

Mr Paul McMahon
Deputy Director, Competition and Regulatory Economics
Office of Rail Regulation
One Kemble Street
London WC2B 4AN

Copy to Bill Davidson, Network Rail

23rd May 2008

Dear Mr McMahon,

Network Rail Strategic Business Plan Update – Coal Spillage

1. The Strategic Business Plan Update published by Network Rail in April included their latest thinking and proposals regarding coal spillage on the network and the associated charging regime. CoalImp has been working on this issue over the last few months and this letter summarises our conclusions as well as responding to Network Rail's proposals.
2. CoalImp represents major coal users (including all the coal-fired generators), rail companies, ports and other infrastructure operators in the coal supply chain. The twenty two members (listed in the Appendix) are responsible for the despatch, transportation and receipt of the majority of ESI coal carried on the rail network.
3. The views set out here are the consensus views of the Association's members and have been approved by them for submission in this form. The interests of individual members may be affected differently by the detailed implementation of the proposals. It is therefore open to any member to make individual representations.

Background

4. In its interim response to Network Rail's initial paper on coal spillage in August 2007, CoalImp commented that the spillage charges which are currently levied were not at all transparent, and that any review should be accompanied by a detailed breakdown, justification and schedule of where the problems are and where monies have been spent. In view of the comments on the general levels of Network Rail charges we expected there to be considerable scope for savings.
5. Notwithstanding this, we acknowledged that there is a spillage problem. We suggested, however, that as the old HAA wagon fleet has declined sharply the

problem traditionally associated with product being carried out on to the network on the “undercarriage” of these wagons after discharge is falling. The more recent (post 2001) loading point problem is likely to be concentrated at a smaller number of different locations compared to the dispersal of power stations across the network, as may have been the case in the past. Accordingly, it should be possible to identify the specific sources of the problem and tackle it by discussion with the relevant parties rather than using a broad-brush financial penalty.

6. CoalImp proposed seeking solutions to the problem of coal spillage and subsequently facilitated a sub-group of CoalImp members to take matters forward.

Coal Spillage Discussions

7. A CoalImp sub-group has duly been considering the spillage issue over recent months bringing together practical expertise of port operators, rail companies and generators. Network Rail has participated and played a useful part in these practical discussions, but is of course not able to be party to this letter.
8. During discussion, the following main observations/conclusions emerged:
 - 8.1. The industry has become more reliant on Pad Loading and this leads to more spillage on the Network than traditional Bunker loading.
 - 8.2. Setting aside issues associated with the old HAA wagon fleet, the principal problem arises from coal sticking to the raves of the wagons, often on the side opposite where coal is being loaded, as a result of loading shovels overshooting. The problem can be exacerbated by leakage of hydraulic fluid from shovels and by wet conditions.
9. Network Rail tabled statistics on coal in points in the London North Eastern Region, where it was considered that the bulk of the problems were experienced. This was useful in understanding the location, nature and scale of the problems, and similar statistics should provide a good indicator of progress going forward.
 - 9.1. It emerged that in 2007/8 there had already been a significant improvement from the previous year, with a reduction in Coal in Points failures by 44%, and associated Delay Minutes by 67% which equates to a 5163 minute saving.
 - 9.2. This improvement was likely to have arisen from a number of factors including a continuing decline in the use of HAA wagons, a higher proportion of bunker loading with the commissioning of new facilities at Immingham, and better general ‘housekeeping’ as a result of greater focus on the issue.

Solutions

10. A number of preventative measures were considered for clearing coal from raves of wagons.
 - 10.1. These included (i) manual brushing, (ii) mechanical clearing, for example with an angled flap of conveyor belting mounted on a gantry, and (iii) train spraying.
 - 10.2. Potential solutions would be site specific depending on practicality of location, ability to capture and recycle water, volume of traffic etc. The ability to deal with the slight differences in wagon dimensions for the different operating companies was highlighted as an issue.
 - 10.3. CoalImp believes that over the course of time such solutions may come to be seen as 'good industry practice' but the availability of a well targeted financial mechanism would accelerate the process. More specifically, a funding mechanism is needed to cover initial investments.
11. Refusal to lift trains with spillage potential was discussed. It was recognised that coal spillage creates difficult tensions between commercial objectives and both the statutory and contractual requirements to behave as prudent operators. A refusal to lift a train may occasionally be the only course of action open to an operator. This should always be considered as an option in dealing with bad cases, and would provide a very strong disincentive to bad practices.
12. It was also suggested that rail operating companies should include wagon cleaning as part of their standard maintenance procedures to deal with coal sticking.
13. In addition, Network Rail should undertake a clean-up programme to ensure that historic problems are not being attributed to current activities.
14. CoalImp members have agreed to continue sharing information on emerging best practice in dealing with the spillage issue. We have also made Coalpro (representing indigenous producers) aware of our work on this.
15. We believe that if cleaning arrangements for the raves of wagons are rolled out across pad-loading sites, this will greatly reduce the problem. It is noted however that spillage is never likely to be entirely eliminated.

