



07 September 2011

Queensland Competition Authority
GPO Box 2257
Brisbane QLD 4001
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Dear Sir or Madam,

Peabody Energy Australia Pty Limited Submission to the Queensland Competition Authority – Proposed Goonyella System Rules.

In response to the QCA's requests for submissions in relation to QR National's proposed Goonyella System Rules we enclose Peabody Energy Australia's submission.

We note that Peabody sought and was granted an extension to the closing date for submissions until 7 September, 2011.

If you have any questions in relation to this submission please contact Chris Walsh on (07) 3018 2943 or Mark Smith on (07) 3333 5628

Yours sincerely,



Chris Walsh
Director – Infrastructure
Peabody Energy Australia Pty Ltd

1. System Modes of Operation

The Explanatory Note accompanying QR National's proposed Rules notes that;

'While the proposed Goonyella System Rules are largely consistent with the even railings contractual arrangements, this is not materially incompatible with the concept of a cargo assembly mode of operation',

Peabody does not agree with this conclusion. Existing Dalrymple Bay Coal Terminal ("DBCT") governance frameworks do not permit vessels to be berthed so as to achieve "even rate demand".

While both systems operate with constraints imbedded from their design and construction, each system when operating together as a supply chain can only work effectively (but not necessarily to individual design capacity) when the constraints of each system are managed to handle the others system constraints

At the outset, the reference to clause 2.3 of the DBCT Terminal Regulations in Page 4 of the Explanatory Notes is incorrect.

The Explanatory Notes state that, *'The DBCT Terminal Regulations, through clause 2.3, provide the terminal operator the flexibility to reorder the priority of with which vessels will be berthed and loaded at its discretion where;*

- *This would be consistent with the terminal's access holder shipping through the terminal at an event rate;*
- *Not meeting the pre-loading requirements such as coal availability; and*
- *The optimization and efficiency of the DBCT Coal Chain*

Whereas the actual DBCT Terminal Regulations state, that "Vessels will be berthed and loaded in the order of their respective ATA's, except to the extent that the operator amends that order of entitlement to load, having determined in good faith that any of the following considerations should override that order of priority",

Following this, there are a number of provisions that allow some flexibility of deviation but not to the extent to which may be suggested, and the clauses referred to in the Explanatory notes are noted as follows,

- *A requirement in the Access holder Agreement for the Access Holder to use reasonable endeavors to achieve shipping of coal through the Terminal at an even rate may mean that Vessels arriving at a rate which exceeds the Annual Contract Tonnage of an Access Holder may lead to a Vessel losing the priority it would otherwise have had for loading, if loading it causes any additional expense or unreasonable interference to a comparatively even rate of shipping by another Access Holder*
- *A requirement of any of the Regulation (for example Pre-Loading Requirements) has not been or is not expected to be met in respect of a Vessel or Access Holder*
- *The exercise of the Operator's discretion on the other grounds pursuant to Regulation 10.1, (as follows)*
 - *The Operator may, at its discretion, make minor departures from the strict operation of any Regulation if doing so is reasonably expected to increase*

the efficiency of the Terminal in the relevant circumstances but not (in the opinion of the Operator) materially adversely affect any Access Holder.

Therefore, the DBCT Terminal Regulations allow only minor variations to manage the inconsistencies in the system interaction. However, these coal chain efficiency reasons are primarily due to events outside of the control of the terminal and become general mechanisms to maintain coal flow such as allowing a vessel to be passed over for loading if no coal is available the preceding vessel. To put this from another perspective the Terminal Regulations are not designed to manage the inconsistencies with the rail network capacity but simply the demand and coal availability profile of the terminal customers to ensure continual coal flow into the terminal. Given these constraints and consistent with DBCTM's advice to producers, it is not possible for DBCT to provide an even loading profile to the rail system under the current Terminal Regulations

The reference to an 'even' profile also differs between Rail and Port. For example, a contract of 2Mtpa~ could result in one large shipment per month which is an even rate for the Terminal but inconsistent with an even raiing system that has limited peaking capacity to match the terminal operations. Conversely, a large contract that requires constant railings may be adversely affected through even raiing if the Master Train Plan incorporates significant maintenance or high contracted usage in areas and diminishes peaking capacity to accommodate.

2. Master Train Planning

Under section 2.1 of the System Rules, it is noted that QRN have incorporated the concept of supply chain optimization and linking TSE's with port capacity availability. However, it is unclear how this is converted to available Day of Operations pathing and how this relates to fulfillment of Train Service Entitlements..

