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5th December 2008

The General Manager
Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Attention: Dr Richard Chadwick

Re: Port Waratah Coal Services and Newcastle Coal Infrastructure Group applications for authorisation A91110 – A91112 – interested party consultation

Further to ACCC's memo of 20th November 2008 advising of subject application which seeks authorization for a proposed Stage 1 Tonnage Allocation system and Long Term Terminal Access Protocols to replace the current Capacity Balancing System; we provide the following comments :-

- Ashton Coal Mines Ltd (Ashton) supports initiatives to equitably distribute the existing limited Hunter Valley Coal Chain capacity amongst all producers and also to ensure that any proposed Long Term Terminal Access Protocols promotes Coal Chain expansion in a timely, co-ordinated manner.
- Ashton supports the subject application, and in particular the Stage 1 Tonnage Allocation system. However, given the criticality and importance of any Long Term Terminal Access Protocol being carefully developed, reviewed and considered by all industry stakeholders, we are of the view that the Stage 1 Tonnage Allocation system should be implemented for the entire calendar year 2009 period with the Long Term Terminal Access Protocols to be effective from 1st January 2010. We believe this approach will provide greater certainty to producers in understanding their individual 2009 calendar year allocated tonnages and align with sales contract positions.
- Ashton believes that, absent an allocation system being in place effective 1st January 2009, there will be significant and wide ranging adverse effects resulting from the expected increase in the offport vessel queue.

Yours sincerely,

G. Stamenkovic
General Manager – Marketing

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