

## RAILWAYS (OPERATIONS AND ACCESS) (ACCESS REGIME REVIEW) AMENDMENT BILL

27 September, 2011

Adjourned debate on second reading. (Continued from 14 September 2011.)

**Mr PEDERICK (Hammond) (11:08):** I rise to support the comments made by the member for Goyder regarding the Railways (Operations and Access) (Access Regime Review) Amendment Bill 2011. I note that only last year we discussed in this place the Railways (Operations and Access) (Miscellaneous) Amendment Bill 2010, and that bill was supported throughout the South Australian parliament. This legislation intended to provide a consistent national system of economic regulation for nationally significant infrastructure, including railways, and that has been enacted.

The 2010 bill also implemented efficiencies into the act. Such efficiencies were based on recommendations following an inquiry conducted by the Essential Services Commission of South Australia in 2009. These reforms aim to reduce regulatory uncertainty and compliance costs for owners, users and investors. The intention of the 2011 amendment bill is to include the requirement for the Essential Services Commission of South Australia (ESCOSA) to conduct five-yearly reviews of the South Australian rail access regime. This amendment is the result of an application submitted to the National Competition Council on 29 December 2010 for the certification of the South Australian rail access regime as an effective regime for a period of 10 years.

I note that the National Competition Council released its draft recommendation on the certification application on 16 March 2011. The National Competition Council recommended that the regime be certified for a period of five years, but it advised that certification for a period of 10 years would be considered if the act was amended to formalise the requirement that ESCOSA conduct on a regular basis a review of the railway services covered by the regime, and I note that could be every five years.

As the member for Goyder has indicated, the grain handling committee, which I introduced into this place in March and of which I am a member, is very interested in operators having access into the rail network, through Genesee & Wyoming. There is comment that Viterra has a stranglehold over the services of Genesee & Wyoming. I will listen intently to the minister's response to questions about what third-party access, and open and transparent access, is being made available—or should be made available—to third-party operators.

We note the difficulties experienced during the last harvest in South Australia. Let's hope we never see those difficulties again. The wet harvest and sprouted grain gave third parties or other operators in Australia, other than Viterra, which has about 90 to 95 per cent of the network, the opportunity to have grain put through their systems because they are operating falling numbers machines.

I have not driven right around the state but, as I see it, the issue is that I still see a lot of stored grain, a lot of bunkers, in these third-party operator sites. I would like to see these third-party operators having equivalent access to trains—essentially, Genesee & Wyoming has this network stitched up—and I hope we get a qualified response from the minister today in regard to this.

I would hate to see Eyre Peninsula GrainFlow sites (previously Australian Wheat Board sites but now owned by Cargill) disadvantaged in the process in that they are not able to access the rail, railcars and the whole system through to the port. I have one of these sites in my electorate, at Pinnaroo. I know that, later on next month, we will be having a major committee briefing on this issue, including with Flinders Ports and Genesee & Wyoming. However, I think we might be able to get some of these issues cleared up today in the debate around this bill.

The grain industry is a vital industry to this state, contributing well over \$3 billion to the economy last year. Agriculture has been the single biggest supporter of the economy in this state in the last 12 months because of the wet season we had last year. Sadly, we have seen a few dry times in the last couple weeks; it was looking like a bin buster there for a while. It still could be a pretty good harvest, as long as we get the forecast rain—the 15 to 20 millimetres—that people are talking about. It would have been pretty handy getting it two to three weeks ago, but let's hope that this happens very shortly to help get our farmers back on track.

We certainly need farmers to sell, market or store their grain at third-party sites, such as Cargill (the old Wheat Board sites), and there are four of these across South Australia, so that those sites have the ability to get that grain onto the trains and to the ports and out of the state so that they

can free up room for this coming harvest, because it still has the potential to be a significant harvest. As I indicated earlier, the sooner it rains the better.

As we have learnt through our grain industry select committee, there are quite a few competitive impediments to the situation here in South Australia where we have a deregulated market essentially working under a monopoly. We are certainly looking at ways that we can improve this so that industry, growers and everyone in the system can get the benefit of a competitive access regime for grain producers in this state.

**Mr PEDERICK:** ... I wanted to go into committee to get absolute clarification on this point about access to the rail network because there are a lot of claims and counterclaims out there in the farming world, and I note that the grains committee has a hearing on 28 October.

Minister, the question I ask is: are you absolutely sure there is no impediment for an operator like Cargill (formerly the Australian Wheat Board) to get rail access in this state to get them to the port? You are saying it is more about issues of port access.

**The Hon. P.F. CONLON:** Clearly, there should not be an issue of port access, but I will come back to that. This is a regime to allow access where it has not been properly allowed. My understanding is that there are no instances of that having occurred. If that were to occur the person can go to ESCOSA to address that issue. That is why we have the access regime. I actually support light-handed regulation: it is the cheapest. Do not regulate unless you need to: it is best for everyone. There is no doubt that anyone who has been denied access—and that has never been reported to us—can go to ESCOSA. That is why we have a regime.

Let me say that Viterra, being as big as it is, has a commercial arrangement with Genesee & Wyoming at present to take rail to the port. It does not have an access agreement. It does not need an access agreement because Genesee & Wyoming is in the business of running grain rail so it wants to carry grain for the people who have a lot of grain, so that is it. It will also carry grain, as I understand it, for anyone else who wants grain brought there.

Can I make two points very clearly: it cannot contract outside of this regime, no matter what contract it does with a third party, otherwise you could not have a legislated regime. Further, I am completely unaware of any issue about anyone getting access to the rail and, if there were, this regime is there to provide a remedy for that; so, that's that.

Not associated with this, but obviously relevant to people who are exporting grain, is ports access. We have a similar regime for ports access involving ESCOSA. It has not been necessary to this point for ESCOSA to do much for similar reasons: there has not been a problem. Viterra, being under the Wheat Export Marketing Act, has to have a regime acceptable for access to the ACCC. They are in the process of doing that, but we understand that what will occur there is they will protect our state-based ports access regime as well. You have regimes that protect access to rail, access to ports and there is nothing in current operations to disturb that, so I think everyone should be happy.