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15 January 2016

Mr Matthew Schroder
General Manager
Infrastructure & Transport – Access & Pricing Branch
Australian Competition and Consumer Commission
GPO Box 520
Melbourne Vic 3001

via email: transport@accc.gov.au

Dear Matthew,

ACCC Draft Determination – Australian Rail Track Corporation's compliance with the Hunter Valley Coal Network Access Undertaking financial model for the 2013 calendar year

Rio Tinto Coal Australia (**RTCA**), as manager of Coal & Allied Industries Limited, appreciates the opportunity to provide comment on the above matter. RTCA would also like to recognise the contributions of the ACCC and the appointed consultant, WIK-Consult (**WIK**), for their respective efforts in progressing this important issue.

At a summary level, RTCA broadly supports the ACCC's draft determination along with the underlying assumption set and modelled results presented by WIK in their report dated 30 September 2015. RTCA notes that, at a high level, WIK's methodology reflects the project-by-project assessment and investment timeframe recommended by RTCA in our most recent submission on this matter. RTCA is also satisfied with the resulting analysis on the basis that WIK appear to have utilised the best available datasets, including contract/volume data, and employed the same combinatorial modelling techniques utilised by ARTC in developing their results.

RTCA does, however, make the following comments in terms of opportunities for further improvement to the modelling or correction:

1. RTCA agrees with WIK's position on increasing the proportion of variability for the vast majority of maintenance and minor capex expenditures, in order to improve the accuracy and appropriateness of cost allocation over and above the methodology traditionally employed by ARTC.

   RTCA is of the view, however, that in several cases even 90% variability may be understating the volume dependent nature of the expenditure or maintenance activity. For example, RTCA would suggest that the need for re-railing would typically only develop due to frequent rolling wheel contact or the identification/exposure of manufacturing defects following persistent wear and loading. Conversely, in a situation where no volume is moved across a given segment of the network then it is entirely feasible that re-railing may not be required, highlighting the variable and ultimately volume dependent nature of some activities and minor capital projects.

RTCA is comfortable with the approach employed by WIK for calendar year 2013, but believes a future review by ARTC should consider whether up to 100% of the expenditure for some key maintenance initiatives and minor capital could be justified as variable.

2. RTCA supports WIK's assessment of the incremental capacity contribution of major capital expenditure projects tabulated in Appendix A from page 84. RTCA does not agree, however, with the 50% increment applied to project "8665 No.3 Departure Road at KCT".

   This project was required for the benefit of all users of Port Waratah Coal Services (**PWCS**) with flow on benefits to users of Newcastle Coal Infrastructure Group in terms of access to network capacity (i.e. train paths) and network congestion relief. Adding departure roads to the dump stations at PWCS allowed more trains to be held after unloading, while simultaneously allowing a new train to enter the same dump station and unload onto a separate departure road. Although this project was required for both capacity enhancement and congestion relief, RTCA considers it inappropriate to only apportion part of the expenditure to incremental capacity enhancement. Arguments can easily be made that some users will derive more or less benefit from any number of incremental network enhancement projects simply due to their distance from the port terminals or specific location on the rail network. RTCA's preferred approach is to therefore consider all investment in Pricing Zone 1 around the port terminals as being for the benefit of all users of Pricing Zone 1, resulting in 100% of this project being incremental.

3. With respect to the expensing of deferred projects costs and RTCA's previously identified concerns regarding the expensing of Terminal 4 projects, it remains unclear to RTCA how this issue is being addressed by WIK's modelled approach.

   The $8.97 million expense relating to T4 projects was to be recovered from Constrained Network customers (i.e. Pricing Zones 1 and 2) via the 'unders and overs' process as defined in the access undertaking. RTCA has previously stated it considers ARTC's expensing mechanism to be fundamentally flawed as it disregards the very high likelihood that a deferred or cancelled Pricing Zone 1 project, or group of projects, may have ultimately been for the benefit of all users of Pricing Zone 1, including customers outside the Constrained Network.

   As this expense does not appear to be captured in WIK's itemised list of minor or major capital projects – which is to be expected given it has not been capitalised – RTCA assumes it has also not been captured in WIK's build-up of the standalone incremental costs of Pricing Zone 3 users accessing Pricing Zone 1 during 2013. With reference to the cost and revenue reconciliation table on page 6 of the Draft Determination:

1. The T4 project expense of $8.97 million is captured in ARTC's stated 2013 revenue shortfall of $19.6 million, to be recovered from Constrained Network customers;
2. Under the WIK calculation, Pricing Zone 3 Access Holders incremental standalone costs in Pricing Zone 1 for 2013 were $14.6 million and this cost is deducted from the Total Efficient Costs of the Constrained Network, resulting in a revenue shortfall of $7.5 million;
3. As the WIK estimate of standalone incremental costs does not capture the T4 project expense, Pricing Zone 3 Access Holders will be making no contribution to the recovery of this cost;
4. It therefore appears to RTCA that the remaining shortfall of $7.5 million to be recovered from Constrained Network customers is incorrect as it does not account for any contribution to T4 project expenses by Pricing Zone 3 customers.

If RTCA's assessment is correct, then RTCA firmly believes this anomaly should be addressed. As previously stated, RTCA believes all network investment in Pricing Zone 1 around the port terminals has been, or would have been in the case of Terminal 4, for the benefit of all users of Pricing Zone 1. T4 projects in particular would have been classified as 100% incremental capacity had they been developed, therefore, RTCA can see no argument for excluding Pricing Zone 3 Access Holders from contributing to the recovery of the expense.

RTCA and Coal & Allied provide consent for this submission to be made available for publication in the usual way. As always, we would welcome the opportunity to discuss these matters directly with the ACCC and if you require any additional information, please call me on (07) 3625 5078.

Yours sincerely,

Adam Viertel

Manager – Infrastructure