

Our reference: 46769
Contact officer: Grant Kari
Contact phone: 03 9290 1807



**Australian
Competition &
Consumer
Commission**

2 January 2013

Simon Ormsby
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Dear Mr Ormsby

**Re: ARTC Hunter Valley Access Undertaking – Proposed Performance
Incentives Variation**

I refer to your letter dated 24 December 2012 and the formal withdrawal of the proposed non-true up test (TUT) related performance incentives variation submitted to the ACCC for consideration on 3 August 2012 (**August 2012 variation**).

The Hunter Valley Access Undertaking (**June 2011 HVAU**) requires development of non-TUT related performance incentives. Section 13.3(b)(iii) of the June 2011 HVAU requires ARTC to lodge a variation to incorporate non-TUT related performance incentives.

In light of the submissions to the ACCC's Consultation Paper issued 4 September 2012 and ARTC's withdrawal of the August 2012 variation, the ACCC will not pursue enforcement of section 13.3 of the June 2011 HVAU at this time. The ACCC is not seeking enforcement of section 13.3(b)(iii) on the condition that the non-TUT related performance incentives will be developed and lodged by ARTC when developing its TUT related performance incentives mechanism under section 13.5 of the HVAU.

Should you have any queries in relation to this letter, please do not hesitate to contact Grant Kari on 03 9290 1807.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Matthew Schroder'.

Matthew Schroder
General Manager
Fuel, Transport & Prices Oversight Branch