INDEPENDENT PRICING AND REGULATORY TRIBUNAL OF NEW SOUTH WALES

Statement of reasons for decision on the compliance of Australian Rail Track Corporation with Schedule 3, clause 5(f) of the New South Wales Rail Access Undertaking for the 2012/13 financial year

DECISION

In accordance with clause 5(f) of Schedule 3 of the NSW Rail Access Undertaking (the Undertaking), we have determined that Australian Rail Track Corporation (ARTC) has demonstrated to our reasonable satisfaction that access revenue of its non-Hunter Valley Coal Network (non-HVCN) sectors is not more than 80% of the access revenue likely to be derived by the application of the Ceiling Test (as defined in the Undertaking) of each sector for 2012/13. The relevant non-HVCN sectors are:

- Turrawan – The Gap;
- Turrawan – Boggabilla;
- Goobang Junction – Merrygoen;
- Merrygoen – The Gap;
- Merrygoen – Ulan;
- Sefton Park Junction – Enfield West; and
- Port Botany Yard.

REASONS FOR DECISION

IPART's assessment of ARTC's compliance

In making our decision we have reviewed 3 submissions from ARTC, which are dated 1 November 2013, 28 November 2013 and 20 December 2013, demonstrating compliance with clause 5(f) of Schedule 3 of the Undertaking for its non-HVCN assets for 2012/13.

For sectors other than the Gap to Turrawan sector

ARTC's submission of 1 November 2013 provided confirmation that ARTC had undertaken a review of Access revenue, Full Economic Costs and cost recovery information for the following non-HVCN sectors:

- Turrawan – Boggabilla (non-metropolitan);
- Goobang Junction – Merrygoen (non-metropolitan);

- Merrygoen – The Gap (non-metropolitan);
- Merrygoen – Ulan (non-metropolitan);
- Parts of the Sydney metropolitan freight network where ARTC's lease commenced in, or prior to 2011/12. This includes Sefton Park Junction to Enfield West and parts of the Port Botany yard.

We note ARTC's confirmation (for all sectors other than Gap to Turrawan) that there have been no material changes to the access revenue and Full Economic Costs of each sector that would cause revenue to approach the 80% threshold under schedule 3, clause 5(f) of the undertaking. Having regard to that confirmation, we are reasonably satisfied, for all sectors other than Gap – Turrawan, that Access revenue is no more than 80% of the Access revenue likely to be derived by application of the Ceiling Test for 2012/13.

For the Gap to Turrawan sector

ARTC's submission of 28 November 2013 and 20 December 2013 addressed compliance of the Turrawan – The Gap sector with the Undertaking. We are reasonably satisfied that the sector's Access revenue recovered less than 80% of the Full Economic Costs for 2012/13.

We accept ARTC's proposal to conduct the ceiling test by examining the costs of the sectors from Turrawan to the Gap and from Gap to Muswellbrook and the revenues from coal mines on those sectors less the variable cost for that coal to traverse the network from Muswellbrook to the Port of Newcastle. Non-coal revenue was estimated after deducting the equivalent variable cost and the fixed cost of grain branch lines used by that traffic.

While ARTC used the same methodology as 2011/12, it revised its Depreciated Optimised Replacement Cost (DORC) asset valuation and increased operating costs in the Ceiling Test calculation for 2012/13. For the purposes of undertaking our compliance assessment, we have not adopted either the revised DORC valuation or the increased operating costs.

Instead, in undertaking our compliance assessment, we adopted a more conservative set of costs using ARTC's 2011/12 estimates of operating costs and DORC and concluded that Access revenue (including coal and non-coal revenues) for the Gap to Turrawan sector were less than 80% of Full Economic Costs for 2012/13. In future compliance years, we may require further information, including operating costs and asset valuations, to be reasonably satisfied that Access revenue will not exceed the 80% threshold under schedule 3, clause 5(f) of the Undertaking.

Overall, we are reasonably satisfied that ARTC has demonstrated that access revenue of each of its non-HVCN sectors is no more than 80% of the Access revenue likely to be derived by application of the Ceiling Test for 2012/13 under clause 5(f) of Schedule 3 of the Undertaking.

Assessment of compliance for 2013/14

In our 2011/12 assessment of compliance and statement of reasons, we indicated that for all ARTC operated non-HVCN sectors other than Gap to Turrawan, ARTC is required to provide annual confirmation that there have been no material changes that would cause revenue to approach the 80% threshold in any relevant sector(s). ARTC need only (unless otherwise notified) submit detailed cost and revenue information every 5 years.

For the 2013/14 compliance year onwards, we request that ARTC continue to provide an annual confirmation that there have been no material changes to the Access revenue and Full Economic Cost for each non-HVCN sector that would cause Access revenue to approach the 80% threshold (as set out in clause 5(f) of schedule 3 of the Undertaking) for that sector for the relevant compliance year. If there are material changes of any sector, we request that ARTC provides us with information on those changes.

However, given the likely continued growth of coal traffic on the Turrawan – The Gap sector, Access revenue for that sector may reach the 80% threshold in the near future. ARTC may need to submit ceiling test information for this sector for 2013/14 under schedule 3, clause 5(a) of the Undertaking.

11 March 2014