

Record of meeting with QR

2 December 2008

Applications for authorisation A91111-A91112 lodged by Port Waratah Coal Services and the Newcastle Coal Infrastructure Group

ACCC: Richard Chadwick, David Hatfield, Jaime Martin and Clare McGinness (Adjudication Branch)

QR: Warren Gould and Tanya Boyle

Location: ACCC (Sydney)

Time: 11am

The Australian Competition and Consumer Commission (ACCC) requested the meeting with QR to seek its preliminary views in relation to the above mentioned application for authorisation received from Port Waratah Coal Services and the Newcastle Coal Infrastructure Group (the Applicants) concerning the Hunter Valley coal chain.

An overview of the issues discussed at the meeting follows:

- QR confirmed that it will be providing a written submission to the ACCC in relation to the Applicants' request for interim authorisation.
- QR supports the operation of a capacity balancing system at the Port of Newcastle for six months only. It would not support the operation of a system beyond this timeframe.
- QR noted that it has never been comfortable with the operation of the various port-based capacity balancing systems in the Hunter Valley coal chain, as they override its contracts with coal producers. In addition, the operation of these schemes has had a significant impact on QR's operating costs.
- QR believes the producer-agreed long term access principles as part of the Greiner review of the Hunter Valley coal chain was a significant achievement for the industry. However, it notes that additional time is needed in order to finalise these principles, including obtaining the agreement of the NSW Government. Once the long term principles are agreed, the long term operational protocols will then need to be developed.
- QR noted that the proposed Memorandum of Understanding (to be provided to the ACCC by the end of March 2009) will not provide the level of detail required. It considers there is a lot of work to be done by industry in order to finalise the long term solution within the proposed six month timetable.
- QR stressed the significance of the Greiner process, which resulted in consensus among coal companies for the first time in many years. However, QR noted that the longer it takes to finalise the details of the long term protocols, the greater the risk that the level of consensus will reduce.

QR considers it critical that any long term solution to the capacity issues in the Hunter Valley include the alignment of port, above rail and below rail contracts, on a mine by mine basis (hereafter referred to as 'Contractual Alignment'). In addition, any long term solution needs to adopt the 'Reference Tonne' concept.

QR submits that the different operating modes at PWCS' coal loading facilities (that is, cargo assembly) and NCIG's facilities (that is, dedicated stockpiling) increases the need for origin/destination based contracting along the entire coal chain.

QR understands that the Producer Working Group is conducting ongoing discussions with the NSW Government concerning the issue of 'compressibility' in long term contracts. Once this issue is resolved, QR submits that service providers will become involved in discussions about the long term protocols.

QR advised there were 42 vessels in the queue offshore at Newcastle at the end of November 2008, which is the largest the queue has been all year.

QR considers that if interim authorisation is not granted by the ACCC, the vessel queue will increase significantly - possibly up to 70 ships by the end of January 2009. This is because coal producers will consider putting ships in the queue as the only way of guaranteeing coal throughput. QR also noted the possibility of above rail providers reverting to railing to contracts only, which would have a negative impact on system capacity.

Having said this, noting the new ports legislation in NSW, QR is of the view that the NSW Government could potentially impose an alternative queuing system in order to prevent the queue from reaching such high levels. However, QR noted that this would not address the underlying long term capacity issues in the Hunter Valley.

QR believes that if a long term solution (as outlined above) had been arrived at a few years ago, then additional above and below rail and port infrastructure would already be in place and the capacity of the Hunter Valley coal chain would be significantly greater than it currently is.

QR noted that one train set costs approximately \$30 million and takes around 18 months to 2 years to build. To haul an additional 12 million tonnes of coal from a new mine in the Ulan area for example, QR would need to build four to five additional train sets.

QR noted that there is insufficient investment in above rail occurring in the Hunter Valley to meet current port expansions and that this will not occur until there is Contractual Alignment.