their primary interest was in the terms of their redundancy.

Incorporation, or accommodation is associated with a pragmatic union response which makes it clear that regardless of whether unions are opposed to outsourcing, they are motivated to survive and represent their members to the best of their ability subject to their limited resources. For example, in their study of union responses to contracting out in the London Borough of Brent, Kessler, Purcell & Shapiro (2000) found that despite a much lower membership, there was still an ongoing role for unions in local government. This involved a shift away from negotiation on collective issues towards representing individuals and taking a small role in consultation. Unions were seen to perform the role of 'in-house representatives' rather than constituting a barrier between the organisation and its employees. The shifting role was attributed to several factors including the overt hostility of management towards unions, the threat of union de-recognition and also to the highly decentralised structure of the council. In the past the union could deal with a few senior executives and know they were dealing with the organisation as a whole. With decentralisation, such central decision making diminished dissipating union resources and decreasing their influence (Kessler, et. al., 2000).

Incorporation has been defined as a 'progressive social partnership' where compromise is seen as the best (defensive) strategy for a union movement characterised by declining membership in a hostile environment (McIlroy, 1988). Such a partnership was implemented by the ASU in Victorian local government. Initially unions applied themselves to negotiating pattern-bargaining style agreements with councils designed to deliver a consistent approach to redundancy and redeployment situations. Importantly, it demonstrated that the ASU was not opposed to competitive tendering per se. Whilst this led to dissatisfaction among some members, it ensured that the union was not excluded from the decision-making process on a range of issues including the framework for in-house bids. According to one senior union official membership fell by 5,000 across Victoria due to the direct and indirect effects of CCT (Teicher & Van Gramberg, 2000). The issue of membership dissatisfaction arising from contracting out was examined by Burgess & Macdonald (1999, 48) who reported that the once active workplace unionism of New South Wales (NSW) power stations has diminished with very few delegates now at workplace level and most union-management interaction conducted at corporate level. They concluded that 'less active unionism means less opposition to contracting out which in turn leads to a lower proportion of the workforce unionised.' Such accounts suggest that pragmatic compliance is not necessarily an effective strategy as members are often lost through the process of contracting out and residual workers are less inclined to retain union membership.

The third union response considered is the adoption of legal means to protect workers' wages and working conditions. As contractors can gain a competitive advantage by eroding wages and conditions of employment, unions have utilised various means to preserve the status quo. Unions in the UK have had some success in utilising the 1981 Transfer of Undertaking Protection of Employment (TUPE) regulations which protect the rights of employees in the event of a transfer of undertaking to a new employer. In Australia both public and private sector unions have recently succeeded in using the transmission of business provisions of the federal *Workplace Relations Act* to prevent reductions in wages and conditions through outsourcing (Teicher & Van Gramberg, 2000; Van Gramberg, Teicher & Griffin, 2000). In the landmark case, *Northwestern Health Care Network v. Health Services Union of Australia* (FCA 897, 2 July 1999), the Federal Court found that former public sector home-care workers were entitled to retain their terms and conditions of work upon transfer to a private contractor. More generally, however, it is clear from the research that erosion of wages and conditions continues to be a feature of contracting out.

Whilst there is a literature documenting the rise of outsourcing in Australia and the reasons for its rapid growth, few studies have focused on the role of unions. The interface between management outsourcing strategies and union responses and their efforts to adopt a proactive role in the workplace is the principal focus of the case study of electricity generation below.

ELECTRICITY GENERATION: DOWNSIZING, OUTSOURCING AND UNION RESPONSES

Electricity Generation and the Market

In Victoria, the second most populous state in the federation, a vertically integrated and government owned organization was established in 1918 to provide for the needs of industry and domestic consumers. This body, the State Electricity Commission of Victoria, was responsible for all aspects of power generation and distribution, including the mining of brown coal, until the process of corporatisation and privatisation commenced in 1993.

