



AUSTRALIAN RAIL TRACK CORPORATION LTD

25 September 2012

Mr Matthew Schroder
General Manager, Fuel, Transport & Prices Oversight
Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE VIC 3001

Dear Matthew

RE: Progress of various reviews related to the Hunter Valley Access Undertaking

I write to update the Commission with regard to a number of reviews ARTC was/is required to complete in relation to certain sections of the Hunter Valley Access Undertaking (HVAU) and associated Access Holder Agreements (AHA).

1. AHA clause 16.8 Reduction in time period for ARTC approval of trades

- (a) *Within 12 months from the date the Access Undertaking first takes effect, ARTC will conduct a review of the appropriate time period for ARTC to inform the HVCCC of its decision to approve or reject trades including a decision to approve a trade subject to conditions, which do not meet the conditions set out in clause 16.4(a) ("Trade Consent Period").*
- (b) *In conducting that review, ARTC will seek the views of the HVCCC on the appropriate time period for ARTC to inform the HVCCC of its decision to approve or reject trades including a decision to approve a trade subject to conditions, which do not meet the conditions set out in clause 16.4(a), taking into account the appropriate time necessary to determine the impact of the trade on Coal Chain Capacity and the Capacity entitlements of other access holders, and ARTC will consider the views expressed by the HVCCC in good faith.*
- (c) *ARTC will provide to the HVCCC, and if requested, to the Access Holders if it is not a member of the HVCCC, written reasons for its decision on whether to alter the maximum Trade Consent Period under clause 16.4(d), and will provide notice to the HVCCC and the Access Holder of any new maximum Trade Consent Period.*

ARTC sought the views of the HVCCC in conducting the review and subsequently timeframes have been reduced to better align with industry protocols. The HVCCC have been formally advised of the new trading timeframes (Attachment A) and existing Access Holders have received briefings in quarterly customer meetings. To date there have been no non-member Access Holder requests.

2. AHA clause 3.3(e) ARTC was required to undertake a review of the level of Tolerance as set out below:-

Within twelve months from the date an Access Undertaking is accepted by the ACCC covering the Network first comes into effect, ARTC will commence a consultation with access holders on the level of Tolerance available and will



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provide a report to the RCG summarising the results of this review. The purpose of this review is to consider the impact of the level of tolerance on Coal Chain Capacity.

Following consultation with Access Holders in quarterly customer meetings and data analysis on actual Tolerance usage the review has been conducted and reported to the Rail Capacity Group. ARTC has voluntarily undertaken to complete a further analysis by 30 June 2013. (Attachment B)

3. HVAU Clause 4.18 Within 30 months of the HVAU commencement date ARTC will determine the Indicative Service (efficient train configuration) following consultation with the HVCCC & the wider industry

The consultation process has commenced and an initial Stakeholder Reference Group meeting has been held to discuss study parameters. The HVCCC has been tasked to outline its modelling methodology.

4. HVAU Clause 5.8 Review of mechanism to identify and assign Capacity losses

- a) *Within 12 months of the Commencement Date, ARTC will, in consultation with the HVCCC, commence a review of the policy and processes for identifying and allocating losses of Capacity caused by Access Holders and their Operators and potential incentive mechanisms to minimise such losses where they have a material impact on Capacity or Coal Chain Capacity or the Capacity entitlements of Access Holders, including those processes outlined in clause 11.6 of the Indicative Access Holder Agreement*

Following consultation, the HVCCC have formally declined the opportunity to conduct the review and have expressed an intention to be involved at an advisory capacity level only. In light of the HVCCC position ARTC has engaged an external consultant to progress the review. It is expected that an issues paper will be developed and distributed to industry for comment during September and a framework developed within 6 weeks of that date

I trust the Commission will find this information useful in consideration of ARTC's compliance with these elements of the HVAU and AHAs. If you any queries with regard to any material in this letter please do not hesitate in contacting myself on (08) 8217 4314, sormsby@artc.com.au, or Martin Jones on (02) 4941 9655, martin.jones@artc.com.au

Yours sincerely

A handwritten signature in black ink, appearing to be 'S Ormsby', written over a light blue horizontal line.

Simon Ormsby
Executive General Manger, Strategy & Growth

Attachments

- A. Letter to HVCCC formally advising of Trading Timeframe Review
- B. Memo to Rail Capacity Group advising of Tolerance Review
- C. Letter to HV Coal Chain outlining the development of the Final Indicative Service