

## **Proposed Variation to the NSW Rail Access Undertaking under Schedule 6 AA Transport Administration Act 1988 (“the Act”)**

ARTC proposes to seek a variation to the NSW Rail Access Undertaking by amending the definition of the Rate of Return in Schedule 3 as follows:

**Rate of Return** means a rate of return in percentage terms approved by IPART for a period of five years to be applied to the average of the Opening and Closing Regulatory Asset base. The Rate of Return approved by IPART for the period from 1 July 1999 is 8.0 percent on a real, pre tax basis. IPART will undertake an early review of, and approve, the rate of return to apply to that part of the Hunter Valley Coal Network of which ARTC is the Rail Infrastructure Owner, and that part of the NSW Rail Network connecting the Hunter Valley Coal Network to The Gap, to apply to the period commencing 1 July 2008 (“**2008 Regulatory Period**”). The rate of return approved by IPART to apply for the 2008 Regulatory Period, irrespective of when that rate of return is approved, will be taken to apply from 1 July 2008:

- (a) until IPART reviews and approves another rate of return in accordance with this undertaking, or
- (b) to the extent this undertaking does not apply to any part of the NSW Rail Network in respect of which ARTC is the Rail Infrastructure Owner, in the event of approval of an ARTC access undertaking by the Australian Competition and Consumer Commission.

12 November 2008