



Wednesday, 8 June 2011

Economic Regulatory Authority
PO Box 8469
Perth BC
Western Australia 6849

Attention: Assistant Director Access

By email: publicsubmissions@erawa.com.au

Dear Sir

Review of the Requirements for Railway Owners to Submit Floor and Ceiling Cost Proposals

This letter is being submitted to the ERA in response to the ERA issues paper on the "Review of the Requirements for Railway Owners to Submit Floor and Ceiling Cost Proposals" released in May 2011.

Under the Railways Access Code a railway owner, such as Westnet Rail, must prepare proposed maximum and minimum costs applicable to those sections of their network on which an access proposal is likely to be made or is actually made, with these proposals then being reviewed by the ERA.

The current review is focussed on the requirements for Westnet Rail and The Pilbara Infrastructure to submit maximum and minimum cost proposals, with Westnet Rail being due to submit revised maximum and minimum cost proposals in October 2011.

Asciano recognises that to date Westnet Rail has not received a proposal for access under the Code and that as a consequence the ERA is considering revising the current requirement for Westnet rail to submit maximum and minimum costs. However, floor and ceiling prices have been a useful guide for access prices agreed outside the Code.

However, Asciano believes that Westnet Rail should continue to submit maximum and minimum costs to the ERA as;

- the ongoing provision of a consistent series of maximum and minimum costs will generally provide a sufficient level of information to access seekers, and as such, the provision of this information promotes the potential for access by new entrants, and consequently promotes the potential for above rail competition.

In particular there is a substantial benefit to the access seeker in having pre-determined maximum and minimum costs available, as opposed to discovering those via the access proposal process. The availability of such pre determined costs will allow any access seeker to approach a railway owner with an access proposal.

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- with increasing levels of resource development in the south west of Western Australia, particularly in the Midwest and Yilgarn areas, access proposals on the Westnet Rail network arising from this development could be expected within the next three years. As such any decision to cease providing maximum and minimum costs may be premature and may actually result in increased costs when proposals for access are submitted;
- continuation of this existing regulatory process may also benefit both Westnet Rail and the ERA, as this regulatory process can be continued at an incremental cost. If the submission of maximum and minimum costs is no longer required, then at a time when a proposal for access occurs, both the railway owners and regulator will have to re-develop processes and systems from a low base within a short time frame, rather than rely on documentation already submitted, approved and known to all parties; and
- in the absence of pre determined maximum and minimum costs the provisions of the Code may not always allow sufficient time for the maximum and minimum costs to be adequately prepared and reviewed.

The Western Australian rail access regime is intended to promote efficient, effective, fair and transparent competition on Western Australian railway networks. Pricing certainty and transparency is currently provided by the current maximum and minimum cost submission process. This process is a fundamental in allowing the access regime to be efficient, effective, fair and transparent.

Asciano believes that access pricing in Western Australia should continue to be subject to current requirements regarding the submission of maximum and minimum costs. This current process results in tested cost information being available to access seekers. Any move which reduces the amount of cost information available places access seekers at a disadvantage in price discussions with access providers.

Removing current cost information would be a retrograde step and would not contribute to the promotion of competition on Western Australian railway networks.

If you wish to discuss this issue please contact me on (03) 9248 7274 or Stuart Ronan on (02) 8484 8056.

Yours faithfully,

A handwritten signature in blue ink that reads "Tim Kuypers". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dr Tim Kuypers
Group General Manager Safety, Access and Regulation

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