

15 October 2021

The Ports Regulator
11th Floor
The Marine Building
22 Dorothy Nyembe Street
DURBAN
4000

Attention: The Acting Chairperson, Dr T V Munyama
By Email: comments@portsregulator.org

Dear Sir

RE: TARIFF CONSULTATION
RICHARDS BAY COAL TERMINAL PROPRIETARY LIMITED ("RBCT")
DRY BULK TARIFF APPLICATION – COAL EXPORTS (CARGO DUES)

In line with the request from the Ports Regulator for submissions from interested and affected parties in relation to the Application of Tariff increases for the 2022 year within the South African Ports system, RBCT herewith submits the following: (please note this is in line with our previous 2020 and 2021 submissions, which we believe were not considered at all):

BRIEF HISTORY OF RBCT

The construction of RBCT commenced in conjunction with the building of the Richards Bay Harbour in 1973. The area in which RBCT is situated today was predominantly swamp land and was below the high water mark. Unlike other Port Facilities, the investors in RBCT carried out the reclamation as well as the establishment of the site at their own cost, with the initial berths also constructed and owned by RBCT. 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. In addition to this, RBCT has paid the reclamation costs for all subsequent upgrades and expansions over the life of the Terminal, with the most recent being the Phase V expansion that was commissioned in 2010. During 2017, Shareholders invested a further R1.4 billion for the replacement of infrastructure at RBCT, thereby concretizing RBCT's commitment to the Marine Sector.



COMMERCIAL CONSIDERATIONS

In 2004 RBCT renegotiated the Lease Agreement, which will expire in 2023, with three renewal periods that will take the full lease term to 2038. The agreement between RBCT and the Port Authority contains a commercial clause 5 that captures the manner in which cargo dues are to be calculated, which was mutually agreed upon at the time. Over time, with the establishment of the Ports Regulator and the Tariff Methodology, this clause has never been applied. The methodology and the annual tariff process has determined the cargo dues rate. This has been done in good faith on the pretext that there is an oversight authority in the Ports Regulator.

It has, however, become evident with the previous three tariff determinations, as it was confirmed at the 2019 session in Durban and again in 2020, that there is an unfounded belief that the coal cargo dues are currently below the market value. This has manifested itself in higher than inflation annual escalations (to the coal industry) when compared to other commodities. It is our view, in the absence of a reasonable substantiation to the contrary, that this is in effect a process of cross subsidisation of the other commodities and inefficiencies

The opportunity to engage with Mr Sanjay Govan (Transnet National Ports Authority) outside of the session in 2020 was taken to understand the principle of a flat coal rate across all coal export Terminals. From the discussion it was clear that, in the tariff determination methodology, no consideration is being given to taking into account the benefits of a bulk handling facility of RBCT's nature. We are referring to the magnitude of benefits that are derived from the handling of high volumes through one facility.

On a fair commercial basis this has to be factored into the tariff determination model, unless the principle objective again is to cross subsidise other commodities or less efficient operations.

KEY CONSIDERATIONS

1. RBCT's operation is unique in the sense that it is self-sustaining, as it controls as well as operates the entire infrastructure, from the rail siding where the coal arrives to the Shiploaders used to load the vessels.
2. The berths themselves are the only infrastructure not owned by RBCT.
3. RBCT is the only terminal facility where the owners/operators have been required to reclaim the land on which they operate at their own considerable cost.
4. The nature and magnitude of RBCT, being a bulk handling facility, brings major efficiencies to the rest of the Port operations in terms of reduced operating costs, as the infrastructure is able to be efficiently used. This statement is made on the basis that there are in excess of 800 vessels being loaded at RBCT per annum. The benefits of the magnitude that this provides to Transnet National Ports Authority ("TNPA"), allows them to efficiently sweat their assets while servicing all commodities in the Port, to the benefit of all users.

5. One would anticipate that the Port's rate of return would be commensurate of that required for a state owned infrastructural asset. The key purpose being that of creating growth opportunities within the country, thereby facilitating for the country to be able to be competitive in the international area of commodity trading, i.e. steam coal.
6. RBCT's capacity is at 91Mt. Granted to TNPA's credit that in 2005, when the Phase V expansion was announced, they delivered on their commitment and constructed Berth 306 to facilitate the expansion. Unfortunately, although Transnet committed at the time to expand the rail infrastructure, to date Transnet Freight Rail ("TFR") is still restricted to an 81Mt rate, which is yet to be achieved. RBCT and thereby the Port are unable to realise the full economic benefit of this additional 10Mt per annum, to no fault of the Coal Exporters. To exasperate the matter, due to numerous challenges, TFR will only deliver in the order of 59Mt in the current year.
7. All other services, as per the standard tariffs published by the Port, are paid for.
8. Clause 5 of the current Lease Agreement (as referred to above) takes into consideration the magnitude of the volumes that the facility was intending to handle, together with providing for inflationary escalations. These principles have been superseded by the Tariff Methodology currently applied. Once again, reference has to be made to the potential cross subsidisation of:
 - a. other coal facilities, and
 - b. other commodities.
9. The critical opportunity for both RBCT and the Port lies in the ability to move additional volumes, thereby generating additional revenue and allowing the Port to fully utilize its assets. RBCT owners as well as the Port have installed this capacity, RBCT being a 91Mt/a facility, however, the associated infrastructure in rail has lagged this capacity expansion. In saying this, rail performance has severely impacted coal export since the latter part of 2020, resulting in the significant loss of potential revenue for our Shareholders and the Port. RBCT and Industry have gone so far as to commit resources and skills to assist with improving the current delivered rate to RBCT, which is approximately 20Mt/a below the contracted rate of 78.4Mt/a. RBCT has certainly invested according to its commitments in the 2004 Lease Agreement. Unfortunately, based on the most recent capital expenditure outlook by Transnet, the coal line expansion would only come on line at the earliest in 2024, if at all.
10. As stated during the WEGO KPIs session, RBCT does not believe that the increases are reflected in the efficiencies of the Marine Services as provided by TNPA. RBCT's Shareholders and other Port Users have on numerous occasions voiced their frustrations regarding the Marine Services or lack thereof, specifying the availability of the helicopter, marine pilots and the pilot boat. The Richards Bay Port is required to have a 24-hour helicopter service, which has not been in place for a number of years. Historical Port closures indicate that Terminal operators in the Port of Richards Bay are required to move twelve months' product in less than eleven months, based on a less than ideal Marine Service.

In conclusion, it would be greatly appreciated for the above to be considered in terms of assessing the determination and reasonability of the cargo dues tariff escalation with regards to exporting coal through RBCT specifically.

RBCT would once again like to extend an invitation to both the Port Regulator and TNPA to gain a first-hand insight into the nature and magnitude of the operation. We truly believe a site visit would provide the context to the Port Regulator to understand the content of our request for consideration.

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

Yours faithfully

For and on behalf of

RICHARDS BAY COAL TERMINAL COMPANY LIMITED

A handwritten signature in black ink, appearing to read 'AJ Waller', with a stylized flourish at the end.

AJ WALLER

CHIEF EXECUTIVE OFFICER