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TRANSCRIPT OF PROCEEDINGS

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Black Coal Industry Inquiry

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98/4054

P-1

PRESIDING COMMISSIONER: Good afternoon, gentlemen. The purpose of our gathering here today is to begin the public hearings on the Productivity Commission's draft report on the Australian Black Coal Industry.

As you know, the draft report was released almost six weeks ago on 2 April and we are obliged to provide the Treasurer with our final report by 9 July.

My name is John Cosgrove and I am the presiding commissioner on the inquiry.

All of the submissions to the inquiry are public and people can contact us for information as to how to obtain a copy.

Why we keep these hearings as informal as we can, we do ask participants to be accurate in the information which they provide to the Commission. The hearings are recorded, as you can see, and the transcripts are also publicly available. Mr Guday will be able to tell you how to obtain a copy of the transcript if you wish to do so.

Our first participant in these hearings is the Ports Corporation of Queensland and, gentlemen, for the purpose of our transcript, I would be grateful if you could identify yourself and the capacity in which you are with us today.

MR ANDREWS: My name is Derek Andrews, I'm the Chief Executive Officer of the Ports Corporation of Queensland.

MR FISH: My name is Brad Fish, I'm the Operations Manager of the Ports

Corporation of Queensland.

PRESIDING COMMISSIONER: Thank you. Derek, we are grateful to you for giving us a further submission following the draft report in good time for us to have read it, thank you.

I don't know whether you wish to make any remarks to the submission or?

MR ANDREWS: I would like to.

PRESIDING COMMISSIONER: Yes, please go ahead.

MR ANDREWS: The additional information we have offered to the Commission, follows on from the first submission we made, and seeks to enlarge on that based on some of the comments which were in the draft report.

The submission itself which we have put in, deals with the matters substantially, and I'd just make a few points from that.

.01-05 sh 98/4054            1            INTRODUCTION P-11.5.98  
Black Coal Industry Inquiry

We talk about the current position with pricing for the use of the coal terminals that the Corporation operates and in doing that we have offered information regarding the history of those agreements and also the future and we have made the point that the future we expect to be somewhat different from the past.

The negotiated agreements which are in place at this point include an element of charging which, as a result of the financial arrangements we have with the Queensland Treasury Corporation, and that will end, and as it ends, we will enter into a new raft of agreements with the users and they will reflect the fact that that financial requirement no longer needs to be met and we can move to a rate of return to the Corporation which does not take into account the needs to pay those funds to Treasury after December of 1998 for DBCT and after May, sometime like May, for Abbot Point.

So the Corporation move to operate with a commercial focus at that time under those circumstances we are expecting to and in fact have commenced negotiations with the user companies now, and in doing so, we are conscious of a number of things and we have commenced discussions with the Queensland Competition Authority in order to understand what their role is and what they believe is an appropriate course of action for them to take in relation to the agreements at the coal terminals.

Of course, the issue in all of these issues of pricing, the main issue is to do with a monopoly, to do with the exercise of market power, the effects it has on the commercial operations of coal companies and on the positions that Government may like to take in terms of revenue for investments that they have made and also for the recognition of the economic and of the development aspects of that investment.

I would like to point out that having a monopoly of that kind is not quite the same as say having a monopoly position in a container port or, to use another example, Kellogs Corn Flakes.

I think the relative market power of the people that we discuss these issues with in the circumstances we discuss them, is fairly well balanced, in that we are dealing directly with the major mining companies and they are not without means of establishing redress in terms of where the rates are.

We seek to balance those interests as we go through our negotiating process and deliver on our mission statement which is quite clear about providing low cost competitive port services, but it's also quite clear about achieving a rate of return which is established for us.

QCA is a new issue and we are concerned then that in dealing with that, that the benefit of negotiating remains rather than having the equivalent of a prices tribunal. We feel that that would probably not produce the best result.

.01-05 sh 98/4054            2            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

It may limit prices as to how high they can go, but it may not ever get to the agreed position which is the lowest cost that each of the parties can, for the various purposes, withstand or accept.

So that is roughly the thrust of perhaps a little more content to the background of the latest submission we have made, Mr Commissioner, and I would be happy to answer any questions that you may have.

PRESIDING COMMISSIONER: Thank you. There are some questions I think worth pursuing. Perhaps the first one could be this issue of the monopolistic nature of the ports and the degree of balance that there might be in the relationship with your customers. How do you explain that idea that there is a fairly even balance in the relationship?

MR ANDREWS: Well, firstly, the customers that we have are very knowledgeable of the industry and of the port industry across the world and, in fact, they would have more information from their operations, their coal operations in other countries, about those overseas ports than is in fact obtainable by us. So they understand what the values are in the market place and they operate in that market internationally.

