

# Consolidated list of amendments to ARTC's proposed variation of the Hunter Valley Access Undertaking

The proposed variation to the Hunter Valley Access Undertaking (HVAU) sets out the following services to operate on the Hunter Valley network:

- Interim Services that have the characteristics set out in section 4.19(c) to apply during the Interim Period which recognises the investments Access Holders have made on the basis of the interim arrangements;
- Initial Indicative Services that have the characteristics set out in section 4.17(d) to apply during the Initial Period which represents the most efficient consumption of coal chain capacity based on HVCCC modelling and coal chain infrastructure constraints existing as at the Commencement Date of the HVAU as contemplated at section 4.17; and
- Final Indicative Services which will be determined in accordance with section 4.18 to apply once they have been approved by the ACCC in accordance with the HVAU which will represent the optimum utilisation of coal chain capacity.

Until the ACCC has approved the Final Indicative Services and Indicative Access Charges the Interim Period and the Initial Period will operate concurrently (see Schedule 1). The Interim Period has been extended until the ACCC has approved the Final Indicative Services under section 4.18 of the HVAU to recognise that the Interim Services account for the majority of current contracted capacity under Access Holder Agreements. ARTC has retained Interim Services during an extended Interim Period to ensure that it is obliged to:

- offer applicants intending to operate Interim Services the terms and conditions if the Indicative Access Holder Agreement under section 3.14 of the HVAU; and
- annually determine the Interim Access Charges under section 4.15(a) of the HVAU and publish by 1 November each year the Interim Access Charges under section 4.20 of the HVAU.

To recognise that prices for the first contract year are fixed (that being the 2012 calendar year) as set out in each Access Holder's train path schedule under Schedule 3 of existing Access Holder Agreement, ARTC proposes to offer Initial Indicative Services and Initial Indicative Access Charges, and Charges for other non-Indicative Services as contemplated under section 4.15(a), on and from 1 January 2013. To provide guidance to Access Holders of the relative differentials between Initial Indicative Access Charges and Charges for non-Indicative Services in future years ARTC will to publish the characteristics of the Initial Indicative Services and Initial Indicative Access Charges based on 2012 volumes after they have been approved by the ACCC. These 2012 Initial Indicative Access Charges will be subject to the annual review process in accordance with clause 4.14 of the HVAU. ARTC will also publish Charges for non-Indicative Services based on 2012 volumes.

AMENDMENTS IN RESPONSE TO ACCC AND INDUSTRY COMMENTS		
Section	Proposed change	Reason for proposed change
4.14(a)	ARTC will determine for each year the Indicative Access Charges for Coal Access Rights with the characteristics of <del>an</del> <u>applicable</u> Indicative Services <u>(being Initial Indicative</u>	Indicative Services are the Initial Indicative Services and Final Indicative

	<p><u>Services in section 4.17 and Final Indicative Services to be determined in accordance with <del>sections 4.17 and 4.18 respectively</del></u>), having regard to the System Assumptions. System Assumptions applicable to the Indicative Services<del>s</del> will include the following:</p>	<p>Services which will be determined annually in accordance with 4.14.</p>
4.15(d)-(e)	<p>If an Access Holder disagrees with a Charge formulated by ARTC, other than an Indicative Access Charge <u>or Interim Access Charge</u>, then the Access Holder may give ARTC a Dispute Notice within twenty (20) Business Days of being notified of the Charge and the dispute will be resolved by arbitration in accordance with <b>section 3.15(f)</b> of the Undertaking <u>(if an Access Holder disagrees with an Interim Access Charge during the Interim Period, an Initial Indicative Access Charge during the Initial Period or an Indicative Access Charge then the Access Holder must give ARTC a Dispute Notice in accordance with the requirements in section 4.20(f)).</u></p>	<p>The dispute resolution process in section 4.20 applies to the Interim Access Charge during the Interim Period and Initial Indicative Access Charge during the Initial Period.</p>
4.15(e)	<p>If the Dispute Notice given under <b>section 4.15(d)</b> concerns Coal Access Rights in a Pricing Zone and ARTC receives Dispute Notices from Access Holders holding two thirds or more of the contracted gtkm for Indicative Services <u>or Interim Services</u> in that Pricing Zone in accordance with the requirements in <b>section 4.20(f)</b>, then a dispute notified under <b>section 4.15(d)</b> will be stayed pending the arbitrator's determination of the dispute notified under <b>section 4.20(f)</b>.</p>	<p>The dispute resolution process in section 4.20 applies. The two-thirds rule applies to Interim Services and Initial Indicative Services.</p>
4.17	<p><del>(a) — ARTC will, in consultation with the HVCCC:</del></p> <p><del>(i) — select a reasonable number of alternative Coal Train configurations in addition to the Coal Train configurations forming the Interim Indicative Services;</del></p> <p><del>(ii) — test the consumption of Coal Chain Capacity by those Coal Train configurations using the HVCCC modelling existing as at the Commencement Date (including, to avoid doubt, the coal chain infrastructure constraints as used by existing HVCCC modelling) unless otherwise agreed by ARTC and the HVCCC; and</del></p> <p><del>(iii) — select the Coal Train configuration which it considers will represent the most efficient utilisation of Coal Chain Capacity when compared to the</del></p>	<p>No longer relevant. To be replaced by new section 4.17.</p>

