

N S W
M i n e r a l s
C o u n c i l

New South Wales Minerals Council Limited

ACN 002 500 316

227 Elizabeth Street

Sydney NSW 2000

PO Box A244

Sydney South NSW 1235

Telephone 61 2 9267 6488

Facsimile 61 2 92641121

E-mail access via: www.nswmin.com.au

Mr W I Scales AO
Chairperson
Industry Commission
LB 2 Collins Street East
MELBOURNE VIC 8003

ATTENTION: Ms Andrea Coulter

Dear Mr Scales

BLACK COAL INDUSTRY INQUIRY

The NSW Minerals Council wishes to draw to the attention of the Commission some information that has recently become available which may be relevant to the Commission in its Inquiry into the Australian Black Coal Industry. This information contradicts submissions that have been made to the Inquiry.

Compliance with the NSW Rail Access Regime and with the Transport Administration Act 1988

The written submission by Rail Access Corporation (RAC) to the Inquiry mentioned some obligations imposed on RAC by the Regime and by the *Transport Administration Act 1988* (TA Act). Mr Terry Bones, representing RAC, in his oral submission to the Inquiry on 18th November 1997, also mentioned that "The Rail Access Regime sets out our regulatory framework."¹ In its 1997 Annual Report, however, RAC stated that "Rail Access Corporation operated outside the NSW Rail Access Regime during the year."² Since RAC is required in the TA Act to comply with the Regime, it also operated outside the TA Act during 1996/97.

Regime in Effect

The submission of the NSW Government mentions that the "base and adjustment component of access charges are calculated on the basis of 1996/97 expected

freight revenues and estimated costs.”³ This is consistent with advice to coal companies from RAC. Yet the NSW Rail Access Regime attached to the NSW Government's submission specifies that the base

¹ Industry Commission Transcript of hearings of Inquiry. pl36

² Rail Access Corporation 1997 Annual Report and Corporate Plan CEO's Review pl3

³ NSW Government *Submission to Black Coal Industry Inquiry* p18

year for calculation of the charge is 1995/96. This is another example of non-compliance by RAC with the NSW Rail Access Regime.

Cross-Subsidy

In the public hearings, Mr Bones said, in relation to NSW rail access pricing, "There is no cross-subsidy.”⁴ RAC's 1997 Annual Report said "Access charges to SRA did not recover the costs of providing access - an effective cross subsidy was required from our profitable operations.”⁵

This is also apparent from the financial statements in the Annual Report, which state that a long term weighted average cost of capital of 12% was used to value RAC's assets ⁶. This may be compared to a rate of return on depreciated replacement value of 14% (nominal, after tax) used to calculate access prices for Category 1 coal hauls. This represents a cross-subsidy under most definitions of that term.

Payment of Monopoly Rents to NSW Government

In the public hearings, Mr Bones said "RAC is merely a collection agency for the adjustment component." ⁷ The implication, which the IC has carried into its modelling work, is that the revenue from the adjustment component is simply passed on to the NSW Government. That this is not the case is clearly demonstrated in the financial statements in RAC's 1997 Annual Report which include this revenue with its other revenues. It appears that the amount which RAC remitted to the Government was the dividend of \$19.627 million, plus tax-equivalent payments of \$11.373 million, making a total of \$31.000 million. Revenue from the adjustment component was \$50 million (the difference between the before-tax profit with the component of \$33.1 million and a loss without the component of \$ 17 million ⁸).

Contestability of Maintenance

In the public hearings, Mr Bones mentioned the RAC's maintenance outsourcing strategy.⁹ It was proposed that maintenance of the RAC's assets be divided into 13 geographical bundles and that this be made contestable progressively at the rate of one per quarter. In evidence to the Inquiry, and in RAC's 1997 Annual Report, it was claimed that this would reduce maintenance costs by 30%. The contract for maintenance of Hunter infrastructure was to be let in July 1998, according to Mr Bones' evidence. The NSW Government announced on 10th February 1998 that it has suspended implementation of this plan by 16 months. Under current access pricing

arrangements this would mean that the Hunter region coal industry would continue to pay infrastructure maintenance costs at least 30% higher than efficient costs for a further 16 months longer than necessary.

⁴ Industry Commission Transcript of hearings of Inquiry. pl43

⁵ Rail Access Corporation 1997 Annual Report and Corporate Plan CEO's Review pl3

⁶ Rail Access Corporation 1997 Annual Report and Corporate Plan Note 6 to Financial Statements p68

⁷ Industry Commission Transcript of hearings of Inquiry. pl51

⁸ Rail Access Corporation 1997 Annual Report and Corporate Plan CEO's Review pl3

⁹ Industry Commission Transcript of hearings of Inquiry. pl38

I hope the Commission takes into account these changes in the information available to it in reaching its conclusions.

Yours faithfully

Jane Robertson
Executive Director