



bhpbilliton
resourcing the future

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

Mt Arthur Coal

Ref. AL20150301.DOCX

17 March, 2015

Wayne Johnson
General Manager Customer Service & Operations Hunter Valley
Australian Rail Track Corporation Ltd
11 Sir Donald Bradman Drive
KESWICK TERMINAL SA 5035

By email WJohnson@ARTC.com.au

Dear Mr Johnson

ARTC Hunter Valley Coal Network Access Undertaking Submission in response to ARTC development of TUT-related performance incentives stakeholder consultation

Under clause 13.5 of the Hunter Valley Access Undertaking dated 23 June 2011 (as varied from time to time) (**HVAU**) Australian Rail Track Corporation Ltd (**ARTC**) are obligated to prepare and publish options for a proposed performance incentive scheme which has the objectives of encouraging ARTC through financial reward to improve its performance in relation to making capacity available for use and balancing the negative consequences of failing the system wide true up test (**TUT**). The ARTC must also invite submissions from access holders and other stakeholders on the proposed TUT-related performance incentive scheme.

I refer to the:

- ARTC Positive Performance Incentive Scheme Stakeholder Consultation Letter dated 6 February 2015; and
- TUT Positive Performance Incentive Mechanisms Discussion Paper dated February 2015, (together the **ARTC Proposal**).

The ARTC Proposal considers possibilities relating to the adoption of a positive incentive scheme specifically related to the TUT and proposes a scheme for the consideration of stakeholders. Hunter Valley Energy Coal Pty Ltd (**HVEC**) welcomes the opportunity to provide a response to the ARTC Proposal prior to ARTC's proposal of any amendment to the HVAU. HVEC is generally supportive of ARTC's request for an incentive mechanism where that mechanism effectively drives improved efficiency and increases system capacity. However, HVEC's support for any particular incentive mechanism will be subject to comprehensive consideration of the specific details and design of that mechanism.

While HVEC are happy to work with ARTC towards the development of a suitable incentive mechanism that will satisfy all stakeholders, HVEC would only be likely to be supportive of an incentive mechanism which addressed the following key issues:

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

1. Incentive mechanism must require ARTC to better its current obligations

In clause 1.1(d) of the HVAU, ARTC recognises that the operation of and investment in the development of the Hunter Valley network of railway lines is primarily to improve capacity utilisation and performance of rail services and to optimise coal export throughput in the Hunter Valley.

Given that ARTC is under an existing obligation to optimise network throughput, any incentive mechanism should only reward ARTC for delivering an outcome which exceeds its existing obligation – it should not reward ARTC for achieving its existing contractual obligations. For this reason, the identification and definition of objective criteria which would trigger an entitlement to any incentive payment is critical.

2. Independent third party must set objective key performance indicators

As noted above, the definition of the objective criteria which would trigger an entitlement to any incentive payment is critical. For this reason, the terms of the incentive mechanism (including its objective triggers) need to be set (and verified) by an independent third party. Any incentive payment must be independent and separate from any other payments that exist under the HVAU and should not be related to the floor or ceiling revenue limits under the HVAU.

3. Incentives must only reward ARTC for its contribution to an optimised outcome

The objective key performance indicators and benchmarks must be assessed by reference to what ARTC has done and must exclude any outcome which is attributable to actions taken by users or coal producers which have independently had the effect of optimising network throughput.

4. Incentive mechanism must be appropriately weighted

Any upside for exceeding obligations must also be matched by an equivalent downside where obligations are not met. For example, an incentive mechanism which encourages ARTC to take risks which could have negative financial or operational consequences for users or coal producers is not a true incentive unless ARTC is penalised for creating negative impacts. An incentive mechanism to reward over performance must also penalise under performance or non-compliance.

5. Incentive mechanism must produce long term optimisation

An incentive mechanism must not reward ARTC for short term or ad hoc optimisation but rather only reward ARTC for configuring optimisation that provides predictability and long term certainty for users and coal producers.

6. Incentive mechanism must not complicate HVAU

HVEC would not support the introduction of an incentive mechanism which creates a more complicated financial model than currently exists under the HVAU. An incentive mechanism must be simple, transparent, measureable and clear. Point 2 above is critical to achieving this.

7. Incentive mechanism must suit all markets

An incentive mechanism must operate successfully in all environments including where there is both excess capacity and insufficient capacity.

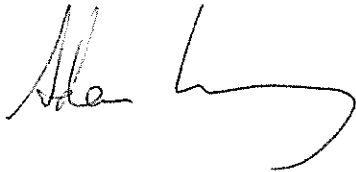
8. Incentive mechanism must not affect the ability to trade capacity

An incentive mechanism must not indirectly or directly affect the ability for coal producers to make capacity trades.

The ARTC Proposal notes that a variation application is required to be submitted in March 2015 and that although not certain, timing may facilitate implementation of an incentive mechanism by 1 January 2016. As pointed out in the ARTC Proposal, the term of the HVAU ends on 30 June 2016. HVEC is of the view that current discussions in relation to any proposed incentive mechanism are valuable in the context of both current and future undertakings.

In the interests of furthering the exchange of views amongst all Hunter Valley coal chain participants HVEC notes that this submission may be published and/or provided to the Australian Competition and Consumer Commission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Adam Lancey', with a long horizontal flourish extending to the right.

Adam Lancey
Acting General Manager CHPP & Infrastructure