



PEABODY AUSTRALIA
MINING PTY LTD

ABN: 18 002 818 699

100 Melbourne St
South Brisbane,
Queensland, 4101
GPO Box 164
Brisbane, Queensland 4001
Australia
Tel + 61 (0) 7 3225 5500
Fax + 61 (0) 7 3225 5555

29 August 2014

Mr Matthew Schroder
General Manager
Fuel, Transport and Prices Oversight Branch
Australian Competition and Consumer Commission
GPO Box 520
Melbourne Vic 3001

Dear Matthew,

Peabody Submission – Australian Rail Track Corporation’s (ARTC) Hunter Valley Rail Network Access Undertaking (HVAU) – Revenue Allocation Review

1. Introduction

Thank you for the opportunity to respond to the ARTC Revenue Allocation Review paper of 29 May 2014. Peabody is of the position that the method of revenue allocation requires further consultation and development between the ARTC, ACCC Access Holders and relevant Stakeholders to ensure that interest of all parties can be aligned as close as possible prior to making a formal decision which will impact future or retrospective positions. Our submission is outlined below;

2. Submission

2.1. Questions Raised by the ACCC

1. What information has ARTC provided to stakeholders about its revenue allocation practices?

Peabody is not aware of specific information that outlines the detailed ARTC position on revenue allocation practices specific to each Pricing Zone. We are only aware of the existence of mechanisms such as loss capitalisation which appear to underpin revenue allocation.

2. To the extent that the ARTC has provided information on revenue allocation , has it been sufficient to understand how ARTC allocations revenue across Segments of the network

The detail provided has not been sufficiently clear to understand the allocation of revenue.

3. Do stakeholders consider they have sufficient information about ARTC’s revenue allocation/Reconciliation process to make informed business and investment decisions? If not, please provide reasons why?

Peabody considers that there is sufficient information available on contracting and pricing mechanisms to consider in conjunction with investment decisions, however, there is not sufficient information to consider the potential variation of long term pricing information or impacts of revenue allocation mechanisms.

4. Please identify and explain any other matters relevant to this revenue allocation review

Issues for further considerations are outlined below.

2.2. Access Undertaking Review

Peabody has concerns over the transparency and interpretation of the Hunter Valley Coal Network Access Undertaking (HVAU) by the ARTC in developing the process of revenue allocation. While the objectives of section 1.2 of the HVAU provide guiding principles (which can be conflicting in some circumstances) and subsequent sections such as 4.2 and 4.3 provide more prescriptive measures of application, the HVAU does not necessarily provide ARTC with the scope to arbitrarily develop a mechanism of revenue allocation to which it believes is appropriate for all Access Holders.

While Access Holders will inevitably hold differing views on a variety of subjects, it is role of the ARTC to undertake a transparent process to manage these views to ensure that the fundamental aims of capacity, cost, return and development can be accommodated.

Peabody is of the view that ARTC has not engaged in a sufficiently transparent process over the allocation of revenue. In this case, we seek to work with stakeholders and the ARTC to review the current and future processes to ensure adequacy for all concerned.

2.3. Allocation of Revenue

Primary areas of interest in the allocation of revenue are the incremental costs of investment for Pricing Zone 3 producers in Pricing Zone 1 which form part of the annual pricing review and the use of the Under and Overs process to supplement or minimise losses in Pricing Zone 3 for the short term benefit of the ARTC.

Peabody recognises the importance of the loss capitalisation process to support investment and development of the Hunter Valley Coal Network but has concerns over the potential for inappropriate levels of cross subsidies on the Network which would then potentially undermine the effectiveness of this process.

ARTC enjoys long term rolling contract coverage, consistent returns to cover annual costs, and a planning regime that allows for effective strategic development. Therefore the ARTC should be able to better manage Contract Year price setting to avoid detrimental revenue allocation and provide a sound process for annual management of the loss capitalisation process and a more robust use of the Under and Over process.

Firstly, we believe the use of the Under and Overs process is to ensure Floor revenue limits are reached and to provide a mechanism to deal with material events such as the agreed expensing of previously capitalised expansion during a Contract Year. The Under and Overs process as it is currently utilised is not effective in re-aligning revenue for the benefit of the ARTC when the ancillary impact is the reallocation of cost between stakeholders. In addition it further disregards the longer term ability of the ARTC in dealing with said costs in subsequent periods.

Secondly, In relation to annual price setting on the Coal Network, it is imperative that Access Holders are not being unreasonably burdened with financial costs to supplement the short term position of ARTC or other Access Holders. The consideration of the Fixed and Variable components of pricing issued prior to commencement of each Contract Year is important to review to ensure that the interests of all Stakeholders can be reasonably aligned.

I.e. while it may be advantageous for both existing Access Holders and the ARTC to increase direct and deferred cost mechanisms, it must be outweighed by the likelihood of sufficient future returns to justify the short term burden. This can be further demonstrated by the deferral of costs for existing capital in the expectation that future costs will be reduced by increased growth.

Peabody recommends that in order to undertake a robust debate it is prudent to examine the incremental Pricing Zone 1 investment required for Pricing Zone 3 expansion, the contribution to common costs of congestion mitigation projects in Pricing Zone 1, the long term payback scenarios of investment associated with Pricing Zone 3 and the expectation of contribution to the existing Coal Network.

An appropriate review will be able to increase transparency, outline investment, costs, growth, appropriate cost transfers and paybacks that promote and adequate short and long term solution to revenue allocation.

3. Summary

Peabody has concerns with the transparency of the information in the revenue allocation process and the application of the HVAU. It is recognised that although this may have been used in the past, the present and future structure of the revenue allocation process should be robustly tested to ensure the interests of all stakeholders are adequately met. This includes the short term risk position of ARTC in the development of forward pricing and the application of the Under and Overs methodology during a pricing period. While ARTC maintains long term contractual certainty and long term rolling contract cover it is best placed to manage reasonable financial risk.

Peabody looks forward to working with the ARTC, Access Holders and relevant stakeholders in reviewing and developing a robust solution for revenue allocation that supports industry growth and equitable outcomes.