Spillage Charge and Financial Incentives

16. It was noted that the current system offers no economic incentive for the industry to improve, as there is no rebate or reduction on the charge if no spillage occurs. This is acknowledged by Network Rail in the SBP Update. CoalImp does however recognise that its members have a duty of care and should, in any case, behave as reasonable and prudent operators, irrespective of the financial or economic framework.

17. CoalImp welcomes the findings of the Halcrow report that estimates the costs of spillage at £4.1 m in contrast to Network Rail's earlier proposal for an increase to £7.0m.

17.1. However, we believe this figure relates to the 2006/7 spillage levels and have noted above (para 9.1) that a significant improvement has since taken place in 2007/8. There is no reason to believe that this improvement will be reversed and we therefore propose that the charge is further scaled back to a level closer to £2m.

17.2. As the process of resolving spillage issues is dynamic, it is essential that the charge is kept under review each year rather than being set for the whole control period. The objective should be to resolve the problem to a minimal level as quickly as possible and to reduce the spillage charge accordingly. To retain a fixed charge where the problem was in the process of being resolved would clearly be perverse.

18. Whilst welcoming the good intentions behind Network Rail's wish to incentivise operators by offering rebates against the spillage charge, CoalImp is concerned about the practicalities of such a proposal.

18.1. The contractual relationships in the sector often mean that the connection between loading terminal operators and the payment of track access is indirect. It is therefore difficult to envisage how a general rebate through the carriage paying party would necessarily find its way to reward the loading party undertaking the investment. Also, with the number of different coal suppliers, rail operators and receivers using some lines, identifying a one-to-one correspondence between specific flows and measured improvements would be difficult (e.g. Immingham to Scunthorpe, the Aire and Trent Valley power stations).

19. CoalImp is therefore proposing an alternative approach. This is based on the belief that (i) the problem can largely be resolved, (ii) the levels of investment needed are not large in comparison with the overall level of the spillage charge, and (iii) that Network Rail is over-recovering its costs given the level of the existing charge and in light of the Halcrow work and the 2007/8 improvements.

CoalImp's Proposed Approach

20. CoalImp proposes that:-

20.1. the spillage charge should be reduced to a level commensurate with the improved position in 2007/8, but should remain as an uplift spread across all coal traffic;

20.2. Network Rail should establish a fund of £250,000 per annum for say three years against which terminal operators can bid projects to reduce spillage. This is likely to be sufficient to cover all major pad-loading sites on the network and such other locations where investment is needed;

- 20.3. the level of spillage-related problems should be measured, and the level of the spillage charge and the money available for remedial action should be reviewed annually; and
- 20.4. Network Rail and/or ORR should engage as appropriate with the CoalImp coal spillage working group to discuss how such a system may work.
21. CoalImp believes that the advantage of this approach is that the economic reward flows directly **from** the Party which will benefit from track maintenance cost reduction (Network Rail) **to** the Party which incurs the cost of investing in the clean up equipment (the supply point or power station). The benefits are then seen across the industry in the form of reduced access charges; including to those operating "clean" flows (e.g. from bunker loading sites) which at present bear a cost uplift.

Conclusions

22. A CoalImp sub-group has been considering the spillage issue over recent months bringing together practical expertise of port operators, rail companies and generators. Network Rail has participated and played a useful part in these practical discussions, but is not a party to this letter.
23. Setting aside the issues associated with the declining HAA wagon fleet, the principal problem arises from coal sticking to the raves of wagons after loading at pad-loading sites.
24. A number of preventative measures were considered for clearing coal from raves of wagons. CoalImp believes that over the course of time such solutions will come to be seen as 'good industry practice', but a funding mechanism is needed to cover initial investments.
25. Refusal to lift trains with spillage potential was discussed. This should always be considered as an option in dealing with bad cases, and would provide a very strong disincentive to bad practices.
26. CoalImp welcomes the findings of the Halcrow report that estimates the costs of spillage at £4.1 m in contrast to Network Rail's earlier proposal for an increase to £7.0m. However, in view of the significant improvement that has taken place in 2007/8 the charge should be further scaled back to a level closer to £2m.
27. Instead of the proposed rebate arrangement, Network Rail should establish a fund of £250,000 per annum for three years against which terminal operators can bid projects to reduce spillage. This is likely to be sufficient to cover all major pad-loading sites on the network and such other locations where investment is needed.
28. The level of spillage-related problems should be measured, and the level of the spillage charge and the money available for remedial action should be reviewed annually.

29. Network Rail and/or ORR should engage as appropriate with the CoalImp coal spillage working group to discuss with how such a system may work.

Yours sincerely

Nigel Yaxley
Managing Director

CoalImp Membership

Associated British Ports
British Energy Power and Energy Trading Limited
Clydeport
Drax Power Limited
EDF Energy plc
E.ON UK
EWS Energy
Fergusson Group
FirstGBRf
Forth Ports PLC
Freightliner Heavy Haul Limited
Hargreaves Services
International Power Plc
Network Rail *
Port of Tyne Authority
Rio Tinto Alcan
Rudrum Holdings Limited
RWE Trading
Scottish Power Energy Management Limited
SSE Energy Supply Ltd
SSM Coal Ltd
Welsh Power Ltd

* Network Rail has tabled information and has participated in the practical discussions on coal spillage but is not a party to this letter.