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16 September, 2003

Mr. Lew Owens
Chairperson
Essential Services Commission of South Australia
GPO Box 2605
Adelaide SA 5001

Dear Mr. Owens

PORTS PRICE REVIEW - DRAFT REPORT

In August 2003 the ESCOSA released Ports Price Review: Draft Report.

AusBulk has reviewed the Draft Report from the perspectives of a Regulated Operator at Ardrossan and as a user of Maritime Services. AusBulk believes that the ESCOSA has in the Draft Report struck an appropriate balance between the legitimate interests of Regulated Operators and the interests of users of Maritime Services, and the regulatory intensity to be adopted is appropriate in the circumstances.

The report proposed that a light-handed form of price regulation, comprising price monitoring, should be adopted. Furthermore, the Draft Report proposed that the legislative objectives of price regulation could be met by:

- adding the relevant cargo services to the Ports Access Regime; and
- price monitoring of Essential Maritime Services ("EMS"); and
- prohibition of price increases in connection with an Excluded Asset upgrade.

In its earlier submissions, AusBulk noted that while there is no evidence of abuse of market power, that the potential exists for market power to be excessively applied in areas such as but not limited to inappropriately changing the level of charges between contested and uncontested cargoes and/or ports. For this reason AusBulk has advocated the need for a light handed form of price monitoring and the threat of regulatory intervention, as disciplines to discourage abuse of market power. Therefore AusBulk supports the approach and specific implementation steps proposed in the Draft Report to protect users against the potential abuse of market power.

AusBulk notes that in the purchase of their respective port assets, AusBulk and Flinders Ports adopted the competitive risks associated with asset ownership. This may require the Regulated Operator to conduct voluntary future works, such as dredging and wharf upgrades, to sustain the level of demand for services that existed at the time of acquisition. AusBulk believes that where these risks could have been reasonably anticipated at the time of acquisition, it is inappropriate to seek recovery from users for investment needed to keep existing patronage.

AusBulk is concerned that Regulated Operators could seek to recover investment by charging all users, including those users for whom the voluntary upgrades provide no benefits.

It has been proposed that the outer channel is to be dredged to 14 metres and this is mainly driven by the demand to accommodate the latest generation container vessels being introduced into the Australian trade. These vessels require a greater draft than the current 12.2 metres and demand to have the ability for 24-hour movement without having to wait for tidal assistance to be able to remain on a fixed schedule.

There is a potential for Flinders Ports to recover such expenditure (dredging cost) from all users across all ports. AusBulk is supportive of the deepening of the outer channel but believes that only the users that take advantage of this deeper water should be contributing towards the cost through additional charges. In other words, it should be levied on a case-by-case basis and there should not be an increase in Maritime Services charges for all vessels across all ports.

As a matter of fact, the grain industry would argue that they have already contributed towards the project by accepting a revised proposal for the new Outer Harbor grain terminal with savings in dredging cost of around \$20M. It has been agreed that these savings should be re-directed towards the dredging of the outer channel.

AusBulk looks forward to working with your office to implement the final form of regulations.

Yours sincerely

Michael Nicolai
Deputy Chief Executive

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