In terms of mining further capacity from us, they do that by entering into an agreement with us prior to the capacity being made available. They must, in coming to that arrangement, be satisfied that that coal should go through the terminal that we are offering them at the prices we are offering or otherwise it won't go through there and we might make the investment. So it becomes quite competitive at that point and we're competing

against developments in other coal ports in Queensland, in coal ports in New South Wales, in coal ports in other parts of the world.

I think that our major customers operate in two or three other countries as well as Australia, as well as in other states within Australia.

At the time the arrangements are put in place to shift that coal, the way we're working and the way we offer continuing access, our ability to deliver the service that is required with the price, is part of the considerations the customers make in terms of deciding whether or not they take that price.

PRESIDING COMMISSIONER: Are you referring here - sorry to interrupt, Derek - essentially to the establishment of a new mine and its relationship with a particular port as distinct say from an expansion of capacity at an established mine which is already locked in to a transport line to a particular port?

MR ANDREWS: Not all of the coal mines would be locked into a particular port. I mean, they could well be on the periphery between say, Gladstone and Dalrymple Bay, so they could well have a choice. The choice is, in some instances, whether the process goes ahead or not, and if the costs overall can't

.01-05 sh 98/4054            3            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

be got down and isn't commercially viable from that point of view, then for an expansion that's a consideration. For expansions to compete with green field sites as well, and there are options if there is additional coal to be got, an established company say, well, this brown field's expansion, or that green field's expansion, so there is a competitive position I believe at the time the decision is made in relation to the expansion or the green field site.

In terms then of administering that price, that's part of the agreement that goes on, if there is unfair unreasonable behaviour on behalf of the Port Authority in Queensland, then it would be pretty clear that there is option for redress. For example, the Minister of Transport has got to reserve price fixing power under our corporatisation arrangements and - - -

PRESIDING COMMISSIONER: Has there been any appeal by say a mining company to have that power used?

MR ANDREWS: No - though there were protracted negotiations regarding price, it's finalised the first tranche of the agreements which was for some say 17 years, and that's resulted in a reduction in the prices by some 75 cents a tonne and an agreement with those being signed by the users to have that price put in place with the re-negotiations occurring in December 1998. So certainly there has been representations to government about that without there being a formal request for the prices to be held by the Minister.

PRESIDING COMMISSIONER: So how would you see the complaints that were received in the earlier stage of this inquiry from mining companies about what they clearly perceived to be special harbour dues at least, which are to their considerable competitive disadvantage, are they based on a regime which you see coming to an end and one which is likely to be followed by a pricing regime with much reduced charges of this kind?

MR ANDREWS: I see that pricing regime coming to an end as the financing arrangements with QTC unwind, and I see also that that will result in a forward price situation which is lower than the prices that are charged now for whatever reason.

I made some points about the users agreement and they are shown in the attachment to the submission.

PRESIDING COMMISSIONER: Yes.

MR ANDREWS: And these are statements which have - they're fairly well worn in that the users are aware of these statements and so are the people in government. And it describes the position that we were in without particular bias one way or the other. But it does go to the stage or go to the history in that the group of users initially at Dalrymple Bay Coal Terminal required the terminal to be built, they couldn't get access to the existing terminal because

.01-05 sh 98/4054            4            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

it was not available to them, and so they asked the Government to build a terminal and the Government built the terminal and from the point of view of Treasury, they were concerned - Treasury was concerned that they in fact would not get sufficient volume of coal through the terminal to pay the charges. It turned out that the Dalrymple Bay Coal Terminal was, in my view anyway, unusually profitable. But the Abbot Point investment I believe, has probably only broken even.

So in terms of whether or not those charges are fair or not, I can only say that they reflect the position which was agreed at the time. I can understand the coal companies would seek to have those prices reduced, and in finalising the agreements which only happened a few years ago, though they'd been applying since 1983, in finalising those agreements, the net effect of the negotiations was to educe those prices by 75 cents a tonne, which is a substantial reduction, and resulted in the agreements being signed.

You could argue that the coal companies would make representations to the Port Authority that if we were to pay them to use the terminal, that we should pay them more.

The situation is such that if it is possible to win an argument which reduces price that they must try it, because it's such a large amount of money that's involved. It comes back to what is

fair and what is reasonable.

I think the Commission should bear in mind that we have for many years now, supplied all of our customers in all of our ports, particularly in the coal ports in this case, with a statement of our profit and loss account for the port and our balance sheet for the port, and this shows clearly published charges being applied to known quantities of coal to identify what happens with the income. It shows the income going into the port, it shows the charges going out that we have paid to QTC for the financing, everything is clear.

