

Review of an investigation by Western Power into serious misconduct

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CHAPTER ONE

Introduction

- [1] Western Power is a WA State Government owned utility that maintains and operates the electricity network across the South West Interconnected Network.¹
- [2] The South West Interconnected Network stretches over 255,000 square kilometres, from Kalbarri in the north, down to Albany in the south and Kalgoorlie in the east.
- [3] The Western Power network consists of more than 800,000 power poles and towers.²
- [4] A fallen power pole or line has the potential to result in a ground fire or electric shock.
- [5] The ongoing maintenance of power poles owned by Western Power across the State is an essential public safety responsibility of Western Power.
- [6] This report concerns the actions by a Western Power employee working in a regional location inspecting Western Power's power poles.

The whistle-blower

- [7] On 29 August 2019, Western Power received information from an anonymous whistle-blower which suggested that a regional employee responsible for inspection of maintenance work was falsifying business records.
- [8] The employee's responsibilities included completing quality and safety inspections of assets, including power poles, and related jobs and crews.

Western Power's preliminary enquiries

- [9] In response to the whistle-blower's report, preliminary enquiries were undertaken by the employee's team leader based in Perth.
- [10] Those enquiries included a review of Western Power's database, Guardian, which stores inspection data, including photographs submitted to verify the completion of a power pole inspection.

¹ Western Power, *What we do* <<https://www.westernpower.com.au/about/what-we-do/>>.

² Western Power, *Annual Report 2018*, 28 September 2018.

- [11] Recent technology advancements enabled Western Power to remotely access and interrogate the employee's travel activities using telematics data.
- [12] The team leader's enquiries revealed that the employee had submitted unreliable photographic evidence for inspections that were supposed to have been carried out. In some instances, the same image had been submitted for inspections at different locations.
- [13] The enquiries also revealed that the employee may have been falsifying timesheets while conducting non-work related activities during work time and while using a work vehicle.

Western Power's further investigation

- [14] Western Power's preliminary enquiries led to a further, more formal, internal investigation by its Forensic Advisory Team.
- [15] That investigation considered the employee's activities between 2 and 6 September 2019.
- [16] The Forensic Advisory Team considered video evidence, vehicle telematics data, inspection records, photographs from a camera issued to the employee for work purposes and timesheet data.
- [17] The evidence obtained by the Forensic Advisory Team showed that the employee did not attend or conduct the required duties.
- [18] Instead, the employee spent a significant amount of time at home and used a work vehicle to engage in recreational activities. The lack of work related activities was not recorded in the employee's timesheet entries.
- [19] On 16 September 2019, the employee was stood down and a disciplinary process was started.
- [20] On 23 September 2019, Western Power wrote to the employee setting out allegations of serious misconduct against them. A formal response was not provided by the employee.
- [21] On more than one occasion, Western Power considered reporting the employee's conduct to the WA Police Force. No report was made.

Report to the Commission

- [22] On 24 September 2019, Western Power notified the Commission of the matter.

[23] The Commission conducted an assessment, during which time Western Power finalised its investigation. The Commission noted that no report had been made to the WA Police Force.

Western Power's outcome

[24] As a result of its disciplinary process, Western Power decided the allegations were sufficiently substantiated to terminate the employee, which it did, on 20 December 2019. Western Power informed the Commission of this outcome by letter on 27 December 2019.

[25] Following the employee's termination, Western Power committed to conducting an audit of the work carried out by the employee between July and September 2019 to identify, and where possible, rectify the compromised inspections.

[26] The audit identified over 200 falsified inspections, 53 fraudulent timesheet entries and 51 instances of the work vehicle being misused.

[27] Recognising the systematic conduct of the employee, Western Power committed to continuing its audit back to January 2018.

The Commission's review

[28] Western Power provided a report detailing its investigative actions to the Commission on 7 May 2020.

[29] The Commission conducted a review of Western Power's investigation.³

[30] The Commission's review considered the evidence available to Western Power and the conclusions reached.

[31] The seriousness of the allegations was recognised by Western Power which promptly conducted a thorough and comprehensive investigation.

[32] The conclusions reached by Western Power were open to be made based on the evidence available.

[33] Western Power has advised that new audit regimes have been implemented for employees responsible for safety and compliance, including power pole inspections, to reduce the risk of inspection fraud recurring. The regime requires:

³ *Corruption, Crime and Misconduct Act 2003* (CCM Act) ss 33(1)(c) and 41.

- A minimum sampling of five inspections per employee every month, to verify that the inspection was carried out onsite and on the correct asset.
- Six-monthly reviews of any duplicate inspections to detect more systemic concerns in the submission of duplicate photographs.

[34] Western Power advised that these stricter audit regimes, coupled with recently increased insistence on employee timesheets in order to meet its workplace responsibilities, will improve its ability to proactively detect similar fraudulent conduct.

[35] The Commission notes the period of time which elapsed and the investigative actions taken by Western Power before the matter was first reported to the Commission.

[36] As a 'notifying authority', Western Power is required to notify the Commission in a timely and appropriate way when it forms a reasonable suspicion of serious misconduct. Western Power formed this suspicion well before the employee was stood down on 16 September 2019.⁴ Western Power should have notified the Commission earlier.

[37] The Commission has concerns with the decision by Western Power not to report the employee's conduct to the WA Police Force.

[38] The Commission does not agree with Western Power's decision. The Commission considers it appropriate to report any suspected criminal conduct to the WA Police Force.

⁴ In its response under CCM Act s 86, Western Power stated the Commission's guidance sets out that reporting serious misconduct, categorised as level 2, is to be reported monthly. However, as a notifying authority, Western Power is required, under CCM Act s 28, to notify the Commission when it forms a reasonable suspicion of serious misconduct. The current reporting standards were communicated to Western Power's then Chief Executive on 31 August 2018.

CHAPTER TWO

Conclusion

- [39] The maintenance of power pole assets by Western Power is an important and critical role. The consequences of not performing this function are severe and could be fatal. In recent times, these matters have been publicly raised in many forums following destructive bush fires in several areas of WA.
- [40] In addition, a large amount of trust is placed in public officers working in remote regional areas as they often have minimal direct oversight. There is a corresponding serious misconduct risk.
- [41] For some time, Western Power's systems and capabilities enabled an employee to exploit this trust. It is unknown how long the conduct would have continued if the whistle-blower had not reported the matter.
- [42] The Commission acknowledges the prompt investigative actions taken by Western Power and the efforts made to rectify the employee's deceitful conduct.
- [43] Western Power has committed to ensuring public safety by auditing and rectifying the compromised inspections of the employee.
- [44] In response to this matter, Western Power has improved its audit capability, increasing the ability to proactively detect any similar fraudulent conduct. This, coupled with timesheet and technology advancements, has enabled greater scrutiny over employees who are not always located in the same region as their supervisors.
- [45] Whilst there is no general legal obligation for public sector agencies to report criminal conduct to the WA Police Force, it is inappropriate for agencies to make assumptions about the attitude of the WA Police Force to prosecuting, or the outcome of possible criminal proceedings. It is ultimately a matter for the WA Police Force to decide what action they take.
- [46] In view of Western Power's investigation, the Commission makes no formal recommendations.
- [47] The broader risks associated with minimal supervision, particularly of employees in regional locations, and the diligence that is expected of public sector agencies in timely and appropriate reporting of matters, is a lesson for all agencies.