

Port Waratah Coal Services Limited

Response to issues raised in the submissions by Bloomfield and Integra Coal in relation to Applications for authorisation A91147-A91149 and A91168-A91169

1 Introduction

1.1 Purpose of submission

This submission sets out PWCS' response to the matters raised in:

- (a) the submission by Bloomfield Collieries Pty Limited ("**Bloomfield**") provided to PWCS by the Commission on 22 September 2009; and
- (b) the submission by Integra Coal Operations Pty Limited ("**Integra Coal**") dated 21 September 2009.

As Bloomfield's and Integra Coal's submissions raise issues which relate to operational matters at the PWCS Terminals, this submission is made by PWCS only. PWCS will provide a copy of this submission to the other Applicants.

This submission can be placed on the Commission's public register.

1.2 Executive summary

Both the transition from quarterly Allocation Periods to monthly Allocation Periods for Producers who export 3 Mtpa or more of coal through the PWCS Terminals and PWCS' consideration of a new vessel sequencing system are matters that are intended to facilitate the efficient operation of the PWCS Terminals and promote greater certainty for PWCS and its customers.

PWCS has consulted extensively on both of these issues, and the way that they are addressed in Attachment 1 of the applications for authorisation represents a compromise by PWCS following consultation with its Producer customers.

PWCS firmly believes that the introduction of the measures referred to in Bloomfield's and Integra Coal's respective submissions will promote the efficient operation of the PWCS Terminals and the coal chain, and will reduce the risk of lost capacity, vessel wait times and dead-weight demurrage costs on the industry.

1.3 Structure of submission

This submission is structured as follows:

- (a) Section 2 sets out PWCS' response to the issues raised by Bloomfield and Integra Coal in relation to section 9(e) of Attachment 1 (being the conduct for which the Applicants' seek authorisation); and

- (b) Section 3 sets out PWCS' response to the issues raised by Bloomfield and Integra Coal in relation to the definition of "Allocation Period" in Attachment 1 of the applications for authorisation.

2 Vessel queue (section 9(e) of Attachment 1)

2.1 Background

As the Commission is aware, PWCS currently loads all vessels on a "turn of arrival" basis.

Over the past 6 months, there have been a number of discussions with industry participants about the possible introduction of a new "vessel sequencing system", which is designed to reduce vessel waiting times, reduce demurrage and further facilitate contractual and operational alignment across the coal chain by providing greater certainty in relation to vessel load times.

Discussions have only progressed to a preliminary stage. However, following initial consultation, a number of Producers raised concerns in relation to the proposed new system. While supporting the new system in concept, certain Producers sought further modelling, development and time for consultation.

In response to that feedback from customers, and given the number of other proposed changes to the arrangements with PWCS and its customers, PWCS agreed to defer the implementation of, and further discussions concerning, any new sequencing system. Specifically, PWCS indicated that it would:

- undertake further detailed modelling with Hunter Valley Coal Chain Coordinator Limited and further consultation with Producers in relation to any new vessel sequencing system during the first half of 2010;
- implement a limited trial of the new vessel sequencing system, and undertake further consultation with Producers, in the second half of 2010; and
- potentially introduce the new vessel sequencing system following the conclusion of that trial, subject to the outcome of the modelling task, trial and consultation with Producers.

2.2 Consultation is continuing in relation to the new vessel sequencing system

At this stage certain aspects of the new vessel sequencing system under discussion are yet to be settled. Again, these matters will depend on the outcome of the modelling task, the trial and consultation with Producers. However, PWCS' view is that any new system which may reduce vessel wait times and demurrage costs, assist in operational planning, provide greater certainty of vessel load times, facilitate the efficient operation of the PWCS Terminals and further facilitate contractual alignment is worth exploring further.

This is particularly the case given that, as capacity increases at PWCS, the size of the vessel queue will also need to increase to ensure the efficient operation of the PWCS Terminals, unless the introduction of a new system for vessel arrivals and to manage vessel queuing is considered.

Section 9(e) of Attachment 1 to the applications for authorisation reflects that, if a new system is introduced, then it may be appropriate that capacity losses which arise solely from the random nature of vessel arrivals under the turn of arrival system (i.e. not under the vessel sequencing system), are borne by Producers who continue to use the turn of arrival system. Whether or not this is ultimately implemented will depend on a range of factors as set out above.

