Consultation Paper

Australian Rail Track Corporation's compliance with the financial model and pricing principles in the Hunter Valley Coal Network Access Undertaking for 2013

13 June 2014

Australian Competition and Consumer Commission
23 Marcus Clarke Street, Canberra, Australian Capital Territory, 2601

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Summary

The Australian Rail Track Corporation (**ARTC**) has submitted to the Australian Competition and Consumer Commission (**ACCC**) its annual compliance documentation pursuant to the Hunter Valley Coal Network Access Undertaking (**HVAU**). ARTC provided this submission to demonstrate its compliance with the financial model and pricing principles specified in the HVAU for the period 1 January 2013 to 31 December 2013 (**the 2013 Compliance Period**). The HVAU provides for the ACCC to conduct an annual assessment to determine whether ARTC has complied with the financial model and pricing principles.

ARTC submitted that 'loss capitalisation'[1] applied in Pricing Zone 3 with cumulative losses[2] of $8.80 million and that it had a $19.60 million 'shortfall' in revenue in the 'constrained'[3] part of the network. ARTC proposes to recover the 'shortfall' in revenue from Constrained Coal Customers[4]. Further detail on ARTC's annual compliance submission for the 2013 Compliance Period is provided in sections 2 and 3 of this Consultation Paper, while ARTC's full submission is available on the ACCC's website at the following location:[5]

http://www.accc.gov.au/regulated-infrastructure/rail/annual-compliance-assessment-2013/compliance-submission

The ACCC is now seeking industry views on ARTC's compliance with section 4.10 of the HVAU and whether ARTC's assumptions and approach in its annual compliance submission for the 2013 Compliance Period are reasonable and appropriate. The ACCC has identified the following issues as being particularly relevant for the 2013 Compliance Period:

- prudency of ARTC's capital expenditure
- efficiency of ARTC's operating expenditure
- audit of the True-up Test under the HVAU
- other matters, such as revenue allocation

Questions of particular interest to the ACCC are highlighted in section 3 of this Consultation Paper. However, parties are welcome to comment on any aspect of the submission provided by ARTC. **Submissions are due by 11 July 2014**. Further details on how to make a submission are provided in section 1.3 of this Consultation Paper.

The ACCC is also conducting a separate review on the provision of information to stakeholders and the methodologies underpinning revenue allocation across the Hunter Valley Rail Network. The ACCC released a Discussion Paper on 29 May 2014 inviting submissions from industry

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1 For Pricing Zone 3 only, while it is part of the 'unconstrained' network, the HVAU allows ARTC to capitalise any 'shortfall' in revenue into the value of its assets for recovery in future periods.

2 Cumulative losses capitalised at the end of the 2013 Compliance Period includes capitalised losses from 2011, 2012 and 2013.

3 The 'constrained' part of the Hunter Valley Coal Network comprises the majority of rail segments in Pricing Zones 1 and 2 where there is enough volume to enable ARTC to recover the full economic cost of those segments. The 'unconstrained' part of the network comprises all of the rail segments in Pricing Zone 3 (as well as a small number of segments in Pricing Zone 1) where there is currently not enough volume to enable ARTC to fully recover economic cost.

4 Constrained Coal Customers are defined in section 14.1 of the HVAU and are essentially coal producers that originate in the 'constrained' part of the network.

5 Alternatively, go to www.accc.gov.au and follow the links to 'Regulated infrastructure' -> 'Rail' -> 'ARTC Hunter Valley Access Undertaking' -> 'Annual compliance assessment 2013'.

stakeholders on the matter by 29 August 2014.[6] Further information on the review is available on the ACCC's website at the following location:[7]

http://www.accc.gov.au/regulated-infrastructure/rail/artc-hunter-valley-access-undertaking/revenue-allocation-review

6 ACCC, *Discussion Paper; Australian Rail Track Corporation's Hunter Valley Rail Network Access Undertaking; Revenue allocation review*; 29 May 2014.

7 Alternatively, go to www.accc.gov.au and follow the links to 'Regulated infrastructure' -> 'Rail' -> 'ARTC Hunter Valley Access Undertaking' -> 'Revenue allocation review'.

