

Our Ref: RAIL/020/V1

19 September 2007

Mr Reece Waldock
Chief Executive Officer
Public Transport Authority
PO Box 8125
Perth Business Centre WA 6849

Dear Mr Waldock

REVIEW OF RAIL ACCESS REGULATION FOR THE PUBLIC TRANSPORT AUTHORITY (PTA)

I am writing to seek your agreement to the Economic Regulation Authority (Authority) reducing the regulatory compliance requirements currently in place for the PTA under the arrangements the Authority has established pursuant to the rail access legislation (*Railways (Access) Act 1998 (Act)* and *Railways (Access) Code 2000 (Code)*).

Rail access staff from the Authority's Secretariat recently met with the Messrs Hugh Smith and Mal Ripp of the PTA, on 6 September 2007, to discuss this proposal and I understand that the proposed changes were considered to benefit the PTA.

The rationale for the changes and the proposed changes and implementation process are outlined below.

Current regulatory compliance requirements

Currently the PTA and WestNet Rail, as railway owners, are subject to the Act and the Code and accordingly must prepare documents that fulfil the requirements of the Part 5 Instruments and floor and ceiling costs under the Code and segregation arrangements under the Act. These documents are required to be reviewed every three years.

In addition, as a result of the determinations of the former Independent Rail Access Regulator (IRAR) the railway owners are required to prepare and submit Key Performance Indicator (KPI) information to the Authority on a quarterly and annual basis and to commission independent annual audits of compliance with the segregation arrangements under the Act and the Part 5 Instruments under the Code.

Rationale for changes to the compliance requirements

The PTA is primarily a provider of rail passenger services where the PTA owns and operates both the below rail and the above rail assets. There is very limited third party usage of the PTA rail network. Specialised Container Transport (SCT) uses the section of rail from North Fremantle to Robbs Jetty and Great Southern Railways (GSR) uses the section of rail line from Midland to East Perth for its Indian Pacific passenger rail service.

Given the above, and the situation where the PTA is a Government owned and operated entity managing a subsidised urban passenger rail network which is unlikely over the foreseeable future to attract access seekers other than at the margin (such as the current SCT and GSR operations) it seems reasonable for the extent of PTA's regulatory compliance requirements to be aligned with the nature of its operations and rail network from a third party access perspective. With this in mind, the Authority considers that the current regulatory compliance arrangements currently in place for the PTA can be significantly reduced.

Proposed changes to the rail access requirements

The Authority proposes the following changes to the PTA's current regulatory compliance requirements:

- No regular future reviews of the PTA's Part 5 Instruments and floor and ceiling costs (after completion of the current reviews) except where access seekers approach the Authority seeking access under the regime and the Authority decides that a review is required.
- No annual compliance audits on the Part 5 Instruments and segregation arrangements except on the basis as outlined above.
- No requirement for KPIs to be submitted other than on the basis as outlined above.

The proposed changes to the regulatory compliance requirements currently in place would substantially reduce the compliance requirements on the PTA. Should future access seekers not be able to negotiate commercial access agreements with the PTA and make a request to the Authority for access to the PTA's network then the Authority can require the compliance arrangements to be reinstated, as appropriate. There would be no change to the existing rail legislation (Act and Code).

Implementation process

Once the PTA has responded to this letter confirming its agreement to the Authority's proposal, the Authority Secretariat will discuss the proposal with the Chief of Staff, Mr Rob Giles, for the Minister for Planning and Infrastructure, the Hon Alannah MacTiernan MLA. Assuming agreement to these changes, a notice will then be placed on the Authority's website seeking public submissions on this proposal over a four week period. If there are no submissions or any submissions outlining substantive arguments against this proposal then the Authority will amend the current revised Part 5 Instruments currently being reviewed to incorporate the changes outlined above. The floor and ceiling costs review will then be undertaken. These reviews would be the last reviews of these documents except under the circumstances outlined above.

I look forward to your agreement to the Authority's proposal to reduce the regulatory compliance requirements on the PTA, as outlined above.

If you have any queries on this proposal please contact Ms Jennifer Hughes on 9213 1943.

Yours sincerely

LYNDON ROWE
CHAIRMAN