2.3 Bloomfield's and Integra Coal's proposed changes are not practical

Given the likely practical difficulties in amending its contracts if a vessel sequencing system is ultimately introduced, PWCS does not agree that the changes proposed by Bloomfield and Integra Coal are either desirable or necessary. Amending PWCS' contracts in the manner proposed by Bloomfield and Integra Coal would be likely to increase the difficulty of implementing any new system which may well involve substantial efficiencies and other benefits.

PWCS also notes that, given that the vessel sequencing system trial will not commence until the second half of 2010, this is not a matter which should impact on the Commission's consideration of the Applicants' request for interim authorisation.

3 Allocation Periods

3.1 The purpose of "Allocation Periods"

Under PWCS' Long Term Ship or Pay Contracts, the use of Producers' Loading Allocations is divided into Allocation Periods. Producers are required to use their "Periodic Loading Allocations" (plus any tolerance amounts) within a particular Allocation Period.

The purpose of this requirement is to reduce the risk that Producers may seek to use their entire Loading Allocation (or a large proportion of their Loading Allocation) within a short period of time which cannot be efficiently serviced by PWCS or which would result in the creation of a vessel queue and ultimately lost capacity. For example, if a Producer sought to use its entire quarterly Loading Allocation in the last (or first) month of the quarter, this would be likely to result in the formation of a vessel queue and an inability for PWCS to service all customers' allocations in that month. This would result in lost capacity. This would be exacerbated if multiple Producers sought to "front-end" or "back-end" their use of Loading Allocations.

The purpose of the Allocation Periods is therefore to "smooth" the use of Loading Allocations over an appropriate period of time, and enable PWCS to manage vessel arrivals from an operational perspective.

The requirement to use Periodic Loading Allocations in an Allocation Period relates only to coal exported through the PWCS Terminals.

3.2 The operation of the "Allocation Periods"

The definition of "Allocation Periods" set out in PWCS' Long Term Ship or Pay Contracts and PWCS Operating Protocol acknowledges that it may, in some cases, be easier for larger Producers to smooth their vessel arrival requirements, and manage their production and exports across multiple mines, than it is for smaller Producers. Accordingly, the Long Term Ship or Pay Contract requires:

- larger producers to use (on a ship or pay basis) their respective Periodic Loading Allocations on a monthly basis;
- smaller producers to use (on a ship or pay basis) their respective Periodic Loading Allocations on a quarterly basis.

PWCS initially proposed that “larger producers” would be all Producers who export 3 Mtpa or more of coal through the PWCS Terminals. Those “larger producers” would each have monthly Allocation Periods. However, following consultation with its customers and having regard to the potential operational impact for some Producers in moving from quarterly to monthly Allocation Periods, PWCS subsequently agreed to provide a two year transition period so that Producers who export between 3-5 Mtpa through the PWCS Terminals, will have:

- quarterly Allocation Periods from 1 January 2010 until 31 December 2011; and
- monthly Allocation Periods from 1 January 2012.

PWCS considers that this provides a significant transition period for those Producers.

Lowering the threshold of coal shipped through the PWCS Terminals from 5Mtpa to 3Mtpa from 1 January 2012 will ensure that a greater number of medium-sized Producers (involving a significant aggregate number of tonnes on an annual basis) are required to provide increased certainty to PWCS by working on the basis of monthly, rather than quarterly, Allocation Periods. This will, in turn, improve the operational efficiency of the PWCS Terminals, reduce the risk of spike in the vessel queue and, ultimately, the risk of lost capacity. PWCS considers that this is inherently more efficient and therefore cannot be considered to be a barrier to expansion as apparently suggested by certain Producers.

PWCS considers that there is a limited ability for “smaller” Producers (that is, Producers will annual PWCS tonnes of less than 3 Mtpa) to fundamentally impact on the operation of the PWCS Terminals or the size of the vessel queue by continuing to work to quarterly Allocation Periods. Accordingly, the transition will only apply to Producers who export between 3-5Mtpa through the PWCS Terminals. However, if there is a concern that all Producers should be treated equally (i.e. both greater and less than 3Mtpa), PWCS considers that monthly Allocation Periods provide a more efficient solution.

Monthly Allocation Periods also aligns with the process currently proposed by ARTC.

PWCS also notes that:

- the 3 Mtpa threshold will apply only to tonnes exported through the PWCS Terminals. It is possible that a large Producer may export only 3Mtpa through PWCS, but export significantly more tonnes through the NCIG Terminal. Accordingly, the transition from 1 January 2012 will not only apply to “smaller” or “medium-sized” Producers; and
- any concerns in relation to a requirement for Producers who export 3 Mtpa or more through the PWCS Terminals to move to monthly Allocation Periods is likely to be ameliorated by the operation of the

Capacity Transfer System. That is, Producers who are unable to use a particular Loading Allocation in the relevant month will have an ability to transfer that Loading Allocation to other Producers.

