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{by e-mail}

Mr Matthew Schroder
General Manager
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Dear Matthew

Whitehaven Submission on ACCC Final Indicative Service Position Paper

I am writing in response to ACCC's position paper dated 1 August 2014 which invites submissions in relation to ARTC's proposed variation to the Hunter Valley Access Undertaking (HVAU) Final Indicative Service (FIS) characteristics and Access Charges and ACCC's Position paper.

In Whitehaven's earlier submission dated 18 March 2014 (March submission) we conditionally supported ARTC's proposed FIS characteristics. However, we did not support the proposed Access Charge price differential. The proposed Access Charges did not reflect the independent modelling by the HVCCC and will limit opportunities for industry development and growth in emerging regions such as the Gunnedah Basin.

In parallel to this process the ACCC has also been seeking submissions in relation to ACCC's review of the ARTC Revenue Allocation and the ARTC's Annual Compliance Submission for 2013. To some extent they are entwined and the efficiency and effectiveness of pricing implications need to be considered holistically.

It is not our intent to reproduce all the information contained in the earlier submission or in the recent Whitehaven submission on the ACCC Review of ARTC Revenue Allocation. However, on some points of discussion it has assisted in providing a response to views put forward in the ACCC FIS Position Paper.

Background to Whitehaven and PZ3 Users

Whitehaven currently operates from train load-points at three locations in the Gunnedah Basin (PZ3): Werris Creek, Gunnedah and Turrawan (Narrabri Mine). A new train load-point is being constructed near Boggabri as part of the Maules Creek project. The only other coal operation currently originating in this region is Idemitsu's Boggabri Mine. Whitehaven continues to have a rapid production growth profile with coal haulage requirements more than doubling in the next 12 months. Other coal companies such as Shenhua and BHP have projects (Watermark and Caroona respectively) in the Gunnedah Basin which are at various stages of development.

Executive Summary

- **ARTC's proposed Indicative Service 1 train characteristics for Pricing Zone 3 is consistent with the most efficient train configuration (8000tn / 30tal) on which current Gunnedah Basin rail infrastructure and train unit upgrades have been based. These upgrades also have a significant flow on capacity benefit to all users.**

PZ3 users have, and continue, to work closely with their rail haulage providers, the HVCCC and ARTC to increase capacity both in the Gunnedah Basin and across the entire network. Following consultation with all these parties, ARTC and current PZ3 users have made significant investments to provide for the most efficient train configuration on the Gunnedah Basin section of the current network and Whitehaven is poised to make further investments to meet the continued growth arising out of the Maules Creek project. The most significant of the investments underwritten by PZ3 users is the replacement of the current 25tn axle load (25tal) track with 30tn axle load (30tal) track. The 8000tn trains operating in a 30tal environment in the Gunnedah Basin provide for a train path efficiency gain of over 266% within a short number of years. Whitehaven's March submission to the ACCC regarding the Final Indicative Service provides additional information on these efficiency gains.

The 30tal track infrastructure project and our associated investments in larger trains has a significant flow on capacity benefit to all users of PZ1, releasing in the order of 9 million tonnes in PZ1 network capability for 2015. This capacity is being made available to other producers and without it there would not have been sufficient capacity to meet total ARTC 2015 contracted volume. Alternative projects within PZ1 that would have otherwise been required to lift PZ1 capacity to meet the 2015 contracted volumes are unable to be completed for a number of years.

- **Whitehaven appreciates that it is not feasible for the HVCCC to model every possible FIS scenario.**

The ACCC Position Paper notes that a number of stakeholders expressed concerns around limitations of the HVCCC modelling. The HVCCC did not model train configurations with changes to current maximum speed. Both Whitehaven and Aurizon noted that the exclusion of ATMS will produce highly erroneous capacity modelling results. Asciano noted a concern around adopting near-term infrastructure assumptions. HVEC stated that it has not been demonstrated that the proposed Indicative Services has optimized throughput beyond the short term.

