

Mt Arthur Coal



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

Dear Mr Schroder

Submission to the ACCC regarding the ARTC 2013 Annual Compliance Assessment

The ACCC has recently published the following documents for comment:

- a Consultation Paper in relation to the ARTC's compliance with the financial model and pricing principles under the Hunter Valley Access Undertaking (**HVAU**) for 2013 (13 June 2014) (**Consultation Paper**); and
- a Discussion Paper in relation to the ARTC's approach to revenue allocation under the Undertaking (29 May 2014) (**Discussion Paper**),

with submissions in relation to these Papers due by 11 July and 29 August 2014 respectively.

BHP Billiton has reviewed these Papers, as well as the ARTC's submission in relation to the ACCC Annual Compliance Assessment.

While Hunter Valley Energy Coal Pty Ltd (**HVEC**) proposes, in due course, to make a submission in relation to the Discussion Paper, it does not propose to make any detailed submission in relation to the ARTC's 2013 Annual Compliance submission.

However, HVEC does wish to note its concern as to the ability of the ACCC to arrive at a view in relation to the cost and revenue-related aspects of the ARTC's 2013 Annual Compliance submission until such time as the ACCC has had an opportunity to arrive at a final view in relation to the issues canvassed in the Discussion Paper.

Ideally, any questions of compliance with the cost and revenue-related aspects of the ARTC's 2013 Annual Compliance submission should be deferred until such time as the ACCC has reached a final view in relation to those issues raised in the Discussion Paper.

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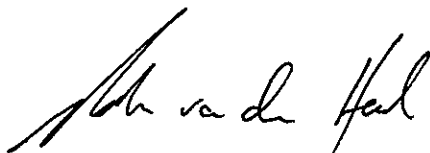
To the extent that there is potential uncertainty as to the ultimate application of the Loss Capitalisation mechanism under the HVAU (subject to the ACCC's conclusions following a review of submissions in response to the Discussion Paper), then it is, in HVEC's view, premature for the ACCC to reach a concluded view in relation to the ARTC's compliance with the HVAU.

This will also be relevant in relation to any assessment of the ARTC's approach to treating revenue "unders and overs" in PZ1 and PZ2, and whether the revenue allocation into PZ3 is consistent with those principles.

In light of the above, HVEC requests that the ACCC defer approval of the 2013 Compliance Assessment until such time as the ACCC has received all of the submissions in response to the Discussion Paper and the issues contained therein have been addressed by the ACCC.

It is also important to note that this level of transparency regarding the HVAU pricing principles and subsequent revenue allocation practices has not been available to the industry in the past and HVEC would like to express its gratitude to the ACCC for publishing this paper.

Yours faithfully



Mark van den Heuvel
General Manager CHPP and Infrastructure
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