Whether or not the situation is fair, depends a lot on how you define "fair" but certainly the situation is quite clear to the users and the knowledge that it will change to reflect the new arrangements, the increased volumes of operation, that's clear too.

PRESIDING COMMISSIONER: From a part of your latest submission, I gained the impression, and it may not be an accurate one, that when you go through this phase of re-negotiating the forming your own level of the special harbour dues, that the Government will not be involved. The bottom of the second page is what I'm referring to Derek. It says that, "The re-negotiation of the agreements will not require the involvement of Government and will be resolved on a commercial basis between the users and the Corporation." Could you expand on that?

.01-05 sh 98/4054            5            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

MR ANDREWS: Sure. That's a statement of the Government's intention as I understand it, and the statement of our intention as has been communicated to the users. What could change that, I suppose, is a change of view by Government, to the extent that the Corporation can receive instructions from Government that has to be done in a public way, but we can be instructed to do certain things. We think it's very unlikely that that will occur. The people in Treasury have told us that it isn't their intention to do anything to extend the financial arrangements in relationship to the terminal, so we believe it is in fact all clear, and on that basis we will go ahead.

PRESIDING COMMISSIONER: For any port expansion, for example, the Corporation itself, would be obliged to raise the capital to undertake that.

MR ANDREWS: Well that's what's happened. We've done the Stage 2 expansion, Stage 3 expansion, the Stage 4 expansion - - -

PRESIDING COMMISSIONER: How has it been done that way?

MR ANDREWS: - - - and we have in fact raised the capital and we have entered into agreements with the users in relation to that. We've attempted to keep the arrangements uniform; there are some options that you can have in the agreements, but those

options are clear, and the pricing structures have been transparent and uniform.

PRESIDING COMMISSIONER: Right.

MR ANDREWS: In terms of the involvement of Government, bear in mind, they are our shareholders. We are keen to satisfy our shareholders needs as we are to satisfy other stake holders, but our charter, our statement of corporate intent, the intention of our board, all argues that a commercial focus is maintained; and that's currently the position.

PRESIDING COMMISSIONER: Nevertheless, even after that stage of re negotiated agreements, it will still be the case I take it, that the Ports Corporation is the only supplier of port facilities to the coal industry.

MR ANDREWS: Well, that's not true, the Gladstone Port Authority supplies services to the industry. Now, whether they can be reasonably accessed, it's true that not all of them can, however, there's a possibility of building a new port; there's a possibility also that some mines that are on the periphery in terms of transport cost, in terms of rail costs between the two ports, may choose to put their product through Dalrymple Bay Coal Terminal instead of through the Gladstone. Of course, BHP have the option of putting coal through the Dalrymple Bay Coal Terminal or the Hay Point Services Terminal and they make their choices based on cost and the value of the capacity to them and so on.

.01-05 sh 98/4054            6            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

So there certainly are parts of the existing business which are contestable and which remain contestable. For example, Mount Isa Mines chooses to send some product to Gladstone as well as sending some to Dalrymple Bay; it isn't always based on the cost of the service, it can sometimes be based on the convenience of shipping.

So you've got to take into account the logistics as you consider the question. Certainly in some places there is contestability.

PRESIDING COMMISSIONER: Is the Gladstone Port Authority a Government-owned instrumentality?

MR ANDREWS: To the extent that the Ports Corporation as it's structured is identical and it is a separate corporation and has its own - it's under the Government Owned Corporations Act, it has its own board and - - -

PRESIDING COMMISSIONER: Are the shareholders the same as they are for - - -

MR ANDREWS: Yes. The Minister for Transport and the Treasurer.

PRESIDING COMMISSIONER: We had indicated, as you've noted, in our

draft report, that we thought there was a reasonable case where you have such Government ownership of an essentially monopolistic kind, for publishing target rates of return, I notice you have indicated that that's a matter for your shareholders which is I think the proper response, but it's also the case that in a similar, not entirely similar but largely similar situation with the New South Wales coal ports, the New South Wales Government does publish the target rate of return for its Ports Corporations. It may not be easy for you to speak on behalf of your shareholders in this regard, but it's still a little difficult for us to understand why that should not be done in the interests of transparency in the use of public funds.

MR ANDREWS: Indeed. Of course it is interesting whether they're public funds or not, the funds have been collected from the users over time. There's never been any Government money involved by way of grant to the Corporation or to (indistinct) ports - - -

PRESIDING COMMISSIONER: But by way of loans, loan guarantees or what?

MR ANDREWS: I don't think so. I mean, they've funded themselves and done that for many years.

.01-05 sh 98/4054            7            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

MR FISH: It is - excuse me - it is true that in the early days there would've been a loan guarantee through because we were much more directly involved with the Government, but currently we don't have the benefit of a Government guarantee on any borrowings.