Whitehaven appreciates that it is not feasible for the HVCCC to model every possible FIS scenario. Therefore limiting the modelling options to a near-term view of network capabilities is a practical path forward.

- **Whitehaven supports proposed FIS characteristics based on a shorter term view.**

Stakeholders have indicated a preference for an Indicative Service train configuration that is reflective of the near-term capabilities of the network. The ACCC considers that the uncertainty of an ATMS rollout appears to support the adoption of a short term outlook. Whitehaven's earlier support for the replacement of all train consists with lighter ones, as currently used in the Gunnedah Basin and can operate at greater speeds without any track degradation through PZ1, was a longer term view. Whitehaven considers the task of extending all passing loops in PZ3 to accommodate the longer trains proposed as Indicative Service 1 in PZ1 is also a longer term view.

Given the significant investment that has already been made in current rolling stock, it is most unlikely that existing train consists would be replaced with lighter and faster trains, similar to those that currently operate in the Gunnedah Basin, even if it were to increase overall network capacity. Therefore, Whitehaven has committed to 30tal operations and the purchase of larger heavier locomotives. This has flow on benefits to our rail haulage provider, and all their customers in Pricing PZ1 and PZ2, by allowing the rail haulage provider to continue to operate a homogenous interchangeable locomotive fleet across the network.

With a significant proportion of the required long term investment, in relation to current forecast contracted throughput, having been already made; the adoption of a shorter term view for the Indicative Services is therefore **unlikely** to be problematic in relation to investments and the economic life of those investments.

- **However, Whitehaven is concerned with ARTC's proposed price differential calculations, which are based on HVCCC modelling for a single scenario, and notes that a number of other stakeholders have similar concerns.**

ARTC has proposed PZ1 price differentiation based on the HVCCC modelling results for a single scenario (Scenario 3) with no regard to the other scenarios modelled by the HVCCC. The ACCC notes that the Scenario 3 assumption appears inconsistent with the general principle to reflect near term infrastructure investment and network capabilities.

ARTC has calculated a price differential based on a mix of near-term capabilities of the network for PZ1 and PZ2 users and long-term capabilities of the network for PZ3 users.

The access charge differential calculation methodology should be based on either:

1) near-term network capabilities of all users in all Pricing Zones. This would mean, for example, using HVCCC coal chain capacity modelling based on PZ3 users operating 82 wagon / 30tal trains and other users with trains emanating in PZ1 or PZ2 using 96 wagon / 30tal trains; or

2) longer-term network capabilities. In which case other scenarios, including the operation of smaller / faster trains with ATMS, would need to be considered as these scenarios are more likely to reflect the optimum utilisation of coal chain capacity in the longer term. As discussed earlier, limitations in HVCCC modelling capability would make it very difficult to assess what may be the most optimum longer-term network configuration.

- **There is broad stakeholder acceptance for an Indicative Service train configuration reflective of near-term capabilities of the network. Given limitations in HVCCC's ability to model longer term scenarios, the price differential calculation should be based on a combination of HVCCC near-term modelled scenarios that reflect the near-term network capabilities constraining users in all Pricing Zones.**

Whitehaven notes the following extract from the ACCC position paper in regard to the ACCC's preliminary views on Infrastructure Constraints.

..the ACCC also acknowledges that there may be some instances where a non-Indicative Service may not necessarily impact on the efficiency or capacity of the rail network in practice. The ACCC notes for services other than the Indicative Services, ARTC has some discretion as to what charges apply taking into account a range of factors that are set out in section 4.15 of the HVAU. For these services, ARTC has the flexibility to set access charges higher or lower than the charges for the Indicative Services based upon its consideration of the various factors in section 4.15, which includes consideration of logistical impacts and impacts on other services operating on the network and the relative consumption of capacity (for example). The ACCC encourages ARTC and its customers to work together in these instances to determine appropriate charges. ARTC is also required to publish these charges on its website to ensure transparency amongst industry participants. The HVAU allows producers to raise a dispute about prices, which the ACCC may be called upon to arbitrate.

