

Opinion

May 25 2016 at 12:00 AM

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BHP Billiton's union-buster sails into coal



<img BHP has awarded the tug boat contract for its Hay Point coal terminal to Rivtow Marine.



by Matthew Stevens

BHP Billiton has introduced a non-union tug boat operator to its Queensland coal terminal in a move that affirms its embrace of the novel employment model used to relieve the Maritime Union of Australia of its coverage of Australia's biggest iron ore port.

BHP has awarded the tug boat contract for its Hay Point coal terminal to Rivtow Marine, the same independent Queensland firm that has been running the non-union tug crews out of Port Hedland since November last year.

The gathering success story that is Rivtow in iron ore saw the innovative and opportunistic family-owned operator invited to tender for the towage work required at the coal terminal operated by BHP on behalf of its metallurgical coal joint venture, the BHP Billiton Mitsubishi Alliance.

The introduction of the Rivtow model to the east coast coal industry will be watched with eagle eyes by BMA's increasingly cost-conscious competitors just as it will be both the rest of big coal's tug and service boat operators.

Hay Point is one of two coal terminals that share Dalrymple Bay. The other eponymous coal terminal is owned by Brookfield and operated by Glencore on behalf of a group of coal miners. The terminal's tugs are run by a company called Half-Tide Marine. It too is partly owned by Glencore, which is Australia's biggest single coal producer.

Follow the leader

The financial dynamics of coal mean that the likes of Glencore simply cannot allow a competitor like BMA to generate competitive advantage from anything but the better quality of its coal. Glencore must match or beat BHP on costs. If the introduction of Rivtow to Hay Point generates material and lasting cost reduction then Glencore just has to follow.

The way it has been explained to us is that the tugs on Dalrymple Bay have historically boasted four-strong crews. The two BMA tugs that Rivtow will operate from July will be populated by crews of three with two deckhands being replaced by one more qualified and highly paid mate.

The reforming potential of Rivtow's employment model is becoming increasingly obvious to infrastructure owners and operators, offshore service providers and unions alike.

In April it emerged that Shell was working with service providers to further refine the Rivtow model so that it could deploy non-union tender boats to service Prelude, the oil super-major's first floating liquid natural gas processor.

The big loser at both Port Hedland and Hay Point was Teekay Australia. It is the local frontier of one of the world's biggest shipping operators. The creep of the Rivtow model to the east coast will doubtless trigger a review of its offering.

Muted welcome

As you might imagine, the welcome for the Rivtow model is very much more muted on the union side of the industrial relations fence. The sense of threat is palpable.

This week, for example, the MUA has busied itself with a leafleting campaign announcing the Rivtow threat in Mackay, the nearest urban centre to Dalrymple Bay. The union pitch is that, unlike at Port Hedland where industrial action had eroded trust and dented financial bottomlines, there just is not the history of dispute at coal ports that justifies the introduction of paradigm changing employment models.

"For 45 years Maritime Union of Australia members have worked diligently and professionally on tugs at the BMA Terminal in Hay Point," the union complained. "They have worked 24/7, 365 days per year in all kinds of weather and dangerous conditions to provide a world best towage service to BMA.

"In those 45 years NOT ONE JOB – ZERO has been missed by an action of MUA members." Given this claim to reliability is not publicly contested by BMA, the union's sense of an injustice done would seem to be reasonably founded. But, as the Fair Work Commission has found, the union's claim that Partnership Agreements are just another name for sham contracting arrangements are not.

"Rivtow and BMA have colluded to destroy the employer relationship by creating a complex legal position called Partnership Agreements. These are sham contracting taken to the next level by the world's largest coking coal producer and its underling Rivtow," the union said.

"BMA and Rivtow are only after one thing and that is to destroy the ability of workers to act collectively. This is a RIGHT enshrined in law which BMA believed it can simply walk away over by creating these sham agreements."

Traditions bypassed

Rivtow has been able to bypass traditional union coverage of ocean-going workers by employing its people through a partnership structure that is more familiar to, say, the legal and accountancy industries.

One key product of the Partnership Agreement model that Rivtow has refined to suit its blue-water purposes is that the people who drive and service the Rivtow tug boats are no longer covered by the requirements of the Fair Work Act.

Historically, Australian boat crews are covered by one of three unions with the Australian Maritime Officers Union speaking for tug masters, the Australian Institute of Marine and Power Engineers for engineers and the MUA for other crew.

This legacy of workplace representation is particularly claustrophobic in the case of tugs only because most of them are manned by a crew of three; a master, an engineer and a deckhand or mate.

Rivtow's partnership arrangements, which were revealed in all their complexity in a recent Fair Work Commission case, released it from history. And that made it a preferred candidate when BHP went looking last year for a second operator of its Port Hedland tug fleet.

But BHP's plan changed as the capacity of the new model to remove industrial relation risk and reduce costs became fully apparent. Instead of introducing a second operator to create competitive tension with the union-covered crews employed by the main Hedland tug operator, BHP decided to deliver all of the tugs to Rivtow partnerships.

With that the tides of reform were released across corners of the offshore services sector that have been radicalised by the maritime unions' routine misuse of the leverage generated by their control of waterside bottlenecks.

Now, while we are talking big coal, BMA and industrial relations, it is worth digressing to record two distinct but related developments in continuing disintegration of relations between the world's biggest metallurgical coal producer and its unions.

Enterprise renegotiations

The enterprise agreement that once covered most of BMA's mines has expired and its renegotiation is not going well according to the latest circular from Queensland's three coal mining unions –the CFMEU, ETU and AMWU.

In the wake of Friday's meeting with the company in Moranbah, the unions observed that "it is becoming clearer with each bargaining meeting that BMA are (sic) determined to include in any replacement enterprise agreement, terms and conditions which are drastically different" from the 2012 arrangements.

Outside of continuing resistance to BMA's move to reduce the number of mines covered by the new agreement, the unions expressed particular concerns over proposals to change shifts and rosters with "consultation only" and to redefine shift starting and finishing points.

Presently, these sorts of changes require union approval or endorsement by Fair Work processes and shifts start and finish pretty much universally at mine gate muster points. The BMA proposition is that payment should start and end at points much closer to where the productive action is. And that can be a long way from the front gate.

The other front of tension between company and union is that BMA has rejected an approach by the Australian Electoral Commission to hold union ballots at mine sites as they had been done in the long distant past.

The background there is that, for the first time since 1996, the AEC is overseeing an election for officials of the Queensland branch of the union's mining and energy division. Its exemption from external oversight of elections was removed by the Fair Work Commission last year after a review of oddities that resulted in the cancellation of an election in 2011.

Early last month the AEC approached BMA with a request to hold attendance ballots. BMA respectfully declined and then rejected with even more prejudice a request to have ballots held in mine car parks.

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