PRESIDING COMMISSIONER: I see. So the users are paying entirely for the costs of the ports?

MR ANDREWS: And hopefully for nothing else.

PRESIDING COMMISSIONER: Yes.

MR ANDREWS: In terms of that cost, it's the cost of the capital. In terms of the users' understanding in what's being sought, we haven't said - I'll go to the reason why - but in terms of what we are achieving, it's quite clear to them in terms of our profit and loss statement and our balance sheets, so they understand where we are.

PRESIDING COMMISSIONER: Well, yes, but do they understand the valuation of the asset?

MR ANDREWS: They are done in accordance with the published guidelines by the Treasury Queensland and they are in line with the COAG agreements I understand, and the basis is clear, and the basis is also stated, so where there are choices in the guidelines, the guidelines are - that's explained. So it's quite clear to them what's occurring and I'm not sure that you could state that



it's objectionable or unreasonable.

We only note that so far Treasury have not announced what the rate of return requirements are and they have asked us not to so we don't. However, we have noticed that for the privately owned coal terminal in Newcastle - this is not the Port Authority, this is for the coal terminal - - -

PRESIDING COMMISSIONER: Yes.

MR ANDREWS: - - - (indistinct) the Port Authority owns the coal terminal in Newcastle, in Gladstone that's owned by the Gladstone Port Authority, we own one at Abbot Point, we own one in Hay Point. They seek a return of 12 per cent, at least so they have told us. Now, I suppose you could argue if you look at the Stock Exchange figures, that returns of some areas are obtained of 15 per cent, other companies think they have to get 25 on every new project, and some achieve as low as 8.

Considering all of that, I believe the rate of return targets that we are asked to achieve, though I haven't stated them, are reasonable. I would think that the coal companies seeing the results and understanding the position that we are in, have formed a fairly clear view as to what those rates of return are, as

.01-05 sh 98/4054            8            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

we have to work through numbers, I would suggest that they think that they're probably reasonable too.

PRESIDING COMMISSIONER: Yes; but that in itself would tend to make one wonder why they can't be made public. If they are reasonable - - -

MR ANDREWS: I don't know - - -

PRESIDING COMMISSIONER: - - - and if - - -

MR ANDREWS: Commissioner, I have no comment as to why they can't be made public; I've just said they have not been.

PRESIDING COMMISSIONER: Yes. Are you able to respond in any way to the methodology used for valuing the assets and the application of the rate of return to that asset valuation? I realise again this is something determined by your shareholders, but we've noted in our draft report that there can be some inconsistencies applying in that area, if you are not basing the rate of return on a measure which is consistent with the rate of return.

MR ANDREWS: We believe that the (indistinct) port infrastructure in Australia, that there are significant inconsistencies. Valuations of channels is handled differently state by state and, as it is applied in Queensland, it does not seem to have much logic. However, it is applied in a way which is stated in

the guidelines.

To give an example of that, in South Australia, much of the valuation of assets there was done based on the income received. People in that state then became fairly keen of establishing an indicator for national comparison based on income per dollar invested, which was the answer to the question in the first place. Their historical and current valuations all depreciate at current valuations.

The application of the guidelines is fairly clear. How that is applied is a matter for the Queensland Audit Office, and it has made some substantial interpretations in terms of those guidelines and how they are applied. So in terms of there being checks and balances on those guidelines, I believe that they exist to that extent.

In terms of the comparisons of how it has actually turned out between states, there are a number of areas of concern and one is under what circumstances do you use the net present values of cash flows compared to other kinds of investment choices. And the other particular area which seems to be awry, is the valuation of channels. Different from state to state, and confusing in interpreting results.

.01-05 sh 98/4054            9            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

In fact, Commissioner, we have provided you with information about the costs of using various ports to the extent that we understand them, and we're fairly clear that the only comparisons that can be validly made are those which take the cost of shipping the various bulk commodities through the port in toto, and so that the costs stated include the cost to unload the material, to store it and load it to the ship, and then to have the ship come into and out of the port including the charges on the ship, pilotage, towage, and the use of lines launches. That's because in many instances the costs that are involved in other ports around the world are inclusive of one or not of the other, the individual elements aren't comparable. But if you can come to the total that is paid to move a tonne of cargo out of that port, then that seems to be a reasonable comparison for charges around the world.

We think that we're in an area that offers us an ability to improve and we think that we can continue to do that.

PRESIDING COMMISSIONER: Yet, as you have noted, and the material that I think was provided in your initial submission indicated, there appear to be not insignificant differences in not only the valuation methods applied between ports but in the actual levels of charges at the ports.

