

17th September 2003



TO : Essential Services Commission of SA
GPO Box 2605
Adelaide SA 5001

ATTENTION : Mr. Lewis W. Owens
Chairperson

BY : ABB Grain Ltd
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SUBMISSION

This response is to the Essential Services Commission of South Australia (ESCOSA)
“Ports Price Review : Draft Report” August 2003.

INTRODUCTION

There is a limited market for domestic Barley in South Australia compared to production (South Australia ranked as the largest state producer of Barley in Australia). In a bumper crop for example, South Australia grows more than 2 million tonnes Barley per annum but less than thirty percent can be directed towards domestic consumption.

ABB Grain Ltd (“ABB”) is one of the state’s leading bulk grain exporters; effecting South Australian shipments through the six Flinders Ports owned ports¹. Barley is the principle grain accumulated by ABB for which this company holds the statutory *single desk exports rights*. ABB markets to over 30 international destinations, including major markets in the Middle East, China and Japan. ABB’s marketing ability has lead the way to it being recognised as one of the world’s largest exporters of Malting Barley. ABB also purchases and markets other grains inclusive of oats, oilseeds and pulses.

Particularly due to the geographic remoteness of South Australia (ie : distance to the northern hemisphere markets), ABB is very conscious of being competitive and retaining hard won markets. *Quality and Customer focus* are critical to our company’s being and success. Also ABB currently charters over 65% of vessels in its own right (on a “Cost and Freight basis”). Chartering of vessels provides supply flexibility as well as protecting market prices against sudden swings in ocean freight rates. The export costs of Australian ports are a significant determinant in the competitive export of Australian commodities, including Barley.

In the two year period 1 July 2000 through to 30 June 2002 ABB exported over 3.3 million tonnes Barley (value A\$800 million) in 231 vessels through six of the seven (Ardrossan excluded) proclaimed South Australian ports.

¹ Port Adelaide, Port Giles, Wallaroo, Port Pirie, Port Lincoln and Thevenard.

3 SHOULD PRICE REGULATION CONTINUE ?

3.1 Assessment Criteria

Noted.

3.2 Does the structure of the market for Essential Maritime Services suggest market power could exist ?

ABB concurs with ESCOSA's findings that the structure of the market for Essential Maritime Services does suggest market power could exist.

3.3 Is market power being misused or is the potential there for it to be misused ?

ABB alleges inaccuracies in the Draft Report's appendices "*Comparative Grain Costs*". The tables contained therein depict incorrect berth time loading, which impacts on the vessel's time in port and hence port charges re :-

"Notional Panamax"

- Wallaroo - 25,000 mt Load rate 8400 tpd, working hours 14 hrs = 2.976 days x 24 hour day = total berth loading time 71.4 hours plus 8 hours pre/post loading = total time at berth 79.4 hours. NOT 62 hours.
- Port Adelaide 36 hours not 56 hours (24 hour loading)
- Port Giles - Berth time 40 hours not 33 hours
- Geraldton 38 hours not 48 hours (compare with Newcastle)
- Geelong 69 hours not 60 hours
- Brisbane 41 hours not 34 hours
- Port Lincoln – Costing has been made on 3 tug movements. Only two is applicable basis - one for berthing one for sailing.

"Notional Handymax"

- Wallaroo – Same figure above applies and why has the berth time reduced by 4 hours for same tonnage as Panamax
- Adelaide - 35,000 ton cargo @ 750 tph = 47 hours loading time NOT 30 Hours.
- Two tugs for berthing NIL for departure – Not 3 tug movements.
- Your item 4 under Notes and/or assumptions - Port Giles tug ex Adelaide stays in Port Giles for vessel's stay is not correct. Berth towage once completed tugs depart back to Port Adelaide.
- Geraldton berth time loading 42 hours not 33 hours.
- Geelong berth time – 64 hours not 53 hours.

Otherwise, ABB concurs with ESCOSA's findings that there is some potential for the misuse of market power.

3.4 Do customers have alternative routes for their goods (indirect competition) ?

ABB concurs with ESCOSA's findings that grain bulk shippers have limited economically feasible alternative routes for their goods.

3.5 Is competitive entry possible ?

ABB concurs with ESCOSA's findings that scope for entry into Essential Maritime Services is limited.

3.6 Does the answer vary between proclaimed ports and between the goods being moved (for example is the situation in grain different to that for container traffic) ?

ABB concurs with ESCOSA's findings that there is significant variation between ports and cargoes and customers. Greater market power concerns arise in respect of bulk cargoes, especially grain.

3.7 Are Essential Maritime Services of sufficient importance to the South Australian Economy to warrant economic efficiency concerns ? This could incur either because the Maritime Services themselves are a significant industry or because they have a significant impact on the economics of other industries.

ABB does not concur with ESCOSA findings that the economic efficiency effects of Essential Maritime Services are limited.