3.3 Bloomfield's proposed changes are not practical

PWCS also notes that the revised clause as proposed by Bloomfield is unlikely to be practical as it specifies how the term "Allocation Period" is defined for the period 1 January 2010 to 31 December 2011, but does not specify how the term should be defined after that date.

PWCS also notes that, given that the transition to 3Mtpa will not take place until 1 January 2012, this is not a matter which should impact on the Commission's consideration of the Applicants' request for interim authorisation.

4 Further questions

If the Commission has any further questions, PWCS would be pleased to assist.

Port Waratah Coal Services Limited
22 September 2009

Blanch, Belinda

From: Martin, Jaime
Sent: Wednesday, 23 September 2009 8:36 AM
To: !Adjudication Administration Team
Cc: Hatfield, David
Subject: PR processing - Submission from PWCS in response to IP subs
Attachments: 10082363_1 Port Waratah Coal Services Li.doc; PR checksheet - PWCS submission (22.9.09).doc

From: Crowe, Geoff
Sent: Friday, 28 August 2009 11:04 AM
Cc: Davidson, Graham; Sears, Shaun
Subject: Update - PWCS Amendment to Operating Protocol Re:VSS and Allocation Periods

To All

Following our consultation sessions PWCS have amended the Operating Protocol in consideration of producer feedback. The two main areas of consistent debate were producer concerns over monthly v's quarterly allocation periods and the Vessel Sequencing System. We have modified our approach to both as below which will allow more time for producers to adapt initially to the new Long Term Commercial Framework, then allowing more time to transition to these other changes over time.

Allocation Period **For the period 1 January 2010 to 31 December 2011, where the Producer has aggregate Load Point Allocations in the Relevant Year:**

- (a) greater than 5 Mtpa, a Month; or
- (b) less than or equal to 5 Mtpa, a Quarter.

From 1 January 2012 onwards, where the Producer has aggregate Load Point Allocations in the Relevant Year:

- (c) greater than 3 Mtpa, a Month; or
- (d) less than or equal to 3 Mtpa, a Quarter.

1. VESSEL SEQUENCING

1.1 Contracted Sequence (New)

(a) PWCS is proposing to implement a new system for the loading of vessels on a Contracted Sequence basis. It is proposed that:

(i) PWCS will divide the anticipated PWCS Capacity for each Month into Loading Opportunities having regard to available berth time in that Month, standard vessel performance and a representative mix of vessel sizes;

(ii) the Loading Opportunities will be spread across Vessel Sequence Packages within each Month;
(iii) a proportion of the Loading Opportunities will be available in each Vessel Sequence Package for vessels to be loaded on a Contracted Sequence basis;

(iv) Applications on a Contracted Sequence basis be submitted more than 21 Days prior to the start of the relevant Vessel Sequence Package;

(v) For Contracted Sequence vessels, not later than 21 Days prior to the commencement of a Vessel Sequence Package, PWCS will determine the Contracted Sequence, an ETL and a provisional berth allocation;

(vi) PWCS will load vessels in the following order:

(A) first, vessels to be loaded on a Contracted Sequence basis will be sequenced into

Loading Opportunities in the relevant Vessel Sequence Package; and

(B) second, all other vessels will be sequenced into the available Loading Opportunities not booked by Contracted Sequence vessels based on their Turn of Arrival,

(b) PWCS intends to conduct a trial for vessels to be loaded on a Contracted Sequence basis no earlier than 1 July 2010 as follows:

Timing Milestone

From 1 January 2010 Commencement of Coal Handling Services under this Operating Protocol from 1 January 2010.

Conduct assessment of changes in the operating environment including alignment with other service providers.

Refine Contracted Sequence trial framework and business rules in preparation for trial, including analysis.

Consult on the variations to the Operating Protocol.

Not before 1 July 2010 Commence trial for the loading of vessels on a Contracted Sequence basis.

Following trial implementation of Contracted Sequence loading after analysis and based on the success of the trial.

(c) Any variation to this Operating Protocol will be made in accordance with clause 20 of the Instrument of Agreement.

Regards

Geoff

Geoff Crowe

Chief Financial Officer

Port Waratah Coal Services (PWCS)

Phone: (02) 4907 2373

Fax: (02) 4907 3000

Mobile: 0423 556 700

Email: Geoff.Crowe@pwcs.com.au

Web: www.pwcs.com.au