From the outset electricity generation centred on the Latrobe Valley, a source of abundant and easily winnable brown coal about 150 kilometres from the state capital. While the first power station opened in 1921, major expansion of the industry did not begin until the 1960s with the construction of the 1,600 megawatt (MW) capacity Hazelwood power station. This was followed by the construction of the 1,450 MW Yallourn W and the Loy Yang A and B power stations each rated at 2,000 MW. By 1989 the SECV had a total nameplate generating capacity of 6,654 MW, enough to satisfy approximately 85 percent of Victorian demand. In that year the generation sector employed 9,644 workers (SECV 1992/93). Following successive rounds of downsizing and outsourcing, the power generation workforce fell to 2,978 in 1994.

With power generation being sited close to cheap brown coal reserves, Victoria should have enjoyed a competitive advantage over other states. Arguably, the economics of Victorian electricity generation reflected the SECV's history of concessions on staffing and work practices which made it uncompetitive compared to suppliers in other states (Management interviews 1998; 1999; 2000; Union interviews 1999; 2000). While labour costs were clearly an issue, Frith 1994 (cited in Pullin et. al. 2000, 5) observed that a combination of 'poor capital investment decisions, over-capitalisation of assets, low levels of plant availability, inefficient work practices and overmanning' posed a major problem for state governments. The crucial event here was the decision to commence construction of a major new generating facility at Loy Yang in 1977 and the postponing of construction when it became clear that consumer demand had been over-estimated (Management interview 2000). Because of the poor timing of this decision the SECV was faced with high levels of debt (\$8.5 bil.) and a lower than anticipated debt servicing capacity to which was added a state Labor government which was increasingly sensitive to allegations of financial mismanagement. In the circumstances distancing through outsourcing was a logical step to take, even for a Labor government.

The SECV's problems were compounded by the fact that NSW and Queensland had undergone extensive restructuring, including reducing staff levels which placed Victoria at a significant cost disadvantage. While the SECV took various measures to improve productivity in the 1980s, these were largely joint management-union initiatives which had little impact on working practices or the size of the labour force (Benson 1982; Pullin et. al. 2000). In each case restructuring was undertaken in anticipation of the emergence of a national electricity grid and a national market. While a decision to form a National Grid Management Council was not taken until 1991, there was already significant interconnection between Victoria, the Australian Capital Territory, New South Wales and South Australia. A further catalyst to change among the states was the foreshadowed emergence of a private generator at Oaklands in New South Wales.

In view of the circumstances outlined above, in 1989 the SECV adopted a new strategy which included organisation restructuring, more closely aligning decision making to market signals and debt reduction (Pullin 1996; SECV 1989/90). It was in this context that the process of downsizing and outsourcing commenced. In 1991 continuing financial and political pressures led to the adoption of a policy which required future plant construction or improvement to be internally financed (SECV 1991/92). As Fairbrother & Testi (2000) note:

These initiatives forced the SECV to abandon its previous expansionist and welfarist policies in favour of developing a more narrowly focused employment policy. In turn this had a knock-on effect on Valley communities raising questions about their long-term future.

Workforce and Unions

The SECV was the major employer in the region recruiting a largely skilled workforce with a large migrant component. In the 1980s this workforce numbered 21,000 and was organised into 25 unions until a major re-structuring of the union movement under the auspices of the national union confederation, the Australian Council of Trade Unions (ACTU), in the early 1990s. Most of the unions were occupationally based with the largest being the Amalgamated Metals, Foundry and Shipwrights Union (AMFSU), Australian Workers Union (AWU), Federated Engine Drivers and Firemen's Association (FEDFA), Electrical Trades Union (ETU) Association of Professional Engineers of Australia (APEA) and Municipal Officers Association (MOA). The smaller unions covered only a small proportion of the workforce. Following restructuring some unions left the industry and others merged with the SECV having to deal with 8 unions. After a series of mergers the MOA became the Australian Services Union (ASU), FEDFA merged to become part of the Construction, Forestry, Minerals and Energy Union (CFMEU), the ETU became a division of the Communications, Electrical, Electronics and Postal Union (CEPU) and the APEA absorbed several smaller unions to become the Association of Professional Engineers, Managers and Scientists of Australia

(APESMA). The AMFSU went through a series of mergers finally emerging as the Australian Manufacturing Workers Union (AMWU).