MR ANDREWS: Yes.

PRESIDING COMMISSIONER: Why is that the case?

MR ANDREWS: Well, to be clear, you'd need to understand the issues that are dealt with, sometimes the capital charge isn't included in the handling charge and so on. We have come to figures which show costs per tonne of - for Abbot Point and Dalrymple Bay which are not terribly far apart. If we do a comparison Hay Point Services, as far as we can tell, the capital charge itself isn't included in those costs. So there is an operating cost for operating the terminal, but there isn't a cost for the use of the capital disclosed in those charges. So there are issues of that kind which when you're doing the comparisons, you need to be fairly careful about.

PRESIDING COMMISSIONER: Yes. I guess what is in the back of mind, and it's relevant to our earlier discussion about relative bargaining power, is with that sort of situation it doesn't seem to be easy for a potential customer to make a logical decision as to which port might be the lowest cost port for that person to think about using.

If you have different valuation methods applying to the pricing of your services across ports, it would appear to make the playing field rather murky.

MR ANDREWS: Your assumptions are partly right and partly wrong. In terms of the valuation systems, they will be different around the world anyway and include a world market for parcels of coal for development, then the

.01-05 sh 98/4054            10            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

charges will be what the charges are, the basis of valuation becomes unimportant in that comparison. The comparisons between - - -

PRESIDING COMMISSIONER: But why should - I'm sorry to interrupt again - why should a particular supplier of this service not employ consistent valuation and pricing arrangements?

MR ANDREWS: But we do. We use the guide, the Treasury Guidelines, for both of our terminals and so does Gladstone use them. Now, I don't know whether that's consistent with what occurs in New South Wales but I'd suggest it's not so. In terms of the ability of Hay Point Services to operate without a capital charge, it's only available to BHP. There is no other coal will go through except affiliates of BHP. I would imagine that if another coal company was to go through there, their charge would be somewhat different, or otherwise they would be giving them free access to some capital. I would not suspect that that would be normal.

PRESIDING COMMISSIONER: Yes. Derek, Mr Fish is waiting - - -

MR FISH: I suppose one of the issue to keep in mind for Dalrymple Bay is probably roughly 75 per cent of the assets there are at historic cost because they are brand new assets in the last few years, and they record in our accounts that the actual cost of

construction - - -

PRESIDING COMMISSIONER: As distinct from the (indistinct) value which is anticipated in the Government's guidelines.

MR FISH: Exactly. It was only the Stage 1 assets which has a form for the roughly 25 per cent of the asset in question.

PRESIDING COMMISSIONER: Why was that methodology used though?

MR FISH: The original - - -

PRESIDING COMMISSIONER: (Indistinct) for that one.

MR FISH: Sorry? For the more recent assets or the - the original Stage 1 was a deprival of valuation, it was just the asset we took on board at corporatisation.

PRESIDING COMMISSIONER: Yes.

MR FISH: Since that point in time, the other roughly three-quarters of the asset has been constructed and therefore goes into our accounts at the cost of construction. And that's what the deprival - that's what the valuation guidelines provide for as well.

.01-05 sh 98/4054            11            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

MR ANDREWS: At Abbot Point there's been no construction, it remains at deprival value and that's been based on the income which is earned there.

PRESIDING COMMISSIONER: So that's the only point you were trying to make when I read in the second last paragraph on page 2 that valuation methods vary between states, between ports, and for certain classes of assets.

MR ANDREWS: Yes.

PRESIDING COMMISSIONER: That's all there is involved.

MR ANDREWS: I think the biggest concern that we have in general about valuations is to do with channels and how they are valued differently from state to state. And then the Treasury Guidelines that apply are applied on a state-wide basis and so they differ as well.

PRESIDING COMMISSIONER: Yes. Sure, I can understand that.

MR ANDREWS: So it makes different issues, different pricing and charging issues, a little difficult to unravel in terms of ROI from place to place, but it still makes it possible to compare the cost of using the port per tonne of cargo, which is perhaps more relevant I feel.

PRESIDING COMMISSIONER: Yes. Perhaps it's a somewhat semantic point. I had read more into valuation method than I should have. Is that what you are saying?

MR ANDREWS: Well, I suppose that we - - -

PRESIDING COMMISSIONER: Obviously if you have a different quality channel at a particular port then that would have some value relative to the port which didn't have that deep channel - but I wouldn't have thought that could be described as a difference in (indistinct) - - -

MR ANDREWS: Some cases, as it works out, in some cases, the channels are valued at the cost of the original capitalisation, in other places they're valued at nil, and so it can be quite a different issue. I don't know quite how the channel at Newcastle, for example, is valued. And indeed, whether that's considered as part of the overall assets of the terminal and Port Corporation together or whether it just belongs to the Corporation; I think it may just belong to the Port Authority, for example.