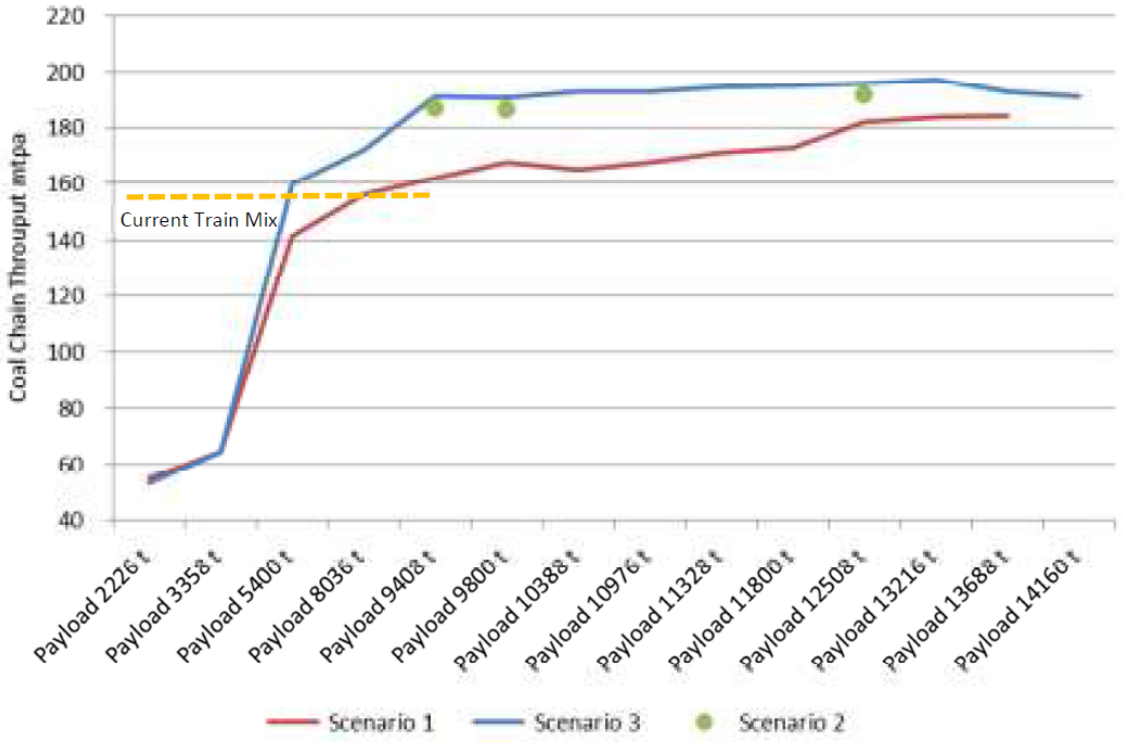
The ACCC considers that differentiating charges promotes the interests of all persons who might want to access the service by applying charges that more accurately reflect the consumption of capacity by each producer (subsection 44ZZA(3)(c)) and also accords with the pricing principles in section 44ZZCA. That being said, the ACCC notes that this is a different question to the appropriateness of the magnitude of the pricing differentials applied. As discussed in the sections that follow, the ACCC has some concerns with ARTC's application of the pricing differentiation factors.

The ACCC position paper provides a detailed outline of ARTC's proposed pricing methodology (including calculations). Whitehaven is now able to provide further comment on the proposed pricing methodology and propose more appropriate calculation inputs based on a combination of HVCCC modelled scenarios.

The following illustrative example relates to the Coal Chain Capacity factor used in the TOP component of proposed access charges.

