

2 September 2019

Mr. Matthew Schroder
General Manager
Infrastructure & Transport – Access and Pricing Branch
Australian Competition and Consumer Commission
GPO Box 520
Melbourne VIC 3001

Submitted by email: transport@acc.gov.au

Dear Mr. Schroder

ARTC Hunter Valley Coal Network Access Undertaking 2016 Compliance Assessment

Pacific National is pleased to provide this brief submission to the ACCC on ARTC's submission on its Hunter Valley Coal Network Access Undertaking 2016 compliance assessment. As capital expenditure approved by the Rail Capacity Group is required by the Undertaking to be deemed prudent and accepted by the ACCC into the Regulatory Asset Base, our main focus is on the prudence and efficiency of operating expenditure.

We note mudhole full track reconditioning costs for the network increased 122.1 per cent compared to the 2015 compliance period due to flooding events in April 2015 and January 2016.

Pacific National queries whether ARTC holds appropriate insurance to minimise the liability associated with events of this nature given it is passing on the costs to its customers. Customers would reasonably expect ARTC to hold an appropriate level of insurance and have access to insurance claims to reduce its exposure. These costs should not be approved where either insurance was not obtained or where ARTC's insurance policy provided it with cost relief (through its insurer's claims process).

ARTC claims a total business management cost of \$25.8 million, an increase of \$2 million from the previous year. The increases were attributed to internal staff transfers and industrial action associated with its enterprise bargaining agreement. These are risk management and business decisions solely within ARTC's control and ARTC has not established any linkage from these costs to any customer benefits. These costs should not be approved.

Pacific National notes a number of instances where costs for procurement have vastly over run ARTC's initial budget. We note the ACCC raised concerns in the 2015 compliance review about a lack of visibility on how ARTC ensures compliance with its own procurement policies and procedures.

Based on the cost overruns in 2016, and the proposal to pass these costs onto its customers, the ACCC needs to be satisfied ARTC has explored all contractual avenues with its suppliers to mitigate against cost over runs on current contracts. It should also encourage ARTC to detail how its future procurement practices will ensure the appropriate allocation of risk (between suppliers and itself) in its future contracts to limit liability to its own operations and its customers.

Yours sincerely



Robert Millar
Regulation & Policy Manager