I think the real point there is to make a - to be clear that knowing the rate of return is of interest but is defined somewhat by our results as they are published - and yes, why can't it be published - well, I suggest, it's a question you ask elsewhere.

.01-05 sh 98/4054            12            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

PRESIDING COMMISSIONER: Yes.

MR ANDREWS: But as important as that in terms of these overall effects, there is the value of the capital that's involved and they are working to a set of guidelines and we will apply the guidelines as they are now in the agreements as we can set them.

PRESIDING COMMISSIONER: Yes, I'm sure you will.

MR ANDREWS: Should those guidelines in future change, then the answer can potentially change too at some point in the future.

PRESIDING COMMISSIONER: Yes, indeed.

MR ANDREWS: So it becomes a critical point in terms of the arrangements that we're really alerting you to that.

PRESIDING COMMISSIONER: Yes. Without wanting to go over the same ground, it still seems to me that there is a strong case for publishing those targeted rates of return because profit and loss statements and balance sheets are not going to enable customers or others with an interest in your operations to get a strong understanding I think of the rate of return and people who might, in a different set of circumstances in this state, be considering for example, the possibility of establishing a port with their own capital - - -

MR ANDREWS: Yes.

PRESIDING COMMISSIONER: - - - rather than requiring your Corporation to do so, aren't as well placed to take that decision as they should be, I think.

MR ANDREWS: I wonder if, however, when you are negotiating a price for something which you purchase, whether the people you are negotiating with have routinely disclosed to you their target rate of return so that you can therefore work out what their strategy is.

PRESIDING COMMISSIONER: Well, obviously if you're operating in a competitive market, I wouldn't expect it to.

MR ANDREWS: We're operating as if we are in a competitive market based on the fact that whilst we are supposedly in a monopoly position, we don't believe that the concentration of market power in the hands of the few people who are buying our services represents an imbalance in market power to the extent that it would in an ordinary port operation where you're dealing with many thousands of end users shipping small quantities of cargo. We're dealing with, in some cases, most ports, only one user, in some as many as eight, but they are all dealing directly, in the operation, directly involved, very

.01-05 sh 98/4054            13            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

knowledgeable and spending sufficient money to pay a lot of attention to what occurs.

PRESIDING COMMISSIONER: Yes. But whichever port they might choose to use, it's a port that your Corporation operates.

MR ANDREWS: Not true. Gladstone is not operated by us. You see in Queensland, there are - - -

PRESIDING COMMISSIONER: But it does have the same shareholders.

MR ANDREWS: Has the same shareholders but has different boards. There are in fact, some seven different port authorities in Queensland. Brisbane has its own separate board, separate corporation, that's in Rockhampton, Mackay, Townsville, Cairns. They compete with each other and with us in many trades, particularly at project start-up point - - -

PRESIDING COMMISSIONER: Yes. I can understand that's an important - - -

MR ANDREWS: - - - and in ongoing business as well. And even by comparison, you know, if somebody's doing a particular function for a lot less than one of the other ports is, you wonder why it is so, and seek to correct that. Effectively then, there is the results available from Gladstone to be compared with the results which we have. And of course, people can buy Gladstone service in preference to ours.

PRESIDING COMMISSIONER: Would a mine at the southern end of the

Bowen Basin have many alternatives in terms of port usage?

MR ANDREWS: As it is now?

PRESIDING COMMISSIONER: They'd be using Gladstone wouldn't they?

MR ANDREWS: As it is now they are using Gladstone, but there is a proposal to build a new port which is - the idea competes with Gladstone; whether in fact it can be got off the ground based on this feasibility, that's not so.

When you move a little further north, there comes a band of mines, which could, from the point of view of logistics, and depending on the availability of the rail system, could go to either one port or the other, and it's then a matter of how they wish to handle that. There are some which could choose.

As it's happened, the customers who we apparently sandbag into coming into DBCT have taken up all the capacity we have available, there's not been new room for anybody to make the choice, but I would imagine that should we be

.01-05 sh 98/4054            14            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

able to create some room, that there would be some customers who may come to us.

PRESIDING COMMISSIONER: The alternative port possibility near Gladstone that you just referred to, would that again be developed by you people, or by somebody else?

MR ANDREWS: No. I understand that it would be a development by the Bundaberg Port Authority. They at least have the carriage of it now as I understand, I have not been involved in, I have read a lot about it in the - - -

PRESIDING COMMISSIONER: That too being a Government-owned port?

MR ANDREWS: That's another Government-owned enterprise operating under that same Act which is (indistinct.) There are a number of checks and balances within the Act.