At its peak in the 1970s union density in the SECV was 96 percent (Benson & Goff 1979) with the major decline occurring in the 1990s. At Yallourn W one shop steward estimated membership at 90 percent and attributed the decline to freedom of association provisions in the *Workplace Relations Act 1996* and management's willingness to offer individual contracts (Pullin et. a. 2000). There is some evidence that the membership decline was also a reaction to the conflict between the unions during the union restructuring process and a membership perception that the unions had responded inadequately to the major changes affecting the SECV (Union delegate and employee interviews 1998). No estimates of union membership in the outsourced areas were available at the time of writing but density appears to be high among the permanent employees due to the industrial visibility of the contracting firms both in electricity generation and across industry generally.

Historically the power industry (especially the generation sector) was best known for its militancy having conducted a series of industrial campaigns in the 1960s which sought improved wages and conditions. For example, Derber (1977) observed that the militancy of the 1960s gave way to relative quiescence, except in the Latrobe Valley where authoritarian management and a militant shop steward movement combined to perpetuate conflict. In 1977, during an early prices and incomes policy, a log of claims advanced by the power station maintenance workers largely in defiance of their union leaders and without the support of the union confederations produced an 11-week strike Benson & Goff, 1979).

Various reasons have been advanced to explain militancy in power generation; these include the dominance of a single industry in a relatively isolated community, that the SECV was the monopoly generator and distributor of power in Victoria until recently and the government's predictable pre-occupation with achieving continuity of supply. The dominant position of the power industry within the region operated to foster solidarity despite underlying differences between the unions. As a result of state ownership, in 1992 public sector employment in the region was 46.5% compared to 29.9% nationally (Pullin et. al., 2000). The monopoly supply position of the SECV both assured workers of their industrial power and enabled the employer to engage in cost plus pricing. Finally, the government's preoccupation with continuity of supply meant that political contingency would overwhelm any predisposition of the SECV to engage in sustained resistance and led to the entrenchment of inefficient working practices and high manning levels (Benson, Hince & Griffin, 1983). Similarly, Pullin et. al. (2000) comment that a 'succession of governments concerned about political fallout from major power strikes has pressured management to accommodate the unions'. With the possible exception of the 1977 maintenance workers stoppage, this provides a fair summation of the history of industrial relations in electricity generation and this is a pattern which may have been little disturbed by the recent transition to private ownership. The continuing vulnerability of the owners of the generators to industrial action is reinforced both by management and union interviews.

Nevertheless, there is an apparent paradox between the militant reputation of the power generation sector and its relative quiescence in the face of downsizing, contracting out and asset sales which has been noted by some commentators (e.g Ruschena, 1999). Pullin et. al. (2000: 4) comment:

In hindsight it still seems strange that the union movement in the Latrobe Region, which was perceived to be extremely strong and well-organised from the 1960s through to the beginning of the 1990s has had to adjust as much as it has...They essentially controlled one of the necessities of modern life—electricity and knowing this, they utilized the threat of power cuts as and when they wanted to, in the bargaining process.

Downsizing and Outsourcing

The process of outsourcing in electricity generation was initiated partly in response to problems of excess capacity and apparently unsustainable levels of debt which were discussed above. This prompted the SECV to reduce costs firstly by cutting the workforce and then outsourcing various functions. While there were

clear divisions among SECV managers on the desirability of downsizing and outsourcing, among key decision makers there was a consensus that outsourcing was an expedient way around the seemingly intractable problems of overstaffing and inefficient work practices.

