



AUSTRALIAN RAIL TRACK CORPORATION LTD

Ref No:

23 June 2011

Mr Anthony Wing
General Manager, Transport & General Pricing
Australian Competition and Consumer Commission
GPO Box 520
Melbourne VIC 3001

AUSTRALIAN RAIL TRACK CORPORATION LTD ARTC 2011 HUNTER VALLEY COAL NETWORK ACCESS UNDERTAKING

APPLICATION TO THE ACCC

Please find enclosed a copy of the application documentation supporting ARTC's 2011 Hunter Valley Coal Network Access Undertaking ("2011 HVAU") for the Australian Competition and Consumer Commission's ("Commission") consideration. ARTC submits this voluntary undertaking pursuant to the provisions of Part IIIA of the Competition and Consumer Act 2010.

This application follows the withdrawal of ARTC's previous application in relation to this undertaking advised to you today.

This documentation relating to ARTC's application for acceptance of the 2011 HVAU is intended for publishing should the Commission wish to do so, and includes:

- ARTC's Application;
- 2011 HVAU (clean and mark up compared to the 2010 Hunter Valley Coal Network Access Undertaking lodged with the Commission on 7 September 2010 (2010 HVAU));
- Indicative Access Holder Agreement (clean and mark up compared to the indicative access holder agreement at Annexure A of the 2010 HVAU);

- Indicative Operator Sub Agreement (clean and mark up compared to the indicative operator sub agreement at Annexure A of the indicative access agreement at Annexure A of the 2010 HVAU);
- a network map for illustrative purposes only forming part of Annexure 1 to Schedule B of the 2011 HVAU;
- a listing of further amendments made to the 2010 HVAU not previously advised to, and published by, the Commission¹; and
- a further proposal (Rate of Return Proposal) by ARTC in relation to the Rate of Return proposed by ARTC in its 2010 HVAU application and subsequently revised in documents supporting the revised 2010 HVAU provided to the ACCC².

ARTC seeks the Commission's acceptance and approval of the 2011 HVAU, including the Indicative Access Holder Agreement and the Indicative Operator Sub Agreement annexed to the 2011 HVAU.

ARTC has already provided confidential financial modelling and documentation (and a related public version document) in support of the Interim Indicative Access Charges in the 2011 HVAU on 18 April 2011. ARTC understands that the Commission has accepted ARTC proposals in relation to remaining mine life estimates, as advised³ in the Commission's Position Paper published on 21 December 2010 (Position Paper). ARTC also understands that, whilst not explicitly stated⁴ in any recent Commission document, the Commission accepts ARTC's proposal in relation to the DORC valuation of the Dartbrook to Gap Segments.

This application is made following further consultation with the Commission and industry stakeholders (including the Hunter Rail Access Task Force (HRATF)) since the Position Paper. ARTC has made many minor and substantive amendments to its earlier proposals in order to address concerns raised by the Commission and a number of stakeholders during this consultation.

ARTC has now been consulting with industry in developing the 2011 HVAU for around three years, during which time many of ARTC's initial proposals have been comprehensively re-engineered in order to accommodate the industry's requirements. ARTC considers that these developments expose ARTC to greater operational and

¹ Previously advised amendments to the 2010 HVAU include those contained in the Revised 2010 HVAU provided to the Commission on 7 April 2011 and the further amendments following industry consultation provided to the Commission on 17 May 2011.

² "Revised 2010 HVAU Supporting Document - Rate of Return" provided to the Commission on 13 April 2011.

³ ACCC Position Paper, 21 December 2010 pp 84-85.

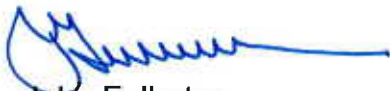
⁴ The ACCC Draft Decision (March 2010) stated that it was the ACCC's preliminary view that ARTC's proposed valuations for these Segments was likely to be appropriate. The ACCC's Position Paper provided no contradicting view.

financial risk, which needs to be recognised in determining an appropriate rate of return for the Hunter Valley coal network.

ARTC considers that the 2011 HVAU now represents a reasonable balance of interests, which meets the objectives set out at sections 1.2 and 1.3 of the 2011 HVAU.

For further information regarding the preparation of this application, please contact Mr Simon Ormsby, (08) 82174314 (Ph), 08 82174578 (Fax), or sormsby@artc.com.au (Email), or Mr. Glenn Edwards, (08) 82174292 (Ph), (08) 82174578 (Fax), or gedwards@artc.com.au (Email).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'John Fullerton', with a long horizontal flourish extending to the right.

John Fullerton
Chief Executive Officer