PRESIDING COMMISSIONER: You referred in your opening remarks, Derek, to your discussions with the QCA.

MR ANDREWS: Yes.

PRESIDING COMMISSIONER: Are you at liberty to tell us anything about what they might evolve into, in terms specifically of a role for the QCA?

MR ANDREWS: Yes.

PRESIDING COMMISSIONER: On the operations of ports, coal ports?

MR ANDREWS: I alluded to it to some extent there on page 3. We believe that the negotiating process has value in that as we work

through the various issues with our clients, we're looking at where benefit can be obtained and, in fact, we come to a low cost situation.

In discussing the negotiations with the users, we got to the point where it seems quite likely that we wanted to understand what QCA needed, what they felt their role was and how that should work. I mean, they've got - whatever requirements they've got in the legislation and so on, have to be met.

We talked with the people we're negotiating with, along the line that we didn't want to go through the process of negotiating, simply to get to the stage where having agreed that what was a fair and reasonable thing, that the proponents then went off to QCA and said, "Well this is the start point, we now want it better." We felt that that was not a reasonable position to be in.

So we're trying to work out with QCA what it is that they need and how they will serve their ends at the same time keeping close with the best process,

.01-05 sh 98/4054            15            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

whatever it may be, which gets us to this lowest reasonable cost, the lowest acceptable position.

Mr Commissioner, one of the things that you might not have taken into account in your consideration of the ports is that our focus is that we have an investment over a very long time frame, a long time horizon, 50 years or longer. We are pretty sure that unless over that period of time those assets are managed in such a way that adds value to their use and provides improved services and keeps focusing on that low cost international solution, that unless we do that, then something else occurs, because it is important, it's essential that that happen, and we would rather be part of the process that delivers the solutions that the industry is going to need in the future, we see we have a future if we do that, fundamentally if we're satisfying our customers, rather than if we're part of the problem, and we don't want to be part of the problem.

So if we can think of a better way of getting benefit out of those assets and therefore being able to reduce costs and make a reasonable return at the same time, then whatever that change is we'd support it and we'd help implement it.

But the long term focus has to be on providing value out of those assets and if our presence doesn't do that, then we've got no right to be there, and we hold that as a fundamental view in terms of how the organisation thinks of itself and shapes itself.

PRESIDING COMMISSIONER: I have, I think, only one further question and that concerns your approach to pricing in circumstances, and I guess the Abbot Point port is the one I have particularly in mind, where you've got significant excess capacity I



understand. Does that fact in itself have any bearing on the pricing arrangements you apply at that port?

MR ANDREWS: Yes. We haven't finalised the next tranche of negotiations with MIM, that's happening in May - will apply from May 1999, but already in the agreement, the more coal that is shipped through MIM, the lower the price becomes. That recognises an inherent over-supply of capacity there, and the fact that there is no need at this point to consider additional investment in the short term. Now that ought to make it possible for the use of the port to be expanded on a basis which is commercially sensible and from that point, I think that we can see a way forward.

That's just another example of trying to put benefit to the user where they contribute to the outcome. So if they can put more coal through there, there will be more income from the Ports Corporation but there will also be lower prices per tonne for the user. And that sort of thing could well flow into the agreements in 1999, though we have not discussed that with the users.

.01-05 sh 98/4054            16            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

PRESIDING COMMISSIONER: And that type of arrangement would, I take it, not involve any loss of income for you as a result of reduced coal throughput as another port by MIM in this hypothetical case?

MR ANDREWS: We do not, even though it may be the same customer, we still don't take one port's results in comparison with another. Each port has a separate set of accounts, is run separately, there's no income support, there's no capital support, there's no support from one port to another at all. Otherwise we'd have a situation where the best performing ports would be subsidising other industries and you could hardly argue that it's reasonable users should do that. So each port stands or falls on its own financial results.

PRESIDING COMMISSIONER: As I say, I think that's - let me just check - - -

MR ANDREWS: Commissioner, I can clearly see that QCA has a role where there is a situation where someone is aggrieved or where the position, as is established to the agreements and then applied to perhaps a new user, is perceived to be unfair. And I have no objection to what we're doing being reviewed or being a place where issues can be taken and sorted out. I, however, believe that in setting prices, again, I wouldn't mind if the Commission commented on the agreement or took a view part way through it or something of that nature.

But fundamentally I believe that we will produce the best result given the circumstances that apply to the ports that we run in Queensland, will achieve the best result based on negotiation, or as it tends to be, negotiation between equals. Actually I think they may be more equal than others sometime, Mr

Commission, and on that basis I would think that the QCA would add value by taking some sort of an oversight role on those agreements and certainly should be available to people who need to protest a position where they believe that something is unfair.