The process of workforce reductions commenced in 1989 with the adoption of a target of 10 percent over two years and a call for voluntary redundancies in areas where senior management believed losses could be sustained without any adverse impact. Accordingly, a Voluntary Departure Package (VDP) of 2 weeks pay for each year of service, pro rata long service leave of 13 weeks salary per year of service and a retrenchment benefit consisting of the (employer and employee contributions from the superannuation fund was provided. The package proved more popular than expected with the target being met within a month. Management then responded pragmatically by adopting the target of a further 10 percent workforce reduction and the package was made available across the organization. Management calculated the payback period on a retrenchment at 18 months (Ruschena, 1999).

Significantly downsizing became a feature of the industry throughout the process of contracting out and asset sales, however, it was neither orderly nor planned to meet the operational and maintenance requirements of the power stations. This is not to deny the absence of conscious design. Both management and union interviewees spoke of a carefully conceived process of maximising voluntary departures. Some accounts suggest that management waged a war of psychological attrition principally against white collar workers in which individuals were placed in the 'vegie patch', removed from their previous duties and denied meaningful work. This was compounded by threats that if the hapless employees did not accept VDPs they would be retrenched compulsorily (Management and union interviews 1998; 1999) Management were also said to have adopted a 'floodgate strategy' consisting of a combination of periodic pauses in the VDP process and deliberately created rumours that the packages were to cease in order to create a clamour of resignations (Union interview 2000). At Yallourn W half the dredger drivers resigned on one day alone leaving a serious skills gap (Management interview, 1998). As will be seen below the powerful attraction of voluntary redundancy undermined the unions' capacity to resist successive outsourcing initiatives.

Following the appointment of a new chief executive officer in 1990 the SECV conducted a joint review of non-core functions, the Activities Review, which provided clear evidence that areas such as transport and the mechanical and electrical workshops were not commercially viable (Management interviews, 2000). According to one former manager (2000):

There was a certain amount of rat cunning shown by the line managers in identifying what was going to go out. They started with things which were peripheral to the operation of the power stations'; for example mobile plant, transport workshops, specialist plant, and bricklayers.

The process of contracting out began with the sale of the transport fleet and associated functions. The unions affected by this announcement, the MOA Storemen and Packers Union and the Transport Workers Union organised protest rallies and work bans in late November 1990 but this did not prevent a contract being signed with a major transport and logistics firm, Linfox. Amidst continuing industrial action SECV management wrote to the workers offering three options: redeployment, accept a VDP and leave the industry, or acceptance of employment with Linfox. The latter option included a signing-on benefit of one week's wages and a VDP. Disputation continued into January 1991 with hearings in the Australian Industrial Relations Commission (AIRC) and applications for injunctions against the industrial action. Ultimately, the SECV reached agreement with the TWU, the major union and the protest campaign waned.

The significance of this first major outsourcing was that management established a process which they used in successive outsourcings. This involved an initial focus on securing advance acceptance of outsourcing by the main union and then direct communication with the employees who would be most affected explaining the reasons for the change and the options and consequences for them (SECV internal document cited in Ruschena 1999).

Having outsourced transport, the SECV sold the electrical workshops to Siemens in October 1991. There was little opposition from the employees, though the ETU attempted to rally community and union support to oppose the sale. Again there was extensive communication with employees who received a VDP and a 3-year (life of the contract) employment guarantee if they opted to transfer to the new employer. In both cases wages were similar to the SECV but conditions such as overtime and shift penalties (premium payments) differed.

Arising from the Activities Review, in 1992 management initiated confidential discussions with a joint venture company for the removal of overburden at the Morwell Mine. By the time the AMWU (representing the maintenance workers) and the CFMEU (representing the dredger drivers) became aware of this outsourcing, the contract had already been signed. The unions retaliated with industrial bans and in the subsequent negotiations involving the Labor government's Minister for Energy it was agreed that there would be a comparison of the productivity of the SECV employees with the contractor's workforce (Union interview 2000). Following a joint working party process, the contractors were confined to temporary overburden removal, though the competition led to dramatic improvements in unit costs and output. (SECV, 1991/92). While overburden removal remained in-house this did not prevent the privatisation of mine maintenance one year later.