1 Introduction

ARTC is a Commonwealth Government-owned corporation that was established in 1998 and provides a single point of contact for parties seeking to run trains on the National Interstate Rail Network across Australia and the Hunter Valley Coal Network in NSW. ARTC is vertically separated, providing 'below-rail' services (such as the rail track infrastructure) but not 'above-rail' services (such as haulage). The National Interstate Rail Network and the Hunter Valley Rail Network are currently subject to separate access undertakings that were accepted by the ACCC in relation to each network in 2008 and 2011 respectively.

The Hunter Valley Rail Network is predominantly used to transport coal from mines in the Hunter Valley region to the Port of Newcastle for export and to transport coal to domestic customers, such as power stations. The network is also used by non-coal traffic, including general and bulk freight services (such as grain) and passenger services.

The Hunter Valley Rail Network was previously subject to the New South Wales Rail Access Undertaking (**NSWRAU**) administered by the NSW Independent Pricing and Regulatory Tribunal (**IPART**). However, access to the Hunter Valley Rail Network has been regulated through the HVAU since the ACCC accepted the undertaking in June 2011. The HVAU applies for an initial five year period and is due to expire in June 2016. The ACCC expects that the assessment of any replacement undertaking proposed by ARTC would commence before the expiry of the existing HVAU.

ARTC submitted its annual compliance documentation to the ACCC on 16 May 2014 in order to demonstrate its compliance with the requirements in section 4.10 of the HVAU for the 2013 Compliance Period. ARTC submitted some amendments to this documentation to the ACCC on 21 May 2014. The following sections provide information on the HVAU financial model and pricing principles and the annual compliance assessment that the ACCC conducts pursuant to section 4.10 of the HVAU. Details on the ACCC's consultation with industry on this matter are also provided.

Capitalised terms used in the remainder of this paper that are not defined in this paper are terms as defined in section 14.1 of the HVAU.

1.1 HVAU financial model and pricing principles

Section 4 of the HVAU regulates the amount of revenue that ARTC is entitled to receive for the Hunter Valley Coal Network by implementing revenue floor and ceiling limits. The HVAU requires that ARTC at a minimum receives revenue that covers the 'direct costs'[8] of providing services with an objective of covering 'incremental costs' (the **Floor Limit**). The HVAU caps the maximum amount of revenue that ARTC is entitled to receive at the full economic cost of providing services (the **Ceiling Limit**).

The full economic cost of providing services is calculated using a 'building block model' and incorporates allowances for return on assets, return of assets (depreciation) and efficient operating expenditure. The calculation of economic cost, therefore, also requires a regulatory valuation of assets. The value of assets is rolled forward each year to account for depreciation and prudent capital expenditure (the **RAB Floor Limit**).

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8 The HVAU defines 'direct costs' at section 14.1 to mean efficient maintenance expenditure and other costs that vary with the usage of the network but excluding depreciation and 'incremental costs' as all costs that could be avoided in the medium term if a segment was removed from the network.

Reconciliation of revenue received with the Ceiling Limit is different for the various parts of the Hunter Valley Coal Network as follows:

- For the 'constrained'[9] part of the network, an 'unders and overs' accounting framework applies. If ARTC's revenue is less than full economic cost in a compliance period, then ARTC is entitled to recover the revenue 'shortfall' from Constrained Coal Customers. If ARTC's revenue exceeds full economic cost, then ARTC is required to refund the amount of over-recovery to Constrained Coal Customers.

- For Pricing Zone 3 only, which currently forms part of the 'unconstrained' network, 'loss capitalisation' applies.[10] ARTC is allowed to capitalise revenue shortfalls into the Pricing Zone 3 regulatory asset base for recovery in future periods. Once ARTC is able to recover the full economic cost of Pricing Zone 3 (including the losses capitalised from previous years), then the 'unders and overs' accounting framework as per the previous point applies.

1.2 ACCC compliance assessment

Section 4.10 of the HVAU provides for the ACCC to conduct an annual assessment to determine whether ARTC has complied with the HVAU financial model and pricing principles. In particular, the ACCC is required to determine whether:

- ARTC has undertaken prudent capital expenditure and incurred efficient operating expenditure in accordance with the requirements set out in the HVAU

- ARTC has rolled forward the value of its assets in accordance with the HVAU for the 'constrained' part of the network (the RAB Floor Limit) and for Pricing Zone 3 (the RAB Floor Limit and the RAB)

- 'loss capitalisation' applies in Pricing Zone 3, which is determined by comparing the RAB Floor Limit and the RAB for that pricing zone

- ARTC has reconciled revenues with the applicable revenue floor and ceiling limits and determined the allocation of any under or over recovery of revenue from Constrained Coal Customers in accordance with the HVAU

The relevant provisions of the HVAU relating to the annual compliance assessment are outlined in Appendix A to this consultation paper.