The appropriate weightings for the Fixed Maintenance, Network Capability and Coal Chain Capacity factors used in calculating the TOP component of proposed access charges is a separate issue. A response to the proposed weightings is provided further on in the Response to Questions raised in the ACCC Position Paper section.

Figure ES1: Volumes Delivered With Shipping Queue Restricted (mtpa)



The ACCC position paper sets out that the Coal Chain Capacity factor calculation used by ARTC in their proposed pricing methodology is based on a comparison of Scenario 3 volumes delivered for all trains at 96 wagons (191mtpa) and all trains at 82 wagons (172mtpa). This calculation may be appropriate for calculating a Coal Chain Capacity factor between the proposed PZ1 96 wagon Indicative Service train and a non-indicative service 82 wagon length train emanating from a PZ1 or PZ2 train load-point where there are no physical main line network infrastructure constraints preventing the user from operating the longer 96 wagon train.

However, in adopting a model based on near-term capabilities of the network, the same calculation is not appropriate for PZ3 users, where physical main line network infrastructure constraints prevent the use of the 96 wagon long trains. ARTC acknowledge this near-term physical network constraint in proposing a PZ3 Indicative Service train length of 82 wagons.

For the trains that emanate from PZ3 the price differential methodology should be based on a comparison of the Scenario 3 volumes delivered for all trains at 96 wagons (191mtpa) with the Scenario 2 volumes delivered based on all PZ1 and PZ2 originating trains at an Indicative Service length of 96 wagons and all PZ3 originating trains at their Indicative Service length of 82 wagons (188mtpa, as depicted at the first green dot in Figure ES1).

This changes the price differentiation calculation impact of the PZ1 Coal Chain Capacity factor for 82 wagon trains emanating from PZ3 from 0.90 (172mtpa / 191mtpa) to 0.98 (188mtpa / 191mtpa).

The economic rationale behind structuring charges to reflect each user's relative consumption of capacity is sound to the extent it reflects and encourages behavior that optimises efficient use of the infrastructure. Optimal behaviour will be for PZ1 and PZ2 users to run 96 wagon trains and for PZ3 users to run 82 wagon trains given the near term capabilities of the relevant networks. It is not appropriate to assess charges on the basis of PZ1 and PZ2 users operating inefficient train sizes less than 96 wagons.

Response to Questions raised in the ACCC Position Paper

5.1.3 Non-TOP component of charges

The ACCC has reproduced ARTC's calculations of the differentiation factors in Appendix A of this Position Paper. In particular, the ACCC notes that ARTC has calculated a higher average axle load for a loaded 82 wagon 30 TAL train compared to a loaded 96 wagon 30 TAL train, which has resulted in a differentiation factor of more than one.

- Do stakeholders have any comment on the train configurations and assumptions used by ARTC in its calculation of the differentiation factors relating to variable maintenance in the non-TOP component of charges?

  We do not have visibility of the data used. It would appear that in calculating average axle load weights ARTC may have included old style wagons, used for non-indicative services only, which are being phased out. Given the price calculation example in the ACCC Position Paper is for an Indicative Service 1 and 2 train consist, only the wagons used in those train consists should be included in calculating average axle load weight. Furthermore, given the rail haulage provider may use the same wagons on any service it would be reasonable to assume the same average axle load weight for both Indicative Services.

5.1.4 TOP component of charges

Fixed Maintenance

..the ACCC notes concerns that were raised by stakeholders regarding the level of transparency of underlying figures for determining the magnitude of the maintenance differentiation factors. The ACCC has included further detail surrounding ARTC's forecast Economic Cost, maintenance costs and train configurations that underpin the magnitude of the maintenance differentiation factors in this Position Paper. The ACCC also specifically notes Idemitsu's query regarding the reason for the increase in the differentiation factor in Pricing Zone 3, which is related to ARTC's forecast economic costs.

- Do stakeholders have any comment on the train configurations and assumptions used by ARTC in its calculation of the differentiation factors relating to fixed maintenance in the TOP component of charges?