Another outcome of the Activities Review was that the transport workshops were benchmarked against their private sector competitors and services could only be charged out at commercial rates. According to one manager this led to:

massive losses proving we were totally inefficient... We took that back and talked to our people about it and they were hitting their heads against a brick wall because the system would not let them change.

A major problem which the shop stewards came to appreciate was that entrenched demarcations and inter-union rivalries precluded the introduction of efficient working practices making closure or outsourcing inevitable (Management and union interviews 2000). Once the workforce was conditioned to the inevitability of outsourcing, management sought expressions of interest on the basis that the unions would be involved in the outsourcing process and the workers would not be disadvantaged. This continued a longstanding pattern of management involving the unions in major change initiatives.

After the transport workshops, outsourcing moved to power station and mine maintenance; arguably core business activities. The decision to outsource was not taken lightly but emerged from a series of reviews:

The area that stood out like the proverbial was the whole maintenance function. It had been benchmarked to death over a few years previously and identified that it was extremely inefficient. It was estimated that we got an average of 2 hours meaningful work out of each maintenance employee per day and that to be competitive with the rest of the workforce we needed to get about 6 hours per day.

The first attempt to outsource maintenance was in April 1992 when the SECV attempted to use contractors for specified works. There was a long history of resistance by the metals unions to outsourcing in any form with 'even the suggestion of outsourcing' giving rise to strike action (Management interview, 2000). On this occasion strike action forestalled outsourcing and prompted the formation of a joint Maintenance Review Task Force charged with achieving significant performance improvements in a co-operative environment. This process was not successful. The union delegate made undertakings that were 'not delivered on the shop floor' and by the end of 1992 it was clear to management that improvements through this process would be marginal at best.

The decision to outsource maintenance appears to have been taken by SECV management with the cognisance and not the active involvement of the then newly elected Kennett Liberal-National government. Problems of inefficient work practices and lack of competitiveness with interstate producers were publicly

cited as the reasons for the decision. In order to overcome worker resistance to outsourcing an intensive communication program was again launched across the Latrobe Valley workforce. This focused on the financial position of the company, the future role of contractors and the termination package and other assistance available to employees (Management interview, 2000).

Despite the election of a new government strongly committed to privatisation of public utilities and with an industrial relations policy targeted at union power, SECV management continued to seek union involvement in the outsourcing process. Formally at least the unions persisted with their opposition to outsourcing, though this was undercut by a decision of a mass meeting of members in 1993 which directed the officials to negotiate the 'best possible deal from the prospective contractors and bring it back to a mass meeting' for endorsement (Union interview, 2000). Following the process at the transport workshops, the SECV provided a list of preferred contractors with whom the unions would attempt to negotiate an agreement.

While unions had a role in the selection of contractors, the basic parameters of the outsourcing process were determined unilaterally. By this stage each power station had been established as a separate business in readiness for privatisation with its own workforce which included clerical, operations and maintenance workers. This allowed for separate tenders to be called for each station and mine in order to create a competitive market for maintenance services. Contracts were to be of variable duration (from 18-24 months in the first instance) in order to minimise the potential for unions to negotiate uniform wages and conditions across employers. In addition, a small in-house maintenance workforce was retained at most sites, largely in order to provide some insulation against industrial disputes in the contracting industry (Management interview, 2000). As with previous outsourcing projects, workers were given the options of redeployment, voluntary redundancy or transfer to the contractor. The latter option also entailed receipt of a VDP. Importantly though, job security with the SECV was exchanged for an employment guarantee limited to the life of the contract.

With the transition of the maintenance workforce to contracting firms such as Fluor Daniels and Transfield, the unions led by the AMWU established enterprise agreements which, were underpinned by the predominantly private sector *Metal Trades Award* but provided similar levels of remuneration to that previously received under SECV awards and agreements. For example, in the first of the power station agreement at Loy Yang B, differences in conditions such as longer working hours (up from 37.5 to 38) were offset by increased wages (\$50 per week) (Union interview, 2000). A similar situation applied to agreements for other power stations, though the terms of each differed as was intended by the SECV. More generally, it appears that many employees did not fully grasp that they had traded job security for lucrative VDPs and similar total remuneration.

