



Wednesday, 8 August 2012

Mr Matthew Schroder  
General Manager  
Fuel, Transport and Prices Oversight  
ACCC  
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**By Email:** [transport@accc.gov.au](mailto:transport@accc.gov.au)

Dear Matthew

**Asciano Submission to ACCC Further Consultation on the ARTC Proposal to Defer Implementation of Initial Indicative Access Charges**

**Introduction and Background**

We are writing in response to your letter of 26 July 2012 seeking submissions on the ARTC letter to the ACCC dated 13 July 2012.

The ACCC is currently considering proposed ARTC changes to the Hunter Valley Access Undertaking (HVAU) in relation to the initial indicative service (i.e. the "efficient train") and initial indicative access charges (i.e. the "efficient train" access charges). Asciano understands that the ACCC's time frame to make a decision on the ARTC proposal is mid August 2012, which would most likely result in the approved initial indicative access charges being implemented later in 2012.

Asciano understands that the ARTC has written to the ACCC raising concerns that under the Access Holder Agreements between the ARTC and the access holders access charges are fixed for the first year (i.e. 2012), thus effectively preventing the implementation of the ACCC approved initial indicative access charges in 2012.

ARTC has indicated that the initial indicative access charges will not be offered in 2012 but that the charges will be published, and hence will be able to provide some guidance to access holders as to the direction of access pricing differentiation that may exist into the future. ARTC also note that to date there has not been any demonstration that any party will be operating an initial indicative service in 2012.

ARTC further notes a series of reasons why implementing the initial indicative access charges in 2012 is not optimal, including:

- any short term implementation of the initial indicative access charges will result in additional billing and legal costs;
- any short term implementation of the initial indicative access charges will result in challenging timeframes to finalise the details of initial indicative access charges and services, particularly given contractual timeframes.

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ARTC indicates that it may be possible for them to negotiate with individual access holders to amend Access Holder Agreements but that only access holders who benefit are likely to agree to any amendment.

Asciano notes that this issue relating to restrictions on changing access charges in 2012 has not been raised previously by ARTC.

### **Asciano's Position**

Asciano's position on the issue of the timing of the initial indicative service and access charges has not changed. This position has been outlined in Asciano's numerous submissions to the ACCC on this issue. Asciano believes that there should have been, and still should be, an acceleration of the time frames for the initial and final determination of the efficient train and the associated pricing.

This acceleration in time frames is required as efficient train operations resulting from efficient access pricing are the most efficient method of addressing congestion in the Hunter Valley. This congestion is the largest issue facing the Hunter Valley coal chain.

Asciano is concerned that the ongoing delays in the implementation of the efficient train and the attendant pricing are resulting in ongoing congestion in the Hunter Valley coal chain. This latest ARTC correspondence is yet a further indication that ARTC is reluctant to address this issue in a timely manner.

In a letter dated 6 May 2009<sup>1</sup> ARTC committed to maintaining pricing parity between the longer and shorter trains in the Hunter Valley for five years (even though in Asciano's and the ACCC's view this ARTC policy results in inefficient operational outcomes and contributes to the ongoing Hunter Valley congestion). Thus throughout the HVAU development process ARTC has fought to ensure that its pricing parity policy is maintained and that efficient pricing is implemented no earlier than 2014. Asciano believes that the current concerns raised by the ARTC in its letter dated 13 July 2012, should be seen in the context of ARTC's ongoing efforts to delay the implementation of the efficient train and the attendant efficient pricing until 2014 at the earliest.

The concerns raised by ARTC in its letter of 13 July 2012 are largely concerns within ARTC's control (such as contractual amendments, implementation time frames and billing issues). If ARTC were committed to implementing the efficient train and the attendant efficient access pricing in a timely manner these concerns would be addressed by ARTC and the relevant access holders, rather than be raised as reasons for further delays in the implementation of this pricing.

Asciano continues to believe that there should be an acceleration of the time frames for the determination of the efficient train and the implementation of pricing based on the efficient train. Asciano would welcome any move to reduce the regulatory time frames in order to reduce levels of increased congestion in the Hunter Valley coal network.

Feel free to contact me on 03 9248 7274 to discuss this letter.

<sup>1</sup> For information on this letter see ACCC Draft Decision on the HVAU March 2010 p611 and ACCC Position Paper on the HVAU December 2010 p138.

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Kind Regards



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