



23 May 2011

Mr. Anthony Wing
General Manager
Transport and General Prices Oversight
Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE, Victoria, 3001

Copy to: Mr. Simon Ormsby, General Manager Commercial, ARTC

Dear Anthony

Re: ARTC Hunter Valley Network Access Undertaking

We refer to the Australian Competition and Consumer Commission's (the "ACCC") 13 April 2011 Consultation Paper inviting submissions on Australian Rail Track Corporation Limited's ("ARTC") revised 7 September 2010 Hunter Valley Coal Network Access Undertaking (the "April 2011 HVAU"); and proposed revisions to the HVAU posted on the ACCC's website on 18 May ("Revised April 2011 HVAU").

Xstrata Coal endorses the submission by the NSWMC on behalf of the Hunter coal producers using ARTC's network. Xstrata appreciates ARTC's engagement with the NSWMC in seeking to resolve the final outstanding issues, and acknowledges the progress made in the last two weeks.

Xstrata Coal supports ACCC's acceptance of the Revised April 2011 HVAU, subject to the following points:

- The term of the HVAU should be limited to 5 years to ensure there is an appropriate holistic review of the effectiveness of the HVAU at that time. This is particularly important given the significant change that the HVAU is introducing to the way in which coal chain capacity is sold and managed. Although the HVAU contemplates a number of reviews, they are neither holistic, nor ensure that any necessary changes will be made.
- The real pre-tax WACC should be no higher than the 8.57% proposed by the ACCC, reflecting the minimal risk accepted by ARTC in the HVAU. However if ARTC were to:
 - make the amendments to section 5.1(d)(ii) of the Revised April 2011 HVAU proposed by the NSWMC; and
 - clarify the transitional arrangements in a manner agreeable to the NSWMCthen Xstrata would also support ARTC earning the higher WACC as proposed by ARTC.

Finalising the Access Undertaking is an urgent and important initiative towards concluding the commercial reforms governing access to rail and port infrastructure in the Hunter Valley. Please do not hesitate to contact me on 0419 447 020 with any queries in relation to this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Anthony Pitt', is written over a white background.

Anthony Pitt
General Manager, Commercial

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