1.3 Consultation

The ACCC is conducting a public consultation as part of its assessment of ARTC's compliance for the 2013 Compliance Period, and seeks submissions from interested parties by 11 July 2014.

Questions of particular interest to the ACCC are set out in section 3 of this Consultation Paper. However parties are welcome to comment on any aspect of ARTC's submission. The ACCC requests that submissions address the extent to which ARTC's submission appropriately addresses the requirements in section 4.10 of the HVAU.

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9 The 'constrained' part of the network comprises the majority of the Hunter Valley Rail Network in Pricing Zones 1 and 2 where ARTC is expected to recover its full economic cost.

10 The 'loss capitalisation model' applies to Pricing Zone 3 because there is currently relatively lower demand for rail services due to the start-up nature of coal mines in the region and, therefore, ARTC is not currently expected to recover its full economic cost. During the assessment of the June 2011 HVAU, the ACCC considered the 'loss capitalisation model' to be appropriate in the circumstances as a way to encourage investment in new assets where there was limited initial demand.

The ACCC's current intention is that there will be a single round of consultation before the ACCC makes a final determination in relation to the 2013 Compliance Period. However, the ACCC may consult further with industry if it considers there is a need to do so having regard to the submissions made in response to this Consultation Paper.

1.3.1 Making a submission

Submissions should be addressed to:

Mr Matthew Schroder
General Manager
Fuel, Transport and Prices Oversight Branch
Australian Competition and Consumer Commission
GPO Box 520
Melbourne Vic 3001
Email: transport@accc.gov.au

Submissions are due by **11 July 2014**.

1.3.2 Confidentiality

The ACCC strongly encourages public submissions. Unless a submission, or part of a submission, is marked confidential, it will be published on the ACCC's website and may be made available to any person or organisation upon request.

Sections of submissions that are claimed to be confidential should be clearly identified. The ACCC will consider each claim of confidentiality on a case by case basis. If the ACCC refuses a request for confidentiality, the submitting party will be given the opportunity to withdraw the submission in whole or in part.

For further information about the collection, use and disclosure of information provided to the ACCC, please refer to the ACCC publication '*Australian Competition and Consumer Commission / Australian Energy Regulator Information Policy – the collection, use and disclosure of information'* available on the ACCC's website.

1.3.3 Further information

ARTC's submission in relation to the 2013 Compliance Period and other relevant information, such as the currently accepted HVAU, are available on the ACCC's website at the following location:[11]

http://www.accc.gov.au/regulated-infrastructure/rail/artc-hunter-valley-access-undertaking

Public submissions made during the current process will also be published at this location.

If you have any queries about any matters raised in this document, please contact:

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Phone: +61 3 9290 6921
Email: renee.coles@accc.gov.au

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11 Alternatively, go to the ACCC's homepage at www.accc.gov.au and follow the links to 'Regulated infrastructure' -> 'Rail' -> 'ARTC Hunter Valley Access Undertaking'.

2 ARTC 2013 annual compliance submission

This section sets out the details of ARTC's submissions for the 2013 Compliance Period, including the following key components:

- RAB roll forward for Pricing Zone 3 (section 2.1)
- RAB Floor Limit roll forward for the entire network and for Pricing Zone 3 (section 2.2)
- Comparison of the RAB and RAB Floor Limit for Pricing Zone 3 (section 2.3)
- Reconciliation of revenue with the applicable Ceiling Limit (section 2.4)
- Allocation of unders and overs amount to access holders (section 2.5)
- System True-up Test audit (section 2.6)

2.1 RAB roll forward for Pricing Zone 3

Subsection 4.10(d)(i) of the HVAU requires the ACCC to determine whether ARTC has undertaken the roll forward of the RAB in accordance with the HVAU. The RAB is rolled forward in Pricing Zone 3 for comparison with the RAB Floor Limit to determine if 'loss capitalisation' applies. Subsection 4.4(a) of the HVAU outlines how the RAB is to be rolled forward annually.

