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{by e-mail}

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

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Dear Matthew

Whitehaven Submission on ARTC proposed variation to include the Gap to Turrawan

We are writing in response to ACCC's paper dated 23 July 2013 which invites submissions in relation to the ACCC's assessment of ARTC's proposed variation of the Hunter Valley Access Undertaking (HVAU) to include the Gap to Turrawan.

Background to Whitehaven

Whitehaven is the largest coal producer in the Gunnedah Basin, with production from three open cut mines and a large underground longwall mine. In addition, a new large open cut mine is forecast to commence production in Q4 2014 which will bring total production to more than 20 million tonnes per annum.

Whitehaven operates from rail load points at three locations in the Gunnedah Basin: Werris Creek, Gunnedah and Narrabri Mine. Werris Creek load point is located in Pricing Zone 3 of ARTC's Hunter Valley Rail Network (Dartbrook to The Gap). Gunnedah and Narrabri are located in Pricing Zone 4 (The Gap - Turrawan) which is being proposed under the above variation of the Hunter Valley Access Undertaking (HVAU) to become part of Pricing Zone 3.

The only other coal operation originating in this region is Idemitsu's Boggabri Mine. The Narrabri Mine and Boggabri Mine load loops are the two most-northerly loading points on the Network. Narrabri Mine is Whitehaven's largest mine, currently producing at an annualised rate of approximately [redacted] million tonnes.

In 2012, total railings by Whitehaven and Idemitsu to Newcastle using track in Zone 3 were approximately [redacted] million tonnes, constituting approximately [redacted] of the total coal tonnage traversing Pricing Zone 1 of the Network.

Understanding of ARTC's proposed asset value for the Gap to Turrawan Segments

Whitehaven's understanding of the proposed asset value is as follows:

The DORC value previously endorsed by the ACCC for the current Pricing Zone 3 (Dartbrook to The Gap), encompassing 119kms of track, was $161 million as at 1 July 2011. It is our understanding that the following major projects and estimated capital spend were undertaken in the current Pricing Zone 3 during the period 1 July 2011 to 31 December 2012:

Zone 3 Projects (Jul 11 – Dec 12)	Commissioned	$'million
Koolbury Passing Loop	Aug – 11	[redacted]
Bells Gate Passing Loop	Feb – 12	[redacted]
Pages River Passing Loop	Jul – 12	[redacted]
Chilcotts Creek Passing Loop	Dec – 12	[redacted]
Concrete Re-Sleepering	2012	[redacted]
	Total	[redacted]

During the same period, 1 July 2011 to 31 December 2012, it is our understanding that only one major project was completed in the current Pricing Zone 4 (Gap to Turrawan):

Zone 4 Project (Jul 11 – Dec 12)	Commissioned	$'m
Burilda Passing Loop	Oct - 11	[redacted]

ARTC has submitted a DORC valuation to the ACCC for the current Pricing Zone 4 (Gap to Turrawan) of $325.4 million.

The proposed value is based on the assets forming the Gap to Turrawan segments as at 1 January 2013. The proposed commencement date for the variation is 1 January 2014. ARTC proposed to roll forward the DORC value as at 1 January 2013 in accordance with the NSWRAU to determine a value as at 1 January 2014.

It is our understanding that the following projects and estimated capital spend have or will be undertaken in the current Pricing Zone 4 (Gap to Turrawan) during the period 1 January 2013 to 31 December 2013:

Zone 4 Projects (Jan 13 – Dec 13)	Commissioned	$'million
Watermark Passing Loop	May - 13	[redacted]
Concrete Re-Sleepering	2013	[redacted]
	Total	[redacted]

It is also our understanding that the forecast capital spend beyond 31 December 2013 to meet contracted plus prospective volumes in the current Pricing Zone 4 (Gap to Turrawan) is:

Zone 4 Projects (Jan 14 – Jul 18)	Commissioning	$'million
Gunnedah Yard Upgrade	Q3 - 14	[redacted]
Collygra	Q1 - 15	[redacted]
South Gunnedah	Q1 - 16	[redacted]
30tn Axle Load Track Corridor Capital	Q1-14 to Q2-18	[redacted]
	Total	[redacted]

(1) Amount includes costs attributable to both Pricing Zone 3 and 4 for which we do not have a break-up

Whitehaven's Comments on ACCC Questions for comment

1.1 Addition of rail infrastructure from Gap to Turrawan to the Network

Questions for comment

- Is it appropriate to extend the scope of the HVAU to include the rail infrastructure from the Gap to Turrawan in the Gunnedah Basin?

  YES – we fully support the addition of rail infrastructure from Gap to Turrawan in the HVAU

- Is it appropriate for ARTC to include the Gap to Turrawan Segments in Pricing Zone 3 (rather than create an additional pricing zone which would allow ARTC to differentiate charges between the existing Pricing Zone 3 and the Gap to Turrawan Segments)?

  YES – we fully support the inclusion of rail infrastructure from Gap to Turrawan in Pricing Zone 3 rather than creating a new pricing zone

- Is the division of the Gap to Turrawan rail infrastructure into the four proposed Segments in Schedule E appropriate?

  YES – the split is appropriate, particularly taking into account the location of existing and potential coal mine rail loops

- Are the lengths of the new Segments as set out in Schedule E representative of those Segments?

