



PORT WARATAH COAL SERVICES

19 June 2017

Mr Matthew Schroder
General Manager
Infrastructure & Transport – Access & Pricing Branch
Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE. VIC 001

By email: transport@accc.gov.au

Dear Matthew

AUSTRALIAN RAIL TRACK CORPORATION'S 2011 HUNTER VALLEY ACCESS UNDERTAKING VARIATION - CONSULTATION PAPER

Port Waratah Coal Services Limited welcomes the opportunity to comment on the proposed variation of the Australian Rail Track Corporation's 2011 Hunter Valley Coal Network Access Undertaking (HVAU).

As a provider of coal export terminal facilities at the Port of Newcastle, ARTC's arrangements directly impact on Port Waratah's operations as the substantial majority of coal shipped through our terminals is delivered by rail. Contractual and operational alignment between Port Waratah and ARTC was a key focus area at the time of developing the Capacity Framework Arrangements (CFA) for the terminals and the 2011 HVAU. This contractual alignment between service providers was recognised as one of the key public benefits under the ACCC's Authorisation of the Capacity Framework Arrangements in December 2009. In particular, the ability of producers to align contracted volumes with different service providers across the coal chain. The Authorisation granted by the ACCC for the CFA also noted and anticipated that a HVAU would be put in place in the future to further facilitate this alignment. Such alignment providing an environment for efficient investment in the coal chain and facilitating the efficient operation of the coal chain.

Port Waratah remains firmly of the view that the most appropriate mechanism to achieve this contractual alignment between the terminals, track and trains is the continuation of the regulatory parameters established under the 2011 HVAU. The HVAU provides a necessary framework for access, operation and pricing of the track network and associated infrastructure.

If the variation to the 2011 HVAU is not accepted by the ACCC and therefore expires 1 July 2017, regulatory control will revert to the State controlled Independent Pricing and Regulatory Tribunal (IPART) under the NSW Rail Access Undertaking. Port Waratah does not believe this is a desirable

P (02) 4907 2000 F (02) 4907 3000
PO Box 57, Carrington NSW 2294 Australia
ABN 99 001 363 828

outcome given the high level of uncertainty and complexity that it would bring to the operation of the Hunter Valley coal chain.

Given the above, Port Waratah strongly supports the ARTC's application to vary its 2011 HVAU as being the most appropriate mechanism available to maintain stability and certainty within the Hunter Valley coal rail network.

Other comments below are limited to those aspects that are likely to directly impact Port Waratah under the proposed variation.

Term

Port Waratah supports aligning the timing of the variation to the broader calendar year operational and commercial cycle in the Hunter Valley. However, we note that the proposed term of four and half years will not align with Producers' existing ten-year long term ship or pay terminal contracts. We would support any future replacement HVAU term being aligned to Producers' take or pay contracts for terminal access.

Access Pricing Principles

Port Waratah supports the concept of access pricing principles that provide transparency and economic incentives for efficient use of Coal Chain capacity. Where price differentiation applies, we believe it should accurately reflect the relative cost of providing capacity for each type of service and not provide a cost subsidy to those who elect to not utilise the more efficient services.

As such Port Waratah would support a future variation that appropriately incorporates this principle.

Other Matters

Port Waratah is not directly impacted by matters pertaining to ARTC's internal pricing and return requirements, including rates of return (WACC) and remaining mine life. Port Waratah does support regimes and systems that provide transparent pricing structures that facilitate the efficient use and provide the optimal management of the broader coal chain.

We are happy to engage with the ACCC as it continues to consider the proposed variation to the 2011 HVAU. Please do not hesitate to contact me on (02) 4907 2344 if you wish to discuss this submission further.

Yours sincerely



HENNIE DU PLOOY
CHIEF EXECUTIVE OFFICER