Applying the RAB roll forward formula, ARTC determined the closing value of the RAB in Pricing Zone 3 for the 2013 Compliance Period to be as follows:

Table 2.1: Pricing zone 3 RAB roll forward[12]

Value	2012 ($)	2013 ($)
Opening RAB for Pricing Zone 3	192 214 184	286 018 488
add Return on Opening RAB	22 738 938	33 835 987
less Revenue	- 42 878 785	- 62 588 568
add Opex	12 420 623	17 277 336
add Net Capex	95 853 777	12 945 831
add Return on Net Capex	5 669 751	765 746
Closing RAB for Pricing Zone 3	286 018 488	288 254 821

12 ARTC, *Annual Compliance Submission*, May 2014, p. 9.

2.2 RAB Floor Limit roll forward

Subsection 4.10(d)(i) of the HVAU requires the ACCC to determine whether ARTC has undertaken the roll forward of the RAB Floor Limit in accordance with the HVAU. The RAB Floor Limit is rolled forward for the following purposes:

- in Pricing Zones 1 and 2, for calculating components of full economic cost
- in Pricing Zone 3, for comparison with the RAB to determine if ‘loss capitalisation’ applies

Subsection 4.4(b) of the HVAU specifies how the RAB Floor Limit is to be rolled forward annually.

Applying the RAB Floor Limit roll forward formula, ARTC determined the RAB Floor Limit closing value for the total network for the 2013 Compliance Period as follows:

Table 2.2: Network RAB Floor Limit roll forward[13]

Value	2012 ($)	2013 ($)
Opening RAB Floor Limit for entire network	1 073 587 301	1 551 340 789
add CPI	24 717 225	31 876 866
add Net Capital Expenditure	519 404 725	155 187 320
less Depreciation	- 66 368 462	- 85 153 141
Closing RAB Floor Limit for entire network	1 551 340 789	1 653 251 834

ARTC also determined the RAB Floor Limit closing value for those segments in Pricing Zone 3 during the 2013 Compliance Period for the purpose of comparing it to the RAB, as follows:

Table 2.3: Pricing Zone 3 RAB Floor Limit roll forward[14]

Value	2012 ($)	2013 ($)
Opening RAB Floor Limit for Pricing Zone 3	186 996 217	275 579 819
add CPI	4 305 218	5 662 599
add Capex	95 853 777	12 945 831
less Depreciation	- 11 575 394	- 14 734 933
Closing RAB Floor Limit for Pricing Zone 3	275 579 819	279 453 315

2.3 Comparison of the RAB and RAB Floor Limit for Pricing Zone 3

As outlined in sections 2.1 and 2.2 above, ARTC submitted that the closing RAB value for Pricing Zone 3 for the 2013 Compliance Period is $288 254 821 and the closing RAB Floor Limit for Pricing Zone 3 is $279 453 315.

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13 Ibid, p. 12.
14 Ibid, p. 13.

Given that the RAB is greater than the RAB Floor Limit in Pricing Zone 3, ARTC submitted that 'loss capitalisation' applies and it is not required to detail calculations relevant to reconciliation of access revenue with the applicable Ceiling Limit and calculations of any allocation of the total under and overs amount for Pricing Zone 3 (see section 4.3(b) of the HVAU).[15]

The ACCC notes that, based on ARTC's submission, the cumulative losses capitalised into the Pricing Zone 3 asset base as at the end of the 2013 Compliance Period is $8 801 506[16].

2.4 Reconciliation of revenues with the applicable Ceiling Limit

Subsection 4.10(d)(ii) of the HVAU requires the ACCC to determine whether ARTC has reconciled access revenue with the applicable Ceiling Limit in accordance with the HVAU.

The Ceiling Limit for Pricing Zones 1 and 2 requires that access revenue from any Access Holder or group of Access Holders must not exceed the Economic Cost of those segments which are required on a standalone basis for the Access Holder or group of Access Holders (see subsection 4.3(a) of the HVAU). As per section 2.3 above, ARTC is not required to reconcile access revenue with the Ceiling Limit for Pricing Zone 3.

ARTC's ceiling test model calculates the amount of access revenue and the Economic Cost across the segments utilised by a mine or combination of mines. The combination of mines that is closest to, or exceeds, the economic cost for the relevant segments is called the 'Constrained Group of Mines' and the segments comprise the 'constrained' part of the Hunter Valley Coal Network.

