



Mr Matthew Schroder  
General Manager  
Infrastructure & Transport – Access & Pricing Branch  
ACCC  
GPO Box 520  
Melbourne VIC 3001

Email: [transport@acc.gov.au](mailto:transport@acc.gov.au)

## Application to vary the 2011 Hunter Valley Access Undertaking

20 June 2017

Dear Mr Schroder,

On 6 June 2017, the Australian Competition and Consumer Commission (**ACCC**) issued a letter to stakeholders seeking submissions on the Australian Rail Track Corporation's (**ARTC**) application to vary the 2011 Hunter Valley Coal Network Access Undertaking (**2011 HVAU**).

Aurizon Operations (**Aurizon**) welcomes the ACCC invitation to comment on the proposed variation.

ARTC's variation application seeks to, among other matters, extend the term of the 2011 HVAU for a further 4.5 years to 31 December 2021. Aurizon recognises that the 2011 HVAU is due to expire on 30 June 2017 and that without the ACCC's approval of ARTC's application the 2011 HVAU will expire.

Aurizon strongly supports the regulatory certainty that would be obtained from the ACCC's approval of the application to extend the term of the 2011 HVAU. In this regard the objects in section 44AA of CCA are best satisfied through the extension of the 2011 HVAU relative to the alternative of the expiration of the 2011 HVAU.

The application to vary the 2011 HVAU includes amendments which will require ARTC to consult with Access Holders and submit a further application to vary the extended access undertaking by no later than 31 December 2017 to address a number of matters, including:

- incorporation of path based pricing; and
- application of an incremental costs methodology.

These matters are not subject to a consensus view among relevant stakeholders and the ACCC's draft decision on the 2017 HVAU of 20 April 2017 did not determine whether path based pricing most effectively satisfies the matters the ACCC is required to have regard to relative to a potential alternative pricing proposal.

Aurizon recognises the benefits of considering changes to the price structure through a separate and deferred regulatory process rather than as part of the consideration and approval of a new access undertaking in order to avoid unnecessary delays in its approval.

In relation to any future review of the price structure Aurizon notes:

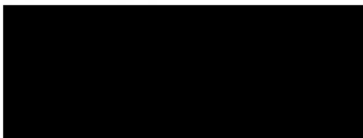
- the ACCC has not formed a view on whether path-based pricing is consistent with the objects in section 44N or pricing principles in section 44ZZCA of the CCA;
- a path based price is undefined and does not necessitate the entire fixed costs of access being recovered through a path based pricing metric;
- notwithstanding the proposed drafting in the variation which only requires ARTC to consult with Access Holders, Aurizon holds a reasonable expectation that ARTC will consult with all relevant stakeholders on the variation; and
- the ACCC's consideration of any future variation to incorporate path based pricing is subject to the relevant statutory requirements under section 44ZZA(3) of the CCA and it is Aurizon's understanding the ACCC's approval of the extension, with reference to incorporating path based pricing, does not require the ACCC to accept a variation to the approved undertaking which includes a path based price.

Taking these factors into account, Aurizon recommends the ACCC approve ARTC's application to vary the 2011 HVAU as proposed by ARTC on 6 June 2017.

Aurizon looks forward to working constructively with all relevant stakeholders in the development of any alternative price structures to be applied to coal rail transport services in the Hunter Valley coal network over the coming months.

If you have any further questions in relation to this submission please contact Dean Gannaway, Principal Regulatory Economist on (07) 3019 2055 or via email at [dean.gannaway@aurizon.com.au](mailto:dean.gannaway@aurizon.com.au).

Kind regards,



Ed McKeiver  
Executive Vice President, Customer and Strategy