

Mt Arthur Coal



Hunter Valley Energy Coal Pty Ltd
Mt Arthur Coal
Thomas Mitchell Drive
Muswellbrook NSW 2333 Australia
Private Mail Bag No. 8
Muswellbrook NSW 2333 Australia
Tel +61 2 6544 5800 Fax +61 2 6544 5801
bhpbilliton.com

15 January 2016

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

By email transport@accg.gov.au

Dear Mr Schroder

Submission in response to Australian Competition and Consumer Commission (“ACCC”) Draft Determination 30 October 2015 (“Draft Determination”)

Australian Rail Track Corporation’s (“ARTC”) compliance with the Hunter Valley Coal Network Access Undertaking financial model for the 2013 calendar year

Hunter Valley Energy Coal Pty Ltd (**HVEC**) would like to thank you for the opportunity to respond to the ACCC Draft Determination regarding ARTC’s compliance with the Hunter Valley Coal Network Access Undertaking financial model for the 2013 calendar year.

The ACCC’s compliance assessment and the WIK-Consult (**WIK**) Report and analysis are important steps in improving the process of revenue reconciliation and the operation of floor and ceiling tests. HVEC welcomes this process and is supportive of the ACCC’s Draft Determination and the approach taken by WIK.

In order to assist HVEC in its assessment of the implications of the WIK Report, HVEC engaged Frontier Economics (**Frontier**) to review WIK’s analysis of the ARTC’s approach to defining and calculating the incremental costs associated with Pricing Zone 3 user’s use of Pricing Zone 1. A copy of this report is **enclosed** for your consideration.

Consistent with HVEC’s previous submissions to ARTC and the ACCC (and supported by Frontier’s analysis), WIK has, in HVEC’s view, correctly concluded that the ARTC’s approach to calculating incremental costs has been flawed and has resulted in a cross-subsidy by Pricing Zone 1 and 2 users in favour of Pricing Zone 3 users. This has resulted in Pricing Zone 3 users failing to adequately contribute to the cost of their incremental usage of Pricing Zones 1 and 2.

Registered Office:
Hunter Valley Energy Coal Pty Ltd
Level 20, Waterfront Place
1 Eagle Street
Brisbane QLD 4000 Australia
ABN 39 062 894 464
Registered in Australia
A member of the BHP Billiton Group

HVEC agrees that the proportion of the efficient costs incurred within Pricing Zones 1 and 2 to be reconciled with revenues received from Pricing Zone 1 and 2 users should be calculated by subtracting the incremental costs associated with Pricing Zone 3 user's use of Pricing Zone 1 from the total efficient costs of Pricing Zones 1 and 2.

In HVEC's submission, WIK's investigation of the cost variability of services supplied in Pricing Zones 1 and 2 is thorough and the approach to the estimation of long run relationships is transparent and reasonable.

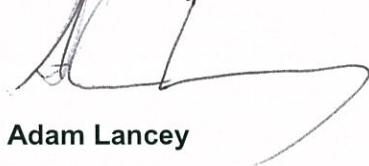
HVEC also notes and endorses the following comments made by Frontier in relation to WIK's analysis:

1. The ability of users and their advisers to both historically and currently undertake a thorough analysis of the implications of the ARTC's approach has been limited due to the confidential nature of the data held by ARTC. If advisers of interested parties are able to review ARTC's material and WIK's model on a confidential basis, this would enhance the transparency of the process and allow for a more meaningful review.
2. WIK's approach is conservative. The issue of pre-2008 investments should be further considered because a full accounting of these costs could have a material impact on the assessment of the extent of any cross-subsidy and therefore, on the efficient distribution of costs between users. HVEC requests the ACCC explore further whether other calculations using pre-2008 investments are possible and lead to materially different results. The lack of transparency around the details of these pre-2008 capital investments makes it difficult to assess their materiality relative to the post-2008 investments.

Implementation of the process set out in the Draft Determination and WIK Report for 2013, 2014, 2015 and future years is an improvement on the current process of revenue reconciliation under the Hunter Valley Access Undertaking and is supported by HVEC.

If you would like to discuss this submission further, please do not hesitate to give me a call.

Yours sincerely



Adam Lancey
Manager Logistics