	<p><del>other Coal Train configurations tested.</del></p> <p><del>(b) — ARTC will consult with the HVCCC, Access Holders and Operators on the initial indicative service selected under subsection (a).</del></p> <p><del>(e) — Within 5 months of the Commencement Date, and after having regard to submissions arising from the consultation at subsection (b), ARTC will:</del></p> <p><del>(i) — submit to the ACCC:</del></p> <p><del>(A) — the characteristics of the initial indicative service selected as a result of the process described in subsection (a); and</del></p> <p><del>(B) — the indicative access charges for the initial indicative service; and</del></p> <p><del>seek the approval of the ACCC to vary this Undertaking to provide for the adoption of the initial indicative service and indicative access charges applicable until ARTC develops and the ACCC accepts the indicative service and indicative charges under section 4.18.</del></p>	
4.17	<p><u>(a) —</u> Within 30 Business Days of receiving approval from the ACCC to vary the Undertaking <u>to incorporate the Initial Indicative Services</u><del>under subsection (c), ARTC will</del> publish</p> <p><u>(i) —</u> the characteristics of the <del>i</del>initial Indicative Services<del>s</del>; <u>and</u></p> <p><del>(d)(ii) —</del> <u>the 2012 i</u>initial Indicative Access Charges<del>s</del> and <u>2012</u> Charges for non-Indicative Services <u>set out in section 4.17(d) (</u>including those which <del>were</del><u>are</u> Interim Indicative Services). <u>These 2012 Charges are published for the sole purpose of providing guidance to an Access Holder(s) of the relative differentials between Initial Indicative Access Charges and Charges for non-Indicative Services in future years and will not be offered during the</u></p>	<p>To adopt ARTC's proposal. It is intended that the Initial Indicative Services and the Initial Indicative Access Charges approved by the ACCC will not be offered to Access Holders during the 2012 calendar year.</p> <p>In determining the 2013 Initial Indicative Access Charges, the 2012 Initial Indicative Access Charges approved by the ACCC will be subject to annual determination in accordance with section 4.14 and the dispute resolution mechanism in</p>

	<p><del>2012 calendar year, and the annual process for the finalisation of Indicative Access Charges under <b>section 4.204.18</b> will not apply to the determination of Indicative Access Charges for that year.</del></p> <p>(b) <del>From the 1 January 2013 until the Final Indicative Services and Indicative Access Charges approved by the ACCC come into effect under <b>section 4.18</b> ("Initial Period"), the characteristics set out in section 4.17(d) will apply as the Initial Indicative Services.</del></p> <p>(c) <del>Indicative Access Charges applicable to the Initial Indicative Services ("<b>Initial Indicative Access Charges</b>") will until the expiry of the Initial Period be subject to annual review in accordance with <b>section 4.14</b>. Each calendar year until the expiry of the Initial Period, ARTC will, using reasonable endeavours and having regard to available information, determine:</del></p> <p>(i) <del>Initial Indicative Access Charges applicable to the Initial Indicative Services as described in <b>section 4.17(d)</b>; and</del></p> <p>(ii) <del>Charges for other Services associated with Coal Access Rights applicable (including those which are Interim Services).</del></p> <p>⇒ <del>ARTC must determine the Initial Indicative Access Charges for the 2013 calendar year in accordance with <b>section 4.14</b> with the objective of determining the Initial Indicative Access Charges before, or as soon as possible after, the start of the calendar year.</del></p> <p>(d) <del>The following Initial Indicative Services characteristics will apply during the Initial Period.</del></p> <p><del>[Table inserted]</del></p> <p>(e) <del>ARTC will offer the applicable Initial Indicative Access Charges to Applicants seeking Coal Access Rights with applicable Initial Indicative Service characteristics during the Initial Period.</del></p>	<p>section 4.20.</p>
4.19(a)	<p><del>During the period between</del>From the Commencement Date <del>until and the time the Final</del> Indicative Services and the Indicative Access Charges approved by the ACCC come into effect under <b>section 4.17</b> <del>(or if not approved, the</del></p>	<p>To ensure consistency between section 4.19(a) and 4.17(b) and to clarify that Interim Indicative</p>

