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**Australian
Competition &
Consumer
Commission**

Our Ref: C2004/1474
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11 October 2004

Dear Sir/Madam

**Applications for Authorisation A30236 – A30238 lodged by Port Waratah Coal Services
(PWCS) – medium term capacity distribution system**

I refer to our previous letter of 6 October 2004 in relation to the above mentioned application for authorisation. As you are aware, Port Waratah Coal Services (PWCS) has requested interim authorisation of the proposed medium term capacity distribution system (CDS) in two parts. Following discussions with PWCS, we consider it useful to clarify the conduct for which interim authorisation is sought under both parts of PWCS' request.

Request for interim authorisation - Part 1

The conduct for which PWCS seeks interim authorisation under part 1 is for PWCS to conduct the demand reduction auction in late October/early November 2004. The demand reduction auction is a mechanism for coal producers to increase or decrease their allocation by bidding with other auction participants to effectively buy or sell loading allocation around the pro-rata reduction position.

Request for interim authorisation - Part 2

Under part 2, PWCS requests interim authorisation from 1 January 2005 to:

- commence the tonnage tracking and management elements of the proposed medium term CDS
- decline to load vessels that exceed the first quarter's allocation by producer.

PWCS commits that it will not implement any financial consequences of the auction (such as compensatory payments) until final authorisation is granted by the ACCC.



Deadline for submissions on interim authorisation and the substantive application for authorisation

The ACCC would still appreciate receiving your views on part 1 of the request for interim authorisation by **18 October 2004**.

The ACCC is yet to receive the Objectives, Principles and Protocols (the Protocols) for the proposed medium term CDS (proposed Attachment H to the application for authorisation), and will not be in a position to consider the request for interim authorisation until the Protocols have been provided. The ACCC understands that PWCS is still consulting industry participants and hopes to provide a copy of the finalised Protocols to the ACCC around 22 October 2004. It will then be made available on the ACCC's website at www.accc.gov.au (follow the public registers link to the authorisations public register).

In addition, PWCS has requested an extension of time for interested parties to lodge submissions on the substantive application for authorisation with the ACCC. As such, the ACCC has extended the deadline for submissions on the substantive application until **cob Friday, 19 November 2004**. The ACCC would also be happy to receive comments from interested parties in relation to part 2 of the request for interim authorisation by this date.

If you have any questions about the issues raised in this letter please contact Jaime Norton on (02) 6243 1208 or David Hatfield on (02) 6243 1266.

Yours sincerely



Tim Grimwade
General Manager
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