Firstly, at the Master Train Planning level it is unclear prior to the implementation of a maintenance plan,

1. The contracted buffer or peaking capacity that may be available on individual areas of the network and as a whole network to establish a base line of available capacity to meet the contracted even raiing needs;

And following the development of a maintenance plan, the impact to;

2. The peaking capacity of the network on individual areas of the network and as a whole following the long term maintenance plan in order for users of the network to plan (where possible) their usage to accommodate any variability or uneven network availability.

It is assumed that there are sufficient paths available to meet the existing contractual requirements of the system to accommodate all users of the network, however further information would need be to provided for Access Holders to confirm this. In addition, it is unclear if the total number of paths outlined for the system and each section of the network are usable or if at an operational level there is a natural loss that needs to be incorporated. QRN have suggested that timing and interaction are critical to the interaction of paths throughout the system and overall possible utilization. The System Rules do not provide sufficient detail to fully explore this issue.

For the Master Train Plan to provide a robust start point for capacity availability and network utilization there needs to be adequate transparency of information to allow Access Holders to verify QR National's statements regarding available capacity.

3. Monthly Entitlement

QRN's obligation as per Part B, of Schedule F of the Access Undertaking is to operate train services evenly throughout each yearly, monthly and weekly period, with monthly entitlement broken down to a nominal weekly basis.

Peabody's understanding of the Access Agreements is that contractually, the monthly capacity entitlement is paramount. Given TSE's holders entitlements are expressed on a Monthly basis, it is inappropriate that the proposed Scheduling Hierachy as set out in 3.1 of the Draft Rules caps an Access Holder's initial entitlement at a nominal weekly amount. This proposal limits the ability of Access Holders's to utilise their monthly entitlement to meet peaking demand and is inconsistent with Access Holders contracted rights.

4. Train Service Entitlement Consumption

The System Rules are specific in regards to the consumption of actual TSE's to be recorded against a 48hour plan and not the Weekly Train Plan which seems to be related to planning for capacity management and maintenance alignment purposes.

The 48hour horizon for consumption is a positive step recognizing that although variability exists utilization may not be affected within a system. In relation to actual consumption, system Access Holders need to discuss the situations where TSE's are consumed but not delivered due to a third party operational change causing the service to be cancelled or diverted.

With regards to the Weekly planning process, it is viewed that this will remain a relevant and positive step for the capacity planning within each system and the interaction coal supply chain systems. The Weekly Scheduling process is able to provide a common planning link between all systems given all systems operate under different circumstances.

The Weekly planning process allows consideration of the opportunity cost of shared system load-points, the impact of maintenance, the examination of achievable system throughput, the impact of rules such as order of arrival loading, the basis for performance management and the link between Contractual consumption and entitlement in the context of equity and system operation. To be clear, the Weekly planning process is not for the measurement of TSE consumption.

Peabody supports the 48hour horizon for TSE consumption and supports the Weekly planning process for capacity management and alignment purposes noting it is not for the measurement of TSE consumption..

5. Interaction with other Coal Supply Chains

While cross system traffic, inter-system supply chains, shared load-point usage across multiple systems has not directly been discussed within these System Rules, it should be noted that the framework developed in these System Rules will have impact on the interaction with any other system and therefore the principles of interaction may need to be reviewed again once cross-system rules are developed.

6. Relevance and Transparency

To enable the effectiveness of the proposed Draft Rules to be fully assessed, Supply Chain participants need to fully understand the proposed Supply Chain Operating Assumptions and Supply Chain Assessment required by QR National under the terms of the Undertaking.

It is critical that the Operating Assumptions and Supply Chain Modelling are made available by within the next few weeks as proposed by QR National so that stakeholders can assess the effectiveness of the Supply Chain's governance framework and capability as a single package.

7. Summary

Within the System Rules framework, a wide variety of issues are caused from varying degrees of understanding to variance between contractual and operational environments.

Understanding it is difficult construct or redesign infrastructure, participants of the existing DBCT supply chain exist in a conflicting operational and contracted environment.

QRN is requested to review the System Rules in light of the following issues and work collaboratively with industry (which must also work with in kind) to move toward a more workable solution;

- Understanding the operation of the DBCT Coal Chain and difference between the cargo assembly and even raiiling modes of operation.
- Transparency at the Master Train planning level to provide evidence of system capacity to fulfill contractual obligations and available buffer or surge capacity to align with,
- The paramount obligation of QRN to provide Monthly Entitlements to Access Holders,
- Acknowledgement that TSE's are consumed on a 48hour basis.
- A basis for the cross system planning rules, and
- To ensure that there is transparency in the Supply Chain Operating Assumptions to be able to align with the System Rules.

In closing, the System Rules, should seek to fully meet Access Holders monthly contractual entitlements while seeking to provide transparency and maximise available system capacity.