	<p><del>Indicative Service and the Indicative Access Charges approved by the ACCC under section 4.18 ("the Interim Period")</del>, the <del>characteristics set out assumptions in section 4.19(c)</del> will apply as the Interim <del>Indicative Services</del>, and <del>ARTC will, using reasonable endeavours, and having regard to available information, determine:</del></p> <p>(i) <del>Indicative Access Charges ("Interim Indicative Access Charges") applicable to the Interim Indicative Services, during the Interim Period; and</del></p> <p>(ii) <del>Charges for other Services associated with Coal Access Rights applicable during the Interim Period.</del></p>	Services are not Indicative Services.
4.19(b)	<p><del>Interim Indicative Access Charges</del> for Coal Access Rights with Interim <del>Indicative Service</del> characteristics as described in <b>section 4.19(c)</b> ("<del>Interim Access Charges</del>") will be determined by ARTC each calendar year of the Interim Period, <del>in accordance with section 4.15(a).</del></p>	To clarify that Interim Indicative Services are not Indicative Services and will be determined annually in accordance with section 4.15(a).
4.20(b)	<p>The Indicative Access Charges <del>determined by ARTC under section 4.14</del> will be based on the contracted coal volumes for that calendar year, any additional volumes that ARTC considers likely to be contracted coal volumes for that relevant year, and ARTC's forecast costs as determined under <b>sub-section (b)</b>.</p>	To remove duplication. Section 4.14 is captured in the definition of section 4.14.
4.20(h)	<p><del>If the Commencement Date occurs after 1 July in a year, then ARTC must determine the Indicative Access Charges for the following calendar year in accordance with paragraphs (a) to (c) with the objective of determining the Indicative Access Charges before, or as soon as possible after, the start of the calendar year.</del></p>	No longer relevant.
4.20(h)	<p><del>For the Interim Period, a</del> All references to Indicative Services and Indicative Access Charges in this <b>section 4.20</b> will be read as</p> <p>(i) <del>Interim Indicative Services and Interim Access Charges respectively during the Interim Period and all references to section 4.14 will be read as references to section 4.19 as appropriate; and</del></p> <p>(ii) <del>Initial Indicative Services and Initial Indicative Access Charges respectively during the Initial Period.</del></p>	Access Holders using the Interim Services during the Interim Period and Initial Indicative Services during the Initial Period can access the dispute resolution provision in section 4.20.
4.20(i)	<p>To avoid doubt, the requirement in <b>section 4.20(f)</b> to give ARTC a Dispute Notice if Access Holders holding two thirds or more contracted gtkm in the relevant pricing zone dispute <del>Interim Access Charges or Initial Indicative Access Charges applies separately to Access Holders operating Interim Services and Initial Indicative Services in the relevant Pricing</del></p>	The two-thirds majority rule is to apply separately to Access Holders using the Interim Services and Initial Indicative Services.

	<a href="#">Zone (as applicable).</a>	
<b>General</b>	Interim <del>indicative</del> Services Interim <del>indicative</del> Access Charges	To clarify that Interim Indicative Services are not Indicative Services.
<b>General</b>	References to service ‘assumptions’ of Initial Indicative Services and Interim Services has been replaced with references to ‘characteristics’	To avoid confusion with system assumptions and to ensure references to the characteristics of Interim, Initial Indicative and Final Indicative services are consistently used.
<b>General</b>	Indicative Services <del>s</del>	To clarify that there is more than one Indicative Service.
<b>Definitions</b>	<p><b><u>“Final Indicative Services”</u></b> has the meaning given to it in <b><u>section 4.18</u></b> and will have the characteristics approved by the ACCC in accordance with <b><u>section 4.18</u></b>;</p> <p><b><u>“Indicative Access Charges”</u></b> mean the Charges for <del>Access Rights</del><b><u>Indicative Services determined by ARTC underdescribed in section 4.14 as varied</u></b> from time to time;</p> <p><b><u>“Indicative Services”</u></b> means <b><u>Initial Indicative Services or Final Indicative Services</u></b> operating on the Network <b><u>as applicable</u></b> <del>with characteristics as determined in accordance with section 4.17 or 4.18</del>;</p> <p><b><u>“Initial Indicative Access Charges”</u></b> has the meaning given to it in <b><u>section 4.17(c)</u></b>;</p> <p><b><u>“Initial Indicative Services”</u></b> means <b><u>Indicative Services operating on the Network during the Initial Period that have the characteristics set out in section 4.17(d)</u></b>;</p> <p><b><u>“Initial Period”</u></b> has the meaning given to it in <b><u>section 4.17(b)</u></b>;</p> <p><b><u>“Interim Indicative Services”</u></b> has the meaning given to it in <b><u>section 4.19(a)</u></b> and will have the characteristics set out in <b><u>section 4.19(c)</u></b>;</p>	Consequential changes.

# Schedule 1

In order to provide further explanation in relation to the proposed amendments, ARTC has included below an illustrative flow chart indicating the intended timing, determination and application of Charges for Coal Access Rights over the period from the Commencement Date to the application of the Final Indicative Services and Final Indicative Access Charges.

# Hunter Valley access pricing