While in power generation the process of workforce reductions ended with the sale of the generators and was partly reversed in some cases, in the maintenance area the process of downsizing was renewed as contracts came up for renewal between 1995 and 1997 (Fairbrother & Testi, 2000). In part this was evidence of the success of the SECV and its corporatised successors in establishing a competitive tendering regime but it may also indicate that workforce militancy attenuated the severity of the downsizing process which preceded outsourcing (Management interview, 2000). Further, the available evidence suggests workforce reductions have not been at the expense of plant performance; for example, in July 2000 Loy Yang A and Yallourn W were producing 100 MW above nameplate capacity and at Loy Yang plant availability was 97 percent compared to a historical level of 75 percent.

Analysis of Union Response to Outsourcing and Implications

The paradox of the process of outsourcing, particularly in the maintenance areas was that opposition by unions was neither fierce nor sustained. On closer examination it is evident that lack of solidarity among the unions and careful planning by management ensured that pragmatic compliance was the response of the key unions. Further, having chosen this option, it appears likely to exert a continuing influence on the capability of the unions to protect wages and conditions of members in the contracting industry and perhaps more widely in the power industry.

In understanding the union response to the maintenance outsourcing three factors are central. Firstly, the outsourcing of transport produced a fairly severe union reaction led by the Victorian Trades Hall Council, but ultimately the asset sale and outsourcing proceeded, largely due to the attractiveness of the redundancy packages and effective communication with the workforce. This set the pattern for subsequent outsourcing activities.

Secondly, the SECV had reached an agreement with the AMWU, the key and historically most militant maintenance union. As a former manager explained:

There was a deal done with the AMWU to make them the sole union in the maintenance industry, probably to the detriment of the AWU and the ETU following and picking up the scraps. There was an activity done with the AMWU and they saw themselves as becoming the dominant union in the maintenance industry.

Thirdly, there was a sophisticated process used to reduce workforce numbers and overcome resistance to outsourcing. The attractions of a large redundancy package at concessional taxation rates and the prospects of continuing employment had to be weighed against the alternative of remaining with the corporatised employer and having little prospect of meaningful work. Almost all our informants on both sides stressed that the offer of voluntary redundancy was tinged with threats, either that the offer was finite or would be replaced by compulsion. As in Victorian local government, in the final analysis the workers were mainly interested in the effect of contracting out on employment and the terms of the redundancy packages being offered:

and the bottom line was that all those that wanted to work could cross from the SECV to a private employer plus getting a fairly large chunk of money. The pocket actually dictated the outcomes (Union interview, 2000).

Given the history of outsourcing it was too late for the union officials to mount an effective campaign of opposition.

Clearly the main factor in explaining the unions' lack of efficacy in the face of a determined management lay with the level of internal divisions. This was part of an historical pattern in which the SECV made alliances with particular unions when there was a coincidence of objectives and the opportunity to exploit inter-union divisions. This was neatly captured in the words of one manager who played a key role in the process:

It fitted with the union movement's struggle amongst itself for the outsourcing to happen...Two things conspired to come together at the perfect time in history...It brought absolutely monumental change totally peacefully around a table, easily achieved. And it enabled management to run an agenda that suited them (the unions) and suited management for quite a period of time.

While the unions often gave an outward display of solidarity, there were periodic struggles over coverage and membership and on occasion collusion with management to the detriment of other unions. Significantly, these divisions were intensified in the context of the implementation of the ACTU policy of union rationalisation and the instability generated by the process of outsourcing and privatisation in the electricity industry.