ARTC reconciled the access revenue received for Pricing Zones 1 and 2 with Full Economic Cost for the 2013 Compliance Period as follows:

Table 2.4: Ceiling test[17]

Value	2012 ($)	2013 ($)
Operating Expenditure	92 339 014	102 723 043
add Depreciation	54 571 672	70 191 898
add Net loss on disposal	1 744 277	4 449 867
add Return on assets	97 988 734	120 167 711
Full economic cost for 'constrained' network	**246 643 697**	**297 532 519**
Revenue received for 'constrained' network	**241 824 863**	**277 929 657**
Difference for 'constrained' network	**- 4 818 834**	**- 19 602 862**

15 Ibid, p. 13.
16 Cumulative losses capitalised = Closing RAB – Closing RAB Floor Limit for Pricing Zone 3, which at the end of the 2013 Compliance Period includes capitalised losses from 2011, 2012 and 2013.
17 ARTC, *Annual Compliance Submission*, May 2014, p. 19.

2.5 Allocation of unders and overs amount to access holders

Subsection 4.10(d)(ii) of the HVAU requires the ACCC to determine whether ARTC has allocated the total 'unders and overs' amount to access holders in accordance with the HVAU. The 'unders and overs' amount is determined through the reconciliation of access revenue received with the applicable Ceiling Limit for the 'constrained' network as set out in section 2.4 above.

ARTC submitted that the total under-recovery for the 'constrained' network for the 2013 Compliance Period was $19 602 862. The proportion of this amount that is allocated to each Constrained Coal Customer in accordance with section 4.9 of the HVAU is based on:

> the proportion of revenue paid for access rights over the Constrained Network by each Constrained Coal Customer, net of any rebate of the take or pay component of the Charges paid to that Constrained Coal Customer.[18]

To comply with subsection 4.9(b)(ii), ARTC provided a confidential spreadsheet to the ACCC that set out the allocation of the total 'unders and overs' amount for the 2013 Compliance Period.

2.6 System True-Up Test audit

The HVAU incorporates liability arrangements in the Indicative Access Holder Agreement (**IAHA**) that provides for the payment of rebates to users for ARTC's failure to deliver contracted path usages. The payment of these rebates occurs following the completion of an annual reconciliation process, which is informed by the True-Up Test.

The True-Up Test determines whether there was sufficient capacity available on ARTC's network in a given period to meet all contracted entitlements, taking into account reductions in capacity caused by maintenance, usage by non-coal trains and other factors.

Subsection 4.10(f) of the HVAU requires an independent audit of ARTC's compliance with the True-Up Test, to ensure the integrity of the test and avoid perceptions of conflicts of interest on the part of ARTC. ARTC engaged BDO (SA) Pty Ltd (**BDO**) as auditor for the True-Up Test, which the ACCC approved in accordance with subsection 4.10(f)(ii) and (iii).

BDO's audit report found that:

> In our opinion, ARTC has complied, in all material respects, with Schedule 2 of the Access Holder Agreements under the HVAU for the year ended 31 December 2013.[19]

ARTC submitted that it is not liable for any rebates under the True-Up Test for 2013.

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[18] Subsection 4.10(b)(iii) of the HVAU

[19] ARTC, *Annual Compliance Submission; Attachment 4; 2013 True-Up Test Audit Report*, May 2014, p. 1.

3 Key issues for the 2013 assessment

The ACCC has identified the following key issues as being particularly relevant for the 2013 Compliance Period:

- prudency of capital expenditure, including interest during construction and disposals (section 3.1)
- efficiency of operating expenditure (section 3.2)
- True-Up Test audit (section 3.3)
- other matters, including revenue allocation (section 3.4)

3.1 Prudency of capital expenditure

Subsections 4.4(a) and (b) of the HVAU provide that net capital expenditure is defined as capital additions to the RAB and RAB Floor Limit, plus interest costs incurred during construction, less the written down value of any disposals.

The HVAU requires that, for capital expenditure to be included in the RAB and RAB Floor Limit, it must be incurred on a 'prudent' basis. Subsection 4.10(d)(iii) of the HVAU explicitly provides that, if capital expenditure has been endorsed by the Rail Capacity Group (**RCG**) in accordance with the consultation obligations set out in section 9 of the HVAU, then the ACCC will accept that capital expenditure as prudent for inclusion in the RAB and RAB Floor Limit. The RCG is a representative group made up of a range of stakeholders, including access holders and above-rail operators and the HVCCC (in a non-voting capacity).