  Based on the additional information provided in the ACCC discussion paper the differentiation factors relating to fixed maintenance in the TOP component appear appropriate.

Network Capacity

ARTC has stated that it would be difficult to justify the application of differentiation with respect to Network Capacity based on speed due to limitations in the ability of the modelling to accurately estimate these.

ARTC has submitted that, given the above, each train service will be assumed to consume a single train path regardless of size. However, ARTC has also noted that because pricing is on a per gtkm basis, there needs to be a conversion of the 'price per train path' into 'price per gtkm' as the 'cost' without this conversion would differ with differing train sizes.

- Do stakeholders have any comment on the assumptions used by ARTC in its calculation of the differentiation factors relating to Network Capacity in the TOP component of charges?

  Assuming a near-term network capability view of the FIS, the differential factors relating to Network Capacity appear appropriate.

Coal Chain Capacity

While the ACCC's preliminary view is that the HVCCC modelling is appropriate to select the indicative services characteristics (see section 4.2.5), there might be limitations around using the model to reflect consumption of Coal Chain Capacity when determining access charges.

For example, the Scenario 3 results of the HVCCC model adopted by ARTC assume that all the trains have the same configuration.

As a result, rather than evaluating the effect on Coal Chain Capacity of one access seeker using a train configuration other than the Indicative Service 1 in Pricing Zone 1, the model has evaluated the effect of all access seekers using that other configuration. In this way, the model's output might not reflect the effect on Coal Chain Capacity of one access seeker using that other train.

- Do stakeholders have any comment on the methodology used by ARTC in its calculation of the differentiation factors relating to Coal Chain Capacity in the TOP component of charges?

  The calculation methodology used appears to be appropriate, the inputs are not appropriate.

- Do stakeholders have any comment on the use of the HVCCC modelling in the calculation of the differentiation factor relating to Coal Chain Capacity for the TOP component of the charges?

  The HVCCC modelling assumptions used by ARTC are not appropriate (see further comments below).

In Whitehaven's March submission we did not support the Indicative Access Charges in PZ1. The pricing differential between the two Indicative Services in PZ1, on a like for like basis, has increased significantly. Whitehaven had expected that access charges arising out of a transition from an average 6000tn 25tal payload to an 8000tn 30tal payload, based on the relative consumption of Coal Chain Capacity, would reduce.

The ARTC scenario results graph (Figure ES1) clearly demonstrates the contribution this investment makes in lifting total volume delivered from the current red line (Scenario 1) to the green dots (Scenario 2) as compared to a small incremental increase to the Scenario adopted by ARTC (Scenario 3). Furthermore, as discussed earlier, Scenario 3 does not reflect the near-term capabilities of the network.

As stated earlier the ACCC position paper sets out that the Coal Chain Capacity factor calculation used by ARTC in their proposed pricing methodology is based on a comparison of Scenario 3 volumes delivered for all trains at 96 wagons (191mtpa) and all trains at 82 wagons (172mtpa). This calculation may be appropriate for calculating a Coal Chain Capacity factor between the proposed PZ1 96 wagon Indicative Service train and a non-indicative service 82 wagon length train emanating from a PZ1 or PZ2 train load-point where there are no physical main line network infrastructure constraints preventing the user from operating the longer 96 wagon train.

However, in adopting a model based on near-term capabilities of the network, the same calculation is not appropriate for PZ3 users, where physical main line network infrastructure constraints prevent the use of the 96 wagon long trains. ARTC acknowledge this near-term physical network constraint in proposing a PZ3 Indicative Service train length of 82 wagons.

For the trains that emanate from PZ3 the price differential methodology should be based on a comparison of the Scenario 3 volumes delivered for all trains at 96 wagons (191mtpa) with the Scenario 2 volumes delivered based on all PZ1 and PZ2 originating trains at an Indicative Service length of 96 wagons and all PZ3 originating trains at their Indicative Service length of 82 wagons (188mtpa, as depicted at the first green dot in Figure ES1).

