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Mr Russell Dumas  
Director Gas and Rail Access  
Economic Regulation Authority  
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**Submission by BHP Billiton Worsley Alumina on the Review of WestNet Rail's Floor & Ceiling Costs for Mainline, Worsley line and Terminal End Bits**

Dear Russell,

BHP Billiton Worsley Alumina Pty Ltd (Worsley) has reviewed the submission made by Westnet Rail entitled "Proposed Floor and Ceilings for Mainline, Worsley line and Terminal End Bits – August 2008" (Westnet Proposed Costs), the WNR Floor and Ceiling Cost Supplementary Submission "Reconciliation of New and Old Access pricing Model" (APM) and the supplementary GHD report "Review of Unit Prices for Clause 9 Ceiling Price Review – October 2008" (GHD Report) which has been used to support the price increases proposed in the Westnet Proposed Costs.

We find issues and concerns in the following areas:

- 1) Failure of the ERA to monitor and revise the MEA where WNR has not meet the standard and service expected in the MEA
- 2) Failure of Westnet to comply with the lowest current cost principle expressed in the GRV definition in the Code
- 3) Concern about the transparency of the reconciliation process from the Old to the New APM
- 4) Concern that the accuracy of the data collection process for GTK for use in the APM

If we have misunderstood or misinterpreted information provided by the ERA as part of the public consultation process then it is a result of the lack of detail provided for these public submissions. If any errors have been made in the assumptions, then we are available to meet with the ERA to explain the basis of our assumptions.

Enquiries on this submission should be directed to:

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Yours Sincerely

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## 1) MODERN EQUIVALENT ASSET (MEA)

We repeat the sentiment from our Nov 2006 submission that the ERA in their 2003 Determination defined the MEA for the South West Mainline (SWM) and the Brunswick to Premier line (Worsley Line). Westnet has sought ceilings based on these standards. It is now six years since the MEA was defined and there are still sections of track on the SWM which remain at the old standard. Whilst the track upgrades are near completion, the track axle loading is now compromised by substandard culverts and bridges. Since the whole line must be at the higher standard before new or upgraded rolling stock can be utilised, end users have been funding the upgrades without any benefit flowing to them in the five years since the 2003 Determination.

This highlights an anomaly in the approval process for GRV where the Code states that the "GRV is ...calculated as the lowest current cost to replace existing assets with asset that have the capacity to provide the level of service that meets the actual and reasonably projected demand and are, if appropriate, modern equivalent assets...."

The Regulator in his 2003 Determination wrote:

*"The Regulator will monitor the delivery of the level of service through key performance indicators and, as indicated in the Regulator's Costing Principles Determination, will revise the MEA standard if it can be demonstrated that WNR is consistently not providing the expected standard and service".*

### **Recommendation:**

Based on the failure of Westnet to provide the MEA standard claimed in December 2002 over the entire SWM and Worsley Line, the ERA needs to determine the progress of culverts and bridge upgrades to meet the MEA standard and to revise the ceilings down until the committed standard is delivered.

## 2) GROSS REPLACEMENT VALUE

Worsley has reviewed supplementary GHD report "Review of Unit Prices for Clause 9 Ceiling Price Review – October 2008 and find that the 2008 unit prices have been established by the following methods:

- 2002 unit prices indexed to 2008. (7)
- 2006 unit prices indexed to 2008. (3)
- Single source (3)
- Single source using the 2002 supplier (5)

This in our opinion these methods do not meet the lowest current cost criteria for GRV valuation as defined in the Code.

The process during review cycles disadvantages the end user as they attempts in a short time frame to find low cost unit rates to compete with WNR indexed or single sourced rates. Failure to do so implies acceptance of the proposed rates. In principle unit rates indexed by an average or provided by single source for convenience are unlikely to produce lowest current cost as required by the Code.

### **Recommendation:**

The ERA should ensure that the provisions of the Code provide a mechanism to deliver the lowest costs and hence competitive pricing for end users whilst providing the Railway Owner with a reasonable return on its investment. The GRV should reflect these lowest costs – The current methodology of establishing unit rates favours the Railway Owner and needs reviewing.

### **3) APM RECONCILIATION**

We have reviewed the WNR Floor and Ceiling Cost Supplementary Submission "Reconciliation of New and Old Access pricing Model". It is disappointing to have such a material discrepancy identified in WNR's APM. The information presented in the report does not provide any transparency to the end user of the reconciliation between the Old and the New APM. The variations are described in some instances in terms of impact on GRV in others on the Ceiling. Train paths are not always aligned to WNR Lines, so the variations should be shown at route section level. The basis of comparison should be the MEA, qty and price data from the 2006 Determination.

#### **Recommendation:**

WNR should present a reconciliation between the Old and New APM at the route section level in the format of the new public version of the APM. It should show the Old, New values and the variation to the each GRV, Ceiling and Floor value with commentary quantifying the contribution each identified error has made to that route section.

### **5) GTK VALIDITY**

Worsley has previously attempted to reconcile certain route section GTK's with its own data but has been unable to do so. The discovery of this manifest error in WNR's APM raises concern about the credibility of WNR system that captures GTK. Whilst accepting that is a separate system. We are not aware of any audit previously undertaken to verify GTK's.

#### **Recommendation:**

The ERA should undertake an audit of the WNR GTK capture process with participation of interested rail users to satisfy itself and the rail users of the integrity of the GTK's captured by WNR.