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25 January 2008

Scott Gregson
General Manager
Adjudication Branch
ACCC
GPO Box 3131
CANBERRA ACT 2601

Dear Mr Gregson

Re: Dalrymple Bay Coal Terminal Queue Management System

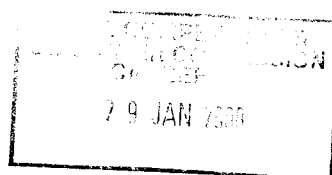
Pacific National (PN) welcomes the opportunity to comment on the ACCC's draft decision to authorise the queue management system (QMS) for the Goonyella coal chain. In summary PN:

- supports the ACCC's decision to authorise the QMS for 12 months;
- is impacted by the uncertainty QMS creates as PN attempts to enter the coal haulage market in Queensland;
- recognises that the Hunter Valley and Goonyella coal chains are both facing continued excess demand and that improved longer term coal chain capacity management systems will need to be introduced. These systems should, amongst other qualities, be forward looking rather than reactive and be based on total coal chain capacity management rather than just the capacity of a part of the chain (for example port capacity under the QMS); and
- welcomes the appointment of Ross Dunning as the Central Coordinator for the Goonyella coal chain and suggests he play a key role in developing a longer term capacity management solution.

We provide more detail on these views below.

PN concurs with the ACCC's view of the counterfactual, namely that the ship queue would increase. The conclusion that the queue would rise to around 60 vessels seems reasonable. Given this counterfactual the major benefits of the authorisation are fairly easy to identify, namely reducing demurrage costs and reducing inefficient stockpiling.

The Draft Determination identifies a number of potential detriments. Of these detriments PN concurs with the ACCC that the QMS being in place for 12 months only is unlikely to reduce aggregate exports from Goonyella nor reduce investment by current participants in the coal chain. PN also accepts that the QMS has not had any significant impact on ship sizes. However, any further extension of the current QMS beyond the next 12 months will have an increasing and significant impact upon the above rail haulage market as contracted rail haulage tonnages become less relevant the longer a port only capacity system is in place. PN has direct experience of this under the CBS in the Hunter Valley as discussed previously with the ACCC.



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PN is actively seeking to enter the coal rail haulage market in Queensland and has had commercial discussions with multiple coal producers. A recurring issue for the coal producers is their desire to have rail contracts that provide long term certainty of adequate rail capacity to match port contracted entitlements, but also a desire to share risk of capacity constraints in the coal chain. Within this environment, QMS, whilst not preventing entry does make entry more challenging for a new above rail operator.

Firstly, the fact that port capacity is rationed creates uncertainty around the level of actual versus contracted tonnes that the new entrant will haul.

Secondly, the QMS impacts the above rail operators' commercial returns. This is especially true for a new entrant with a small tonnage start up. By way of explanation, PN will need to undertake significant capital investment, in order to enter the Queensland rail haulage market. As well as purchasing locomotives and wagons, investment in operating yards and facilities such as maintenance and fuelling facilities will be required. These investments, the majority of which are in assets with long lives, have to be sized to meet contracted tonnes. It is not economically efficient to acquire rolling stock in a piecemeal fashion and investment in facilities can often not be staged. Thus the fact that in the early years contracted tonnes will be greater than actual tonnes hauled means that entry is more expensive as there will be assets that have to be acquired (due to the indivisibility of asset acquisition) that will not be fully utilised whilst a queuing system is in operation.

PN recognises that these issues are equally relevant to the VQMS system that was proposed for the Hunter Valley. The VQMS was proposed for only a 12 month period for various reasons including the fact that issues such as competitive entry and ensuring the system did not promote gaming of rail capacity were issues which had not yet been fully addressed. PN recognises that any long term solution must take account of competitive entry issues in all parts of the coal chain.

Despite these important detriments PN believes that the benefits of the 12 month authorisation outweigh the detriments. However, the ACCC is right to be concerned about the length of time the current QMS has been in place and the resultant distortion of normal market signals. It has been recognised that demand will outstrip supply in the Goonyella system for a number of years yet. For example, Stephen O'Donnell concluded that a capacity allocation system would be required for at least the next three years.¹ This delay before adequate system expansion is similar to the delay expected in the Hunter Valley. Pacific National does not believe that QMS is the best system to use for the whole period, and would seriously question whether QMS is sustainable beyond 2008 without significantly increased detriments.

PN suggests that any longer term capacity management solution, relevant to both the Hunter Valley and the Goonyella system, should:

- be forward looking rather than reactive;
- be based on coal chain capacity and not capacity of a single part of the chain;
- allocate capacity on a fair and reasonable basis;
- create alignment between commercial contracts for the capacity elements of coal chain capacity (eg below rail, above rail & port);
- encompass clear entitlements for all; and
- not discourage competitive entry in any part of the coal chain.

¹ Goonyella Coal Chain Capacity Review – Second and Final Report January 2008 p3.

Achieving a suitable longer term solution is not an easy task. Experience in the Hunter Valley has shown that without independent leadership it is virtually impossible to come to a capacity allocation solution that is accepted by all parties. Pacific National is hopeful that the appointment of Nick Greiner will facilitate an appropriate solution for the Hunter Valley.

A similar approach is required for the Goonyella coal chain. PN welcomes the appointment of Ross Dunning as the Central Coordinator. PN suggests that Mr Dunning would be ideally placed to play a similar role to that of Nick Greiner in the Hunter Valley and attempt to facilitate a more appropriate capacity management system for the Goonyella coal chain. PN is committed to working with the Central Coordinator and other members of the coal chain to achieve such a solution.

PN believes that early engagement by Mr Greiner and Mr Dunning with the ACCC will assist in developing long term solutions. It may assist in the Goonyella system if the ACCC recommends a timetable for a new capacity balancing system which facilitates authorisation in advance of the QMS authorisation expiring.

Should you require any further information please feel free to contact me.

Kind Regards

A handwritten signature in black ink, appearing to read "Tim Kuypers", with a long horizontal line underneath it.

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