PRESIDING COMMISSIONER: They can see it.

MR ANDREWS: Yes.

PRESIDING COMMISSIONER: Having both an ex post as well as an ex ante role.

MR ANDREWS: Well, I could see that the agreements would be the agreements after they have looked at them and said, "Fine, it hasn't transgressed any principles as we understand it, if you've reached agreement that's fine." Then we would seek to apply those agreements to other users and in doing that, there was something that was thought to be unfair or improper, then obviously it should be, in the circumstances, changed in a way which was unfair, again that would be an issue that should go to QCA. I

.01-05 sh 98/4054            17            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

wouldn't have any problems with it being protested there, but I think that the actual setting of price, given that there are sufficient commercial checks in the system or that there isn't an imbalance of power, that that's probably the correct way to do it. I would hate however, to see the QCA role such that we reach agreement and then it's appealed and the agreement reached becomes a basis on which the price gets lowered from, I wouldn't like to see that as a process.

PRESIDING COMMISSIONER: I can understand your view. I think we've been tending to think of the role of the QCA as being - as stemming from the obligations of a state, in this case, Queensland, to have in place properly competitive markets. Part of the Competition Policy Agreement which all the Australian Governments reached in 1995, so that would seem to turn on the issue of the degree of competition in the provision of port facilities, in this case, to coal producers, and the QCA I guess, without having seen its full charter, would be expected to be a body advising the Government on whether or not that required degree of competitive pressure was there. That's not to say I suppose, that the Corporation - the Queensland Competition Authority, I should say, could not play the sort of role that you envisage, but I think it would need to be satisfied that in doing so, it was not, in some way, infringing on its, what I understand to be its intended role of ensuring adequate competitive arrangements in particular parts of the Queensland economy.

MR ANDREWS: I have no concern about there being a competitive arrangement. I am concerned however, about a price fixing

process as such. If, for example, the QCA was to satisfy itself that the rate of return is reasonable, that the valuation methods are reasonable, and that the result of the agreements therefore, is acceptable, understandable and reasonable within the terms that it's been negotiated, would it not be satisfying the requirements under those circumstances, and if it was, then perhaps that is a superior solution for these circumstances, other than - I'm concerned that if it's set price, we go there and we would argue for the highest price, our users would argue for a lower price in respect of whether our price was reasonable or not in the first place and we would come away from there with an answer. Now I agree that that will limit how high the price goes, but it will not find the lowest price.

PRESIDING COMMISSIONER: Yes.

MR ANDREWS: I believe that the future of the coal industry and the port industry are locked together and that unless we can find the lowest price and ways of getting there which is normally turned up in the negotiations because they're not easy, we face various set positions of arguments, then we come to solutions, and those solutions so far have produced lower cost answers. If that can continue to happen, I believe it's a better process.

.01-05 sh 98/4054            18            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry

PRESIDING COMMISSIONER: Yes. Again, that may well be the case. I think that we have a number of examples around Australia of circumstances in which governments have taken the view that competition is now full and free and they have utilised price surveillance in days gone by, indeed, price control arrangements; we have some of those of course, operating at the Commonwealth level and I would be surprised if there weren't some operating in some states still. But such interventions in maximum price setting of course, as you've indicated, would be not actual price setting, are not uncommon in circumstances where people feel that the degree of competitive pressure on the supply side is inadequate.

I have listened carefully to what you have said about the arrangements in that respect and we will no doubt re-visit our views on this before we finalise our report for the Federal Government in the next few months.

MR ANDREWS: Thank you, Commissioner. I would think that because ports sometimes get mixed up with the difference between general ports, container ports, and bulk ports, that some of the logic that applies to one is applied to the other and it's not appropriate.

I would think that price fixing on the movement of containers would probably advantage the whole large population of small users of containers. You can note the current reform process includes unions, stevedores and the Government, it does not include the users because they have no market power at all in the movement of containers - - -

PRESIDING COMMISSIONER: Well, I guess that's why the Farmers Federation moved in.

MR ANDREWS: Perhaps a price fixing tribunal there would be the appropriate mechanism to achieve reform.

PRESIDING COMMISSIONER: Well, it's certainly an area where there's not a great deal of competition, one could say that.

Well, I don't have any further questions. Is there anything that you want to add?

MR ANDREWS: No, thank you, I think it's all been covered.

PRESIDING COMMISSIONER: Thank you both for coming along, and as there are no other participants that concludes our hearing in Brisbane and we will be resuming the hearings in Sydney on Thursday, 14 May.

.01-05 sh 98/4054            19            DISCUSSION P-11.5.98  
Black Coal Industry Inquiry