By ESCOSA's own admission, Essential Maritime Services are a "significant" part of the South Australian economy (page 24).

By comparison to other Australian Ports (also Port charges made for the export of other commodities), the 'Cargo Services Charge' as levied by Flinders Ports is at the upper end of the spectrum and does handicap ABB in the international arena; viz :-

- **South Australia Cargo Services Charge** **\$1.50 tonne (GST Exclusive)**
- Portland (Vic) wharfage \$0.65 tonne (GST Exclusive)
- Geelong (Vic) wharf hire \$0.26 tonne (GST Exclusive)
- Charges levied at other Australian Ports are largely in the public domain.

3.8 Can price regulation fix the above matters or will it impose excessive additional costs and risks ?

ABB contends that regulation can assist in bringing out the optimum solution and mitigating market anomalies (eg. abuse of market power). Obviously though, it depends on what form of regulation is adopted.

ABB contends that costs and risks can be customized to bring about the optimal solution.

3.9 Mooring Services ?

ABB does not have difficulty with ESCOSA's findings that mooring services should be subject to monitoring.

ABB notes the increasing requirement for port security. For example, the Department of Transport and Regional Services (DoTARS) is drafting new legislation to implement proposed preventive maritime security arrangements for port(s). This is in line with the International Ship and Port Security (ISPS) Code; such to be in force no later than 30 June 2004.

In light of the above, there is argument for Flinders Ports to have increased say in mooring services [cf : a (new) third party provider with contract labour changing on a day to day basis, together with irregular schedules of shipping].

3.10 Draft Conclusion

ABB concurs with ESCOSA's findings that there are sufficient grounds to continue price regulation of Essential Maritime Services.

4. FORM OF PRICE REGULATION ISSUES

4.1 Forms of Price Regulation

ABB again states ESCOSA should establish maximum prices or maximum rates of increases; under which port users may negotiate charges. The ceiling levels to be determined and set by ESCOSA preventing Essential Maritime Service operators extracting abnormal economic rents (eg. through the use of market power).

ABB has worked through similar situations in Victoria where their ESC (formerly Officer of the Regulator General) has set price controls on GrainCorp. Again the price control in Victoria has orientated the Port Owner cum Operator's pricing structure to be kept within reasonable levels (cf : even allowing for efficiency gains, reasonable returns, etc). ABB contends there is merit in borrowing on the Victorian experience. This was before the Victorian Office of the Essential Service Commission orientation (circa late 2002) to limit itself to issues of "access" only.

4.3 Selecting Forms

For years, port users have been bound by non negotiable pricing through four port operators, SA Harbours Board, Department of Marine & Harbours, Ports Corp SA and more recently Flinders Ports South Australia. Flinders Ports became the State privatized port owners in November 2001 but are largely price bound by regulation until 2004.

Regulated pricing in its current format does not facilitate efficiency gains to be passed on or handicaps free market negotiation. Rather than have a flat \$1.50 Cargo Services Charge, it would be more appropriate if regulation structured a ceiling price, for which Port Users could negotiate lower rates based on free market elements such as logistic efficiencies, throughput, etc.

4.6 ESCOSA Proposal

ABB has stated its opinion in Sections 4.1 & 4.3 above.

ABB believes that Essential Maritime Services "*Pricing Regulation*" should continue in its own right and be quite separate from "*Access Regulation*". ABB contends the importance of pricing matters would be undermined and lose its significance if it were sub-categorized under "*Access Regulation*".

ABB does have difficulty with ESCOSA's "*light handed*" approach in respect pricing regulation for the period 31 October to 30 October 2007; viz : "*allowing regulated operators to set their own prices*" (page 37). This determination lacks rigour and logic, particularly in light of :-

- ESCOSA's other findings re :-
 - Essential Maritime Services are significant to the South Australian economy;
 - scope for market entry into Essential Maritime Services is limited; and
 - there remains potential for abuse of market power; and
- the experience in Victoria where allegedly in that state, GrainCorp has not complied with ESC's (formerly the Office of the Regulator General) "Pricing Principles".

4.7 Alternative Proposal

ABB is unsure of the logic behind "*disallowing changes in other Essential Maritime Services charges that are grain specific*" (page 39).

ABB directly charters ~ 65% of vessels to load barley with port charges built into the charter freight rate. ABB contends that as the principal in the charter, we require the right to negotiate charges and seek amendments to all Essential Maritime Services. Without the right to negotiate, such could result in less (internationally) competitive port charge costs being incorporated into vessel charter rates.

Otherwise, ABB is not uncomfortable with ESCOSA's "alternative proposal".

4.8 2007 Ports Price Review

Given the reservations above and should the Government enact ESC's "light handed" recommendations, ABB contends the "2007 Ports Price Review" should be brought forward (ie : to 2006 latest).