The HVAU also provides that interest costs incurred during construction up until 1 July in the calendar year that the asset was commissioned and determined by reference to the appropriate rate of return as well as interest costs and disposals incurred on a prudent basis.[20]

For the 2013 Compliance Period, ARTC has sought to roll forward into its RAB Floor Limit a net capital expenditure amount of $155 187 320, broken down as follows:

Table 3.1: Net capital expenditure[21]

Value	2012 ($)	2013 ($)
Major capital expenditure	444 487 652	126 898 239
Minor capital expenditure	39 567 969	29 039 480
Interest during construction	43 839 220	5 421 587
Disposals	- 8 490 116	- 6 171 987
Net capital expenditure	**519 404 725**	**155 187 320**

Further detail on capital expenditure to be included in the RAB and RAB Floor Limit for the 2013 Compliance Period is set out in Appendix B and Attachment 2 of ARTC's submission.

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[20] See section 4.4 of the HVAU.

[21] ARTC, *Annual Compliance Submission*, May 2014, p. 11.

ARTC has also provided evidence of the RCG's endorsement of both major and minor capital expenditure to the ACCC on a confidential basis.

ARTC also submitted that it is increasing the transparency relating to the RCG consultation and endorsement of minor capital expenditure following the 2012 annual compliance assessment process. ARTC has proposed to keep the RCG informed, every six months, of the progress of the endorsed minor capital program where material variations are identified. ARTC submitted that, as part of this change, a report detailing variations in minor capital projects was tabled before members in the April 2014 RCG meeting.

Questions for comment

- Does industry have any comments about ARTC's compliance with the HVAU regarding the major capital projects undertaken by ARTC during 2013 and the cost of those projects?
- Does industry have any comment about ARTC's compliance with the HVAU regarding the level of capital expenditure in relation to minor capital projects for 2013?
- Does industry have any comments regarding the calculation of interest incurred during construction?
- Does industry have any comments regarding the amount of disposals proposed by ARTC for the 2013 Compliance Period?
- Does industry have any comments on ARTC's transparency regarding consultation with, and endorsement of, capital expenditure by the RCG?

3.2 Efficiency of operating expenditure

Subsection 4.10(e) of the HVAU provides for the ACCC to assess the efficiency of the ARTC's operating expenditure. Efficient costs and operating expenditure in turn informs the determination of the Full Economic Cost and the maximum amount of revenue that ARTC is entitled to receive.

Section 2(c) of Schedule G of the HVAU requires ARTC to submit a detailed breakdown of the Full Economic Costs for the review period into standard operating cost line items, return and depreciation, as well as provide comparative values from the previous review period.

ARTC submitted that it incurred operating expenditure of $102 723 043 in the 'constrained' network and $17 277 336 in the 'unconstrained' network. Table 3.2 shows a breakdown of ARTC's operating expenditure on the 'constrained' network for the 2013 Compliance Period. ARTC did not provide a breakdown of operating expenditure in the 'unconstrained' network.

Table 3.2: Operating expenditure on the 'constrained' network[22]

Operating expenditure	2012 ($)	2013 ($)
Variable maintenance costs	27 146 024	28 788 509
Fixed maintenance costs	23 815 480	29 062 214
Shared maintenance	18 267 400	15 928 827
Expensed project costs	1 500 000	8 968 856
Network control	9 301 493	9 270 241
Corporate overheads	12 308 617	10 704 396
Total operating expenditure	**92 339 014**	**102 723 043**

The following provides further information on ARTC's operating expenditure on the 'constrained' network. As highlighted above, ARTC did not provide further detail on operating expenditure in the 'unconstrained' part of the network.