While there were numerous internal disputes over the years, two serve to illustrate the point. As explained above, in 1997 the maintenance workers led by local AMWU shop stewards struck for 11 weeks with their major claim being the restoration of an historical wage relativity for power station workers vis-à-vis the metals industry. Lacking the support of the operators' unions, principally the precursors of the CFMEU and the ASU, the maintenance workers eventually capitulated and submitted their claims to arbitration. The

aftermath of the dispute was a lingering hostility between the maintenance workers and the rest of the power station workforce, particularly as the operators had continued normal work throughout the dispute and disregarded union jurisdictional boundaries by assisting managers and apprentices to repair equipment (Management and union interviews 1999; 2000). To this day there is hostility between the two groups of workers (Pullin et. al. 2000). Apart from the sense of betrayal by other unions, this case demonstrated the fierce independence of the Latrobe Valley workers and their willingness to disregard the views of their own officials and union confederations such as the ACTU (Benson & Goff 1979).

A second instance involved the elite group of power station operators (Teicher 1984). A group of operators, mainly at the Hazelwood power station, defected from the precursor of the ASU to the Australian Institute of Marine and Power Engineers (AIMPE) which formed a Latrobe Valley sub-branch and gave the operators substantial autonomy in the conduct of industrial matters. The AIMPE recruited actively among the operators and the unit attendants, the latter mostly belonging to what is now the CFMEU. There was ongoing hostility between the two groups of unions and periodically this was intensified by the AIMPE making leading edge claims for its limited constituency. These tensions came to a head in 1980 when the AIMPE launched a preemptive log of claims on behalf of the operators which highlighted the ASU's reluctance to advance claims for the shift workers in isolation from their broader white collar membership. While the ASU and CFMEU were united in their hostility to the AIMPE, when the latter departed the industry as part of the rationalization process these two unions resumed their rivalry for coverage in power station operations.

Divisions between the unions were fanned by the ACTU policy of rationalising union coverage and fostering mergers in order to create 20 'super unions' (ACTU, 1987). This process required unions to be designated as 'principal', 'significant' and 'other' with the former being able to recruit outside their traditional boundaries and across an industry provided they had constitutional coverage and secured ACTU approval (ACTU 1993). Significant unions were largely confined to recruiting within their traditional boundaries while other unions were intended to retain a presence in the industry only if requested by existing members (ACTU, 1993). In the union movement generally this process absorbed considerable resources as unions courted and negotiated with various potential merger partners. In the electricity industry struggles in the workplace were complemented by legal battles over jurisdiction in the Australian Industrial Relations Commission.

Prior to the union amalgamation process there were 23 unions in the SECV. In the electricity industry the ASU was accorded principal union status with the AMWU, CFMEU, and CEPU being significant and the remaining unions were expected to depart the industry over time. In 1989 when the state government sold a majority holding in the incomplete Loy Yang B power station to Edison Mission Energy, the ASU negotiated a single union agreement with the new owners. With the support of the ACTU it argued that principal union status entitled it to exclusive coverage of greenfield sites. The exclusion of other unions, particularly the AMWU and CFMEU, was met with costly and time consuming legal challenges and is a source of continuing resentment. For example, when the ASU and Edison Mission Energy attempted to have their agreement certified by the AIRC, the AMWU successfully challenged this on a technicality. The CFMEU responded to the challenge by successfully renewing its efforts to recruit among the operators aided by the fact that it had recruited most of the AMIPE members when that union left the industry (Union interview, 1998).

In view of the level of division between the unions, it was not surprising that the AMWU took the opportunity to preserve its membership and role in power generation by a strategy of pragmatic compliance. The alternative would have been for its membership to be gradually absorbed by other unions such as the ASU. But this was to have two major consequences for ongoing workforce unity in the electricity generation sector. Firstly, in large measure outsourcing institutionalised longstanding divisions between the operators and the maintenance workforce which were discussed above. Secondly, the form of outsourcing adopted for maintenance led ultimately to sharp divisions within the former SECV maintenance workforce.