This changes the price differentiation calculation impact of the PZ1 Coal Chain Capacity factor for 82 wagon trains emanating from PZ3 from 0.90 (172mtpa / 191mtpa) to 0.98 (188mtpa / 191mtpa).

Weighting of Differentiation Factors

The ACCC notes that ARTC has not provided in its Proposed Variation its rationale for applying equal weightings to Network Capacity and Coal Chain Capacity in the calculation of the TOP component of charges. While the ACCC accepted an equal weighting being applied for the Initial Indicative Services, the ACCC specifically noted in that assessment that ARTC should have regard to improvements in the accuracy of modelling for the Indicative Services and the appropriateness of weightings applied to each of the factors in light of that modelling. Importantly, as set out in Chapter 4 of this Position Paper, ARTC has submitted that more advanced HVCCC modelling has been used for the development of the proposed Indicative Services. The ACCC therefore expects that ARTC would be able to provide more detailed analysis and justification for the weightings that have been applied.

Given the effect that variations in the weightings applied can have on the overall differentiation factors, the ACCC is of the view that ARTC needs to give further consideration to, and provide its rationale for, the weightings given to Network Capacity and Coal Chain Capacity.

- Do stakeholders have any further comment on the weightings applied to the differentiation factors by ARTC in its calculation of the TOP component of charges in light of the additional information presented in this Position Paper?

  Based on the additional information provided in the ACCC discussion paper the weighting component applied to fixed maintenance differentiation factor appears appropriate.

  However the weighting factors applied to the Network Capability and Coal Chain Capacity factors are not appropriate.

  Given a high level of accuracy in HVCCC modelling, and the principals under which the HVAU was developed, the Coal Chain Capacity factor should be weighted more highly than Network Capacity factor.

Whitehaven agrees that HVCCC has demonstrated a high level of accuracy in near-term Coal Chain capacity modelling, which has been validated over a number of years against independent annual declared capacity calculations and actual throughput.

The HVAU is premised on principles of Coal Chain capacity and alignment. The reference to Coal Chain capacity is particularly prevalent in the HVAU clauses covering Coal Chain Principles, Access Applications and Capacity Analysis.

Access to additional tranches of ARTC contracted track capacity is subject to the satisfaction of a final Coal Chain Capacity conditional precedent sign-off by HVCCC before they are released to the user. There is no condition precedent in relation to Network Capacity.

Stakeholders have already agreed that Coal Chain capacity is of fundamental importance in ensuring that usage of the network does not adversely impact on other users.

It is therefore appropriate that Coal Chain Capacity be weighted more highly than Network Capacity.

Transparency of Pricing for non-Indicative Services

…the ACCC recognises that concerns regarding transparency continue to be raised by stakeholders in submissions. The ACCC has provided greater transparency of ARTC's calculation of non-TOP and TOP charges for the Indicative Services throughout this Position Paper and in Appendix A. The ACCC considers that this additional level of information should further assist stakeholders in understanding how ARTC differentiates charges for the Indicative Services which will assist stakeholders in also understanding how ARTC may differentiate charges for non-Indicative Services. The ACCC also notes its views outlined above in relation to the weightings applied for the calculation of the TOP charges, specifically that ARTC should give consideration to whether the current approach continues to support the overall objectives, which includes transparent methodologies. Nevertheless, the ACCC's view is that it remains appropriate for ARTC to retain a certain level of discretion regarding prices for non-Indicative Services.

- What further information, if any, do stakeholders consider will provide the appropriate level of transparency regarding the basis upon which ARTC differentiates charges for services other than the Indicative Services?

  The additional information provided in the ACCC discussion paper appears to balance the need for transparency whilst allowing ARTC to maintain a certain level of discretion regarding prices for non-indicative services. This level of information should continue to be made available on an ongoing basis.

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