Maintenance costs in the 'constrained' network

ARTC submitted that the overall cost of maintenance work performed by ARTC for the 2013 Compliance Period is largely in alignment with the costs incurred during 2012. ARTC noted that it is significantly lower than the maintenance costs forecast for 2013 as advised to Access Holders in late 2012. ARTC submitted that this was because it undertook less maintenance activities than forecasted.[23]

ARTC submitted that variable maintenance expenditure was 28 per cent lower and fixed maintenance expenditure was 18 per cent lower in 2013 than it forecasted to occur in its advice to Access Holders in late 2012. ARTC stated that this was due to a deferral of planned cyclical ballast cleaning to the 2014 calendar year.[24]

ARTC submitted that there was an unexpected fixed maintenance cost of $8.97 million that arose through the expensing of project costs associated with the Port Waratah Coal Service Terminal 4 expansion. ARTC stated that the expensed projects and costs were discussed with access holders during quarterly access holder meetings in November 2013 and February 2014. ARTC submitted that no objections were raised by the RCG to the expensing of these projects in 2013.[25]

A total of $1.5 million was included in the fixed maintenance costs, which ARTC submitted arose from various incidents on the 'constrained' network, such as lightning strikes, wheel burns, derailment related track and structure damage and damage caused by flooding.[26]

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22 Ibid, Table 7, p. 19
23 Ibid, p. 21
24 Ibid, p. 21
25 Ibid, p. 21-22
26 Ibid, p. 22

ARTC submitted that shared maintenance decreased by $2.34 million due to the decision to directly identify provisioning centre costs with the relevant pricing zones instead of allocating to pricing zones on a gross train kilometre basis.[27]

Network control costs in the ‘constrained’ network

ARTC submitted that network control costs for the 2013 Compliance Period were approximately the same as the 2012 network control costs.[28]

Corporate overheads in the ‘constrained’ network

ARTC submitted that corporate overheads decreased by $1.6 million in 2013 compared to the 2012 Compliance Period due to:[29]

- a reduction in costs allocated to the ‘constrained’ network as an result of an increased share of Interstate non-coal train kms of total ARTC network train kms when compared with the ‘constrained’ coal train kms; and

- a restructure within ARTC which allowed the Technical Services costs to be directly identified with specific corridors instead of being allocated to the Hunter Valley corridor on a Train km basis.

Further detail on operating expenditure for the 2013 Compliance Period is available on pages 21 to 23 of ARTC’s submission.

Questions for comment

- Does industry have any comments on whether the level of costs incurred by ARTC during the 2013 Compliance Period (including maintenance, network control and corporate overhead costs) were incurred in an efficient manner (as defined in section 14 of the HVAU)?

- Does industry have any comment on the reasons given by ARTC for the increase in overall operating expenditure for 2013 as compared with the 2012 Compliance Period?

- Does industry have any comments on the level of expensed project costs incurred by ARTC during the 2013 Compliance Period?

3.3 True-Up Test audit

BDO has audited ARTC’s compliance with the system True-Up Test obligations under Schedule 2 of the IAHAs annexed to the HVAU for the 2013 Compliance Period. The True-Up Test determines whether ARTC is liable for any rebates to users for ARTC’s failure to delivery contracted path usages. For more background information please refer to section 2.6 of this paper.

BDO’s audit report found that ARTC has complied, in all material respects, with the True-Up Test obligations for the 2013 Compliance Period. ARTC submitted that BDO’s final audit report concluded that ARTC is not liable for any rebates under the True-Up Test for 2013 due to a System Availability Shortfall.

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[27] Ibid, p. 22

[28] Ibid, p. 23

[29] Ibid, p. 24.

In particular, BDO found that:[30]

- the required calculations have been performed in accordance with Schedule 2 of the Access Holder Agreements
- several exceptions have been noted, however the overall result of these exceptions would increase the system availability surplus position in each period
- no system availability shortfall was recorded for any period during the year meaning no accruals were required to be paid
- True-up Test results have been published for all relevant Pricing Zones for each month from January to December 2013, with some exceptions

Questions for comment

- Does industry have any comments on ARTC's application of the True-Up Test during 2013?
- Does industry have any comments on the findings or conclusion set out in the audit report prepared by BDO?