  YES

1.2 DORC valuation

Questions for comment

- Are the overall ORC and DORC valuations for the additional Segments representative of the current network configuration and projected demand for throughput?

  Not in a position to comment without conducting a detailed technical review

- Does the process followed by E&P to develop the proposed ORC and DORC valuations appear to be reasonable?

  Not in a position to comment without conducting a detailed technical review

- Are the standards on which E&P states that it has based its valuation methodology appropriate?

  Not in a position to comment without conducting a detailed technical review

- Is it appropriate for ARTC to roll forward the DORC value as at 1 January 2013 in accordance with the NSWRAU to 1 January 2014? In particular, do you have any comments on the inclusion of capital expenditure incurred by ARTC on the Gap to Turrawan Segments during 2013?

  Refer to the capital expenditure detail provided on Page 2

- Is it appropriate that ARTC has included an allocation of the value of Network Control Centre capital assets based on train kilometres?

  NO - this methodology does not appear to reflect the use of those assets. For example one staff member in the Network Control Centre is able to look after a much longer distance of track in the Gunnedah Basin region compared to another staff member looking after a short section of highly congested track closer to the Port of Newcastle. We understand that this question is not meant to be a reflection of allocation of staffing costs but the staff work effort is an indication of some of the required Network Control Capital at Broadmeadow for that section of the HVAU network. Another indication is the distance between signals which is much greater in the Gunnedah Basin region compared to rail track located closer to the Port of Newcastle

1.3 Replacement cost

Questions for comment

- Is the overall approach to determination of the replacement cost for assets in the Gap to Turrawan Segments appropriate?

  Not in a position to comment without conducting a detailed technical review

- Are the unit rates used to develop the direct cost components of the MEERA for each category of asset (set out at section 7 of the E&P Valuation Report) appropriate?

  Not in a position to comment without conducting a detailed technical review

- Are the mark-ups that have been applied to the direct costs in respect of the combined contractor's indirect and client's costs for each asset classification (set out at page 19 of the E&P Valuation Report) appropriate?

  NO - All the mark-ups are 100% or more which is excessive and not appropriate

- Are the assumptions listed on page 22 of the Valuation Report (such as the brownfields environment assumption) which underpin E&P's calculation of replacement cost appropriate?

  YES - the assumptions listed on page 22 appear to be appropriate

  We note that the assumptions make no allowance for the removal of existing infrastructure and that the existing rail track will need to be removed as part of the upgrade to 30tn axle load

1.4 Optimisation

Questions for comment

- Is the overall approach to optimisation in the proposed DORC valuation appropriate?

  Not in a position to comment without conducting a detailed technical review

- Is the approach to determination of 'optimisation factors' appropriate? Do you have any comment on any of the specific optimisation factors set out at section 7 of the E&P Valuation Report?

  Not in a position to comment without conducting a detailed technical review

- Is the configuration optimisation of the Gap to Turrawan Segments appropriate? That is, have the appropriate sections been included in the valuation as depicted in the map at Appendix 6 of the E&P Valuation Report?

  YES – the appropriate sections appear to have been included

- Is it appropriate for ARTC to deal with differences in maintenance costs between the MEERA and the existing assets in the annual compliance assessment?

  At this point in time we do not have a view on whether differences in maintenance costs should be treated as part of the annual compliance assessment or as part of the initial asset valuation

- To what extent does the Gap to Turrawan infrastructure existing as at 1 January 2013 reflect the modern equivalent asset?

  With ongoing track condition monitoring, sections of the existing rail infrastructure can often be subject to speed restrictions, until maintenance rectification work is carried out, indicating that it is not a modern equivalent

  The modern equivalent rail asset would have 30tn axle load capacity (like Pricing Zone 1 and 2 have). As set out earlier in this paper, on page 2, significant expenditure is required to replace nearly all the rail track as part of a planned upgrade from 25tn axle load to 30tn axle load

1.5 Depreciation

Questions for comment

- Is the proposed approach to determining depreciation for each asset classification appropriate?

  Not in a position to comment without conducting a detailed technical review

- Do you have any comment on any of the assumed asset lives and specific depreciation factors set out at section 7 of the E&P Valuation Report?

  Not at this point in time

1.6 Indicative Service and Indicative Access Charges

Questions for comment

- Is the proposed Initial Indicative Service and Access Charge for the Gap to Turrawan Segments appropriate?

  YES [redacted]

  Are the factors ARTC has had regard to in determining the proposed Initial Indicative Access Charge appropriate?

  YES – the factors used appear to be appropriate

- Is the proposed access charge for Pricing Zone 3 significantly higher or lower than the current access charges faced by parties using the Gap to Turrawan Segments?

  [redacted]

1.7 Drafting amendments

Questions for comment

- Is the drafting of the Proposed Variation sufficiently clear?

  YES – by combing the Gap to Turrawan Segments into Pricing Zone 3 the changes are minimal

- Is the drafting of the Proposed Variation consistent with the intention of the Proposed Variation as stated by ARTC in its variation application?

  YES

Thank you for the opportunity to submit comment on this matter. Please contact me if you would like further clarification on the above.

Yours sincerely,

Jonathan Vandervoort
EXECUTIVE GENERAL MANAGER - INFRASTRUCTURE