



**Australian
Competition &
Consumer
Commission**

Our Ref: C2007/611
Contact Officer: Jaime Martin
Contact Phone: (03) 9290 1477

PO Box 1199
Dickson ACT 2602
470 Northbourne Ave
Dickson ACT 2602

Tel: (02) 6243 1111
Fax: (02) 6243 1199

www.accc.gov.au

4 April 2007

Dave Poddar
Mallesons Stephen Jaques
Level 60
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000

Dear Mr Poddar

Re: Port Waratah Coal Services Limited - draft determination

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination in respect of the application for revocation of authorisations A30236 – A30238 and substitution of new authorisations A91033 – A91035 lodged by Port Waratah Coal Services Limited (PWCS) on 27 February 2007.

A copy of the ACCC's draft determination is attached. For the reasons set out in its draft determination, the ACCC proposes to grant authorisation to PWCS for the amended Medium Term Capacity Balancing System until 31 December 2007.

Interim authorisation

On 14 March 2007 the ACCC granted interim authorisation to the proposed arrangements. Interim authorisation will continue to protect the proposed arrangements from action under the *Trade Practices Act 1974* until the date the ACCC's final determination comes into effect, unless the ACCC decides to revoke interim authorisation.



Next steps

Now that the ACCC has issued its draft determination, PWCS or any interested party who may be dissatisfied with the ACCC's draft determination may request that the ACCC convene a 'pre-decision conference'. A pre-decision conference provides the opportunity for interested parties to make oral submissions in relation to the draft determination. Under the *Trade Practices Act 1974*, the ACCC must set a date within 14 days of which any pre-decision conference must be requested.

Accordingly, if your client would like the ACCC to hold a conference in relation to the draft determination, you must notify us in writing by **cob 18 April 2007**. As you are aware, conferences are conducted informally, without the participation of legal or other professional advisers. In the event of such a conference taking place it must be held by 18 May 2007.

Alternatively, PWCS is also invited to make a written submission in response to the ACCC's draft determination. Written submissions should be lodged by **cob 20 April 2007** at the following address:

The General Manager
Adjudication Branch
Australian Competition & Consumer Commission
PO Box 1199
DICKSON ACT 2602

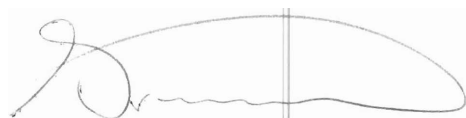
Submissions can also be lodged by e-mail to adjudication@acc.gov.au or by facsimile on (02) 6243 1211.

Persons lodging a submission with the ACCC may request that information included in the submission be excluded from the public register in certain circumstances. Submissions which are excluded from the public register may still be taken into account by the ACCC when conducting its assessment of an authorisation application.

The ACCC will consider any submissions it receives, including any oral submissions made should a conference be called, and will then release a final determination in relation to this application.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Jaime Martin on (03) 9290 1477 or at jaime.martin@acc.gov.au.

Yours sincerely



Scott Gregson
General Manager
Adjudication Branch