3.4 Other matters

In the ACCC's Determination for the 2012 Compliance Period, the ACCC flagged a review on the provision of information to stakeholders and the methodologies underpinning revenue allocation across the Hunter Valley Rail Network.[31] The ACCC considers that such a review will assist in increasing transparency and informed decision making. The ACCC released a Discussion Paper on 29 May 2014 inviting submissions from industry stakeholders on the matter by 29 August 2014.[32] Parties are encouraged to provide their views on revenue allocation as part of that process. Further information on the review is available on the ACCC's website at the following location:[33]

http://www.accc.gov.au/regulated-infrastructure/rail/artc-hunter-valley-access-undertaking/revenue-allocation-review

30 ARTC, *Annual Compliance submission; Attachment 4; 2013 True-Up Test Audit Report*, May 2014, pp. 2-3.

31 ACCC, *Determination; Australian Rail Track Corporation's compliance with the financial model and pricing principles in the Hunter Valley Coal Network Access Undertaking for January – December 2012*, 24 March 2014, p. 7.

32 ACCC, *Discussion Paper; Australian Rail Track Corporation's Hunter Valley Rail Network Access Undertaking; Revenue allocation review*; 29 May 2014.

33 Alternatively, go to www.accc.gov.au and follow the links to 'Regulated infrastructure' -> 'Rail' -> 'ARTC Hunter Valley Access Undertaking' -> 'Revenue allocation review'.

A Annual compliance assessment provisions in the HVAU

Subsection 4.10 of the HVAU provides for the ACCC to conduct an annual compliance assessment to determine whether ARTC has complied with access pricing principles under the HVAU. These provisions are set out below (capitalised terms are defined under section 14 of the HVAU).

a) *ARTC will submit to the ACCC by 30 April each year in respect of the previous calendar year:*

   i) *documentation detailing roll-forward of the RAB and the RAB Floor Limit, and comparisons between RAB and RAB Floor Limit;*

   ii) *where documentation in (i) above demonstrates that RAB is at or below RAB Floor Limit, documentation detailing calculations relevant to reconciliation of Access revenue with the applicable Ceiling Limit and calculation of any allocation of the total unders and overs amount; and*

   iii) *where documentation in (i) above demonstrates that RAB is above RAB Floor Limit in Pricing Zone 3, documentation demonstrating that Indicative Access Charges, or Interim Indicative Access Charges, as applicable, satisfies the requirements in section 4.3(b).*

b) *The documentation submitted by ARTC to the ACCC will, unless otherwise agreed with the ACCC and having regard to the relevant circumstances applicable at the time, meet the information provision guidelines and the timeframes set out in Schedule G.*

c) *If the ACCC reasonably considers that it requires additional information, other than that provided by ARTC in accordance with Schedule G, in order to carry out its assessment under section 4.10(d), it may request this information from ARTC in accordance with section 3 of Schedule G and upon receipt of such a request ARTC will use reasonable endeavours to provide the information to the ACCC as soon as reasonably practicable.*

d) *The ACCC will determine whether ARTC has undertaken:*

   i) *roll-forward of the RAB and RAB Floor Limit in accordance with the Undertaking and, where the roll forward is not in accordance with the Undertaking, determine what closing RAB or RAB Floor Limit would be in accordance with the Undertaking;*

   ii) *when required, the calculations relevant to reconciliation of Access revenue with the applicable Ceiling Limit and calculation of any allocation of the total unders and overs amount in accordance with the Undertaking, and where the calculations are not in accordance with the Undertaking, determine what total unders and overs amount or allocation would be in accordance with the Undertaking having regard to the operation of its unders and overs account;*

   iii) *in determining whether ARTC has complied with the provisions of section 4.4 in rolling forward the RAB or the RAB Floor Limit, the ACCC may have regard to the submissions of relevant industry participants but if Capital Expenditure has been endorsed by the RCG in accordance with section 9, the ACCC will not consider whether that Capital Expenditure is Prudent;*

   iv) *the ACCC will publish its findings on its website and/or circulate to Access Holders in relation to the matters for its determination; and* *v) ARTC will revise the closing RAB and manage Constrained Coal Customer Accounts in accordance with any determination by the ACCC.*

e) The ACCC will determine whether ARTC has incurred Efficient costs and Efficient operating expenditure in accordance with section 4.5(b), and determine the change (if any) to:

i) the total unders and overs amount or allocation; and

ii) closing RAB in section 4.4(a),

that results from Economic Cost under subsection 4.5(b) only including Efficient costs and Efficient operating expenditure determined in accordance with section 4.5(b).

Subsection 4.10(f)(x) of the HVAU also provides that ARTC will provide the final written report of the True-Up Test, as prepared by the independent auditor, to the ACCC to review as part of the annual compliance assessment process under the HVAU.