Divisions within the power generation sector were thrown into relief by a long running enterprise bargaining dispute at the privatised Yallourn W which is owned by PowerGen. Among the claims advanced by the management were the introduction of flexible work arrangements, productivity increases, increased use of contractors, the reduction of overtime and changes to shift working. A central and apparently non-negotiable issue appears to have been the demand for an unrestricted right to use contractors and by implication the right to further reduce the workforce (Gallagher, 2000). Industrial action by the operators represented by the CFMEU and ASU and the in-house maintenance contingent represented by the AMWU and CEPU erupted on two occasions in 2000, January and July, and was notable for the fact that it seemed to have unified the two groups of power station employees. There were even threats that other power stations may join the industrial action (World Reporter, 2000). Underlying this apparent display of unity was that the contractor workforce whose employers have contracts with each of the generating companies were completely silent. There was not one reported statement of support despite the fact that one of the major issues in the dispute was job security for the in-house contractors suggesting that the historic distinction between operators and maintenance workers has been recast in terms of power station workers and the contracting workforce.

The second and perhaps more profound division is that within the contractor workforce. The origins of this division lay in the labour utilisation strategies of the contractors who, unlike the former SECV, did not staff for peaks. Instead they created a core workforce with job security for the life of the contract and a peripheral workforce of casuals who were utilised on a needs basis such as for major outages requiring up to 600 workers. This shift toward insecure employment as a consequence of outsourcing has been noted elsewhere and been recognised for its capacity to directly undermine pay and conditions (e.g. Anderson, Brosnan & Walsh 1994; Teicher & Van Gramberg 2000).

Above we explained that as the first round of maintenance contracts came to an end the contractors resumed workforce downsizing commencing at Hazelwood power station in late 1994 where the employer dismissed 27 employees including all the shop stewards. The unions responded by calling a meeting of the entire maintenance workforce and recommended retaliatory industrial action against all the contractors. After a heated debate this recommendation was narrowly defeated and it has been argued that the votes of the casual workers were decisive. At the time, a large overhaul was about to commence and industrial action would have led to postponement of that work to the detriment of the casuals. According to a longstanding union official (2000):

from that day on we lost because we lost the ability to campaign as a group Once Transfield had been left high and dry they would not help out workers at other contractors.

Thus a situation has been reached where for the foreseeable future the maintenance workers have ceased to be a united force in power generation, yet it is not clear that they have become integrated into the industrial relations of the broader contracting industry.

CONCLUSION

In an environment where the political and legislative framework has become increasingly hostile to unions, governments at both federal and state levels evinced their neo-liberal ideology by embracing the individualisation of the employment relationship, outsourcing and privatisation. Under such conditions it is not surprising that unions have found the battle against outsourcing difficult. What is surprising is that traditionally strong, militant unions such as the AMWU and CEPU in the Victorian power industry were apparently incorporated into management's restructuring agenda.

This study of the union responses to outsourcing in electricity generation demonstrates that overall unions adopted a pragmatic, compliant approach. They did not oppose outsourcing but rather engaged in negotiations which allowed them to continue to be regarded as key players in the industry generally or in particular segments. Such a response needs to be seen in the context firstly, of a well planned and

consistently implemented management strategy which compelled outsourcing through extensive consultation with workers and unions and the offer of attractive redundancy packages which included bonuses for those who took up positions with contractors. Secondly, this is a complex, multi-union environment with a long history of inter-union rivalry and division. For years agreement could not be reached either among themselves or with the SECV on efficient and effective work practices which may have circumvented the need for outsourcing. Finally, when outsourcing became an imperative for management, continuing inter-union divisions meant that a united position was beyond the reach of the unions. Thirdly, and particularly in maintenance, staffing levels continued to decline over the 1990s posing a threat to the unions' membership base, bargaining power and relevance in the industry.

By adopting a pragmatic approach towards outsourcing in this industry, the power unions have demonstrated that strong, militant, traditional blue-collar unions are willing to accept market-driven efficiency strategies, including downsizing and contracting out in order to retain a role, albeit a redefined one. The only question remaining, is, for how long?

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