Richards Bay Coal Terminal Proprietary Limited
(Registration Number 1973/014256/07)
South Dunes, Richards Bay Harbour, PO Box 56, Richards Bay, 3900, South Africa.
Tel: (035) 904 4911, Fax: 086 632 83 42

30 May 2013

The Chairman
Ports Regulator
Private Bag X54322
DURBAN
4000

Attention: **The Chairman**

Email: tariffcomments@portsregulator.org
Fax: **(031) 365 7858**

Dear Sir

THE PROPOSED TARIFF METHODOLOGY AND PRICING STRATEGY FOR PORT TARIFFS TO BE CHARGED BY TRANSNET NATIONAL PORTS AUTHORITY ("TNPA")
RICHARDS BAY COAL TERMINAL PROPRIETARY LIMITED ("RBCT")

In line with the Ports Regulator of South Africa's ("PR") request for submissions from interested and affected parties in relation to the "Proposed Tariff Methodology and Pricing Strategy for Port Tariffs", RBCT hereby submit the following comments.

TARRIF METHODOLGY OVERVIEW

In principle, RBCT have no objection to TNPA earning a market related income on its investment in Port Infrastructure. The reality of the situation is that this principle is already contained in the current Terminal Lease Agreement and one would assume in the majority of other agreements currently in place.

RBCT has specific concerns when it is noted that the intention is to increase Terminal Operators' lease charges by up to 77%. Existing leases have current clauses contained therein that are based on key market principles for valuation of industrial land.

VALUATION METHODOLOGY

The report submitted at the request of the South African Association of Ship Operators and Agents ("SAASOA"), compiled by colleagues associated with the Unit for Maritime Law and Maritime Studies as well as the School of Accounting, Economics and Finance at the University of KwaZulu-Natal, which deals with the TNPA Tariff Application for 2013/2014 and was submitted to the PR for consideration, is very relevant to the Proposed Pricing Strategy. This report was included in the pack for discussion.

It is assumed that this report will be considered by the PR in reviewing the proposed pricing Strategy. The report clearly outlines some of the concerns in terms of the proposed methodology and the determination of certain components within the formulae proposed.

Of key concern is the methodology of using the Equity Beta Data of the JSE top 40 companies as a comparison. As stated per the above report, "The Port Authority is a regulated monopoly operating in an industry for which demand is relatively inelastic". They may be exposed to the market risk factors, however undoubtedly not to the same extent as these privately owned companies.

It is noted that TNPA would like to include Work in Progress in the underlying asset value. Surely this should only apply to stay in business capital. The assumption in this case is that expansionary capital will ultimately pay for itself through future revenue generation, thereby also reducing the possibility of direct cross subsidisation.

It is further important to note that as per page 49 of the "Proposal for New Tariff Structure" document, third bullet point, "Level of investment required by terminal operator will dictate duration and rent level". It is assumed that these considerations already documented in the existing leases will be honoured.

The construction of RBCT commenced in conjunction with the building of the Richards Bay Harbour in 1973. The area in which the terminal is situated today was predominantly swamp land and below the high water mark. Unlike with other Port Facilities the investors in RBCT carried out the reclamation and establishment of the site at their own cost, with the initial berths even constructed and owned by the Terminal. Due to regulations regarding ownership of key infrastructure within a South African Port, these berths were later required to be sold back to the Port Authority.

It is important to note that a "one size fits all" methodology is not applicable as RBCT, to the best of our knowledge, are unique in this scenario, having reclaimed the land on which the Terminal is situated.

REQUIRED REVENUE MODEL

In considering the proposed combination of tools to derive the required revenue, it is concerning to note that TNPA believe that Terminal Operator lease charges should be able to escalate by up to 77%. The motivation being that TNPA should be able to earn a fair return on their investment taking market risk into account, however they then go on to state that they should have the power to regulate the THC's charged by Terminal Operators.

There appear to be inconsistencies here in that a free market system should apply on the one hand yet the Terminal Operator can be regulated as to its revenue stream. Why not then simply remain with clauses contained in existing agreements which require THC's to be market related.

A key point to note is the intention of the TNPA to drive productivity, which is a sound objective, however there is an underlying tone which indicates that existing operations are not efficient and this would appear to be generalisation. All parties agree that a critical element for revenue generation is throughput. RBCT in this case have had an installed capacity of 91 Mt since May 2010, the highest annual throughput since this date being 68.5 Mt, with rail ramp up limitations not allowing the 91 Mt to be achieved. Simplistically this has resulted in a lost opportunity in cargo dues alone in the region of R66.2 million p.a., let alone the other associated port revenues, together with the lost benefit to exporters of the per ton per square meter opportunity. Infrastructural investment by Transnet has not matched industry in the case of export coal capacity.

KEY CONSIDERATIONS IN CONCLUSION

1. The terminal operation is unique in the sense that it is self sustaining from the point that it controls and operates the entire infrastructure, from the rail siding where the coal arrives to the ship loader used to load the vessel.

2. The only operational infrastructure not owned by the Terminal is the berths themselves.

3. It is probably the only terminal facility where the owners/operators have been required to reclaim the land on which they operate at their considerable cost.

4. The nature and magnitude of the terminal, being a break bulk facility, brings major efficiencies to the rest of the port operations in terms of reduced operating costs in that infrastructure is able to be efficiently used. This statement is made on the basis that there are in excess of 700 vessels per annum being loaded at RBCT.

5. One would anticipate that the Ports rate of return would be commensurate of that required for a state owned infrastructural asset and not a JSE top 40 company. The key purpose being that of creating growth opportunities within the country, thereby the facilitation of the country being able to compete on a competitive basis in the international area of commodity trading i.e. steam coal.

6. The critical opportunity for both the Terminal and the Port lies in the ability to generate additional volumes, thereby generating additional revenue and allowing the Port to sweat its assets.

In conclusion, it would be greatly appreciated if the above would be considered in terms of assessing the determination and reasonability of the Proposed Tariff Methodology to be used in determining future Port Tariffs.

Should you require any additional information, please do not hesitate to contact me.

Yours sincerely
For and on behalf of
RICHARDS BAY COAL TERMINAL PROPRIETARY LIMITED

ALAN WALLER
GENERAL MANAGER FINANCE