



15 March 2019

{by e-mail}

Mr Matthew Schroder
General Manager
Fuel, Transport and Prices Oversight Branch
Australian Competition and Consumer Commission

Email: transport@accg.gov.au

Dear Matthew

Submission on ACCC Draft Determination on ARTC Compliance to Financial Model 2015

Please find attached submission from Whitehaven in response to ACCC's Draft Determination dated 18 February 2019 which invites submissions in relation to ARTC's 2015 compliance with the financial model in the Hunter Valley Access Undertaking (HVAU).

Timeline for Compliance Process

Whitehaven believes the ACCC has undertaken a comprehensive review process for the 2015 Compliance Assessment, but the time taken for this process poses difficulties for producers. Although Whitehaven recognizes issues in relation to data gathering and the added complexity of including the Wik-Consult team the significant time between the year of compliance, initial stakeholder submissions and the Draft Determination increases the costs and resources required by producers to provide meaningful input to the process.

We also highlight the delay in this compliance process continues to postpone the refunding of significant funds from ARTC to producers from the negotiated extension to the Hunter Valley Access Undertaking.

Whitehaven requests ACCC looks to expedite the Compliance process for the subsequent 2016 – 2018 years and thereafter streamline the process ensure finalization less than 12 months from year end.

ARTC Corporate Restructure

With regards to ACCC's request for stakeholder views on the ARTC corporate restructure, Whitehaven notes the increase in Business Unit Management costs highlighted by ACCC. As outlined in the Deloitte report, these cost increases were a result of the corporate restructure with the goal to :

- *Have a stronger focus on customer success*
 - *Put customer plans and needs at the forefront of considerations when developing strategic initiatives*
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- *Be more innovative in terms of using systems and technology in order to improve the service offering to customers, rail reliability and ultimately, the optimisation of costs*
- *Be timely and clear in its responses to customer requests and initiatives.*

Whitehaven experienced a positive result from the restructure in 2015 with an increase in customer focus. Given the additional annual costs allocated to the Hunter Valley coal producers from this restructure Whitehaven will continue to monitor ARTC's performance and requests ACCC to include requests for feedback on customer focus in each annual compliance process.

Pricing Zone 3 producers contribution to fixed costs

Whitehaven notes both the initial 2011 Hunter Valley Access Undertaking and the extension to this agreement were negotiated outcomes between ARTC and the coal producer group. During these negotiations concessions were made by producers to finalise the agreement, with some of these concessions negatively impacting different Pricing Zones including Zone 3 producers.

Through a number of discussion papers and meetings both the ACCC and ARTC have been clear as to the allocation of fixed costs for the term of this Access Undertaking. Although not all Access Holders may be comfortable, there can be no misunderstanding by any Access Holder that the agreed outcome for the term of the current Access Undertaking is that Pricing Zone 3 producers do not contribute to fixed costs in Pricing Zone 1.

Please contact me if you would like further clarification on the above.

Yours sincerely,



Keiron Rochester

GENERAL MANAGER – INFRASTRUCTURE
