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Mr Jeremy Threlfall
Assistant Director Access
Economic Regulation Authority
Level 6
197 St Georges Terrace
Perth WA 6000

By email: publicsubmissions@erawa.com.au

Dear Sir

Invitation for Public Submissions - Review of the Requirements for Railway Owners to Submit Floor and Ceiling Cost Proposals

Co-operative Bulk Handling Limited ("CBH") refers to the Economic Regulation Authority's ("Authority") Issues Paper entitled *Review of the Requirements for Railway Owners to Submit Floor and Ceiling Cost Proposals* and the Authority's request for submissions from stakeholders.

CBH, on behalf of the 4,600 grower members it represents, does not support any proposal to discontinue or lessen the requirement for a Railway Owner to submit their floor and ceiling prices for the route sections historically nominated by the relevant Railway Owner.

In respect of the grain rail network as a whole, CBH submits that the current requirement of submitting floor and ceiling prices for only 3 nominated route sections (which represents less than 7% of the entire grain rail network) is insufficient and inadequate and fails to meet the objectives of the rail access regime of promoting efficiency, transparency, effectiveness and fairness. The West Australian rail access regime is a negotiate and arbitrate regime and to completely remove any requirement to publish floor and ceiling prices would erode a level of transparency which is already deficient.

CBH submits that the current requirement to publish floor/ceiling costs at least affords access seekers the opportunity to evaluate and verify the access costs a Railway Owner actually proposes (outside or under the Code) against the published rates, albeit in a less than satisfactory way given the huge discrepancies that exist between published floor and ceiling prices. Further, published access costs allow potential access seekers and current users a point of reference against those charged by railway owners in different jurisdictions which provides some guidance as to whether monopoly type charges are being proposed.

CBH has numerous issues with the Modern Equivalent Asset/Gross Replacement Value methodology used in determining floor and ceiling prices, namely the fact that access prices do not reflect the standard of infrastructure on the grain lines. However, to keep within the scope of the Issues Paper in question, CBH proposes to raise these concerns in the next round of submissions in relation to the Authority's continuing second review of the *Railways (Access) Code 2000* ("Code").

The Authority notes that not one access seeker has formally made a proposal for access under the Code. In the view of CBH, this is a reflection of the Code's failure to meet the primary objective of the *Railways (Access) Act 1989* ("Act") of establishing a rail access regime that encourages the efficient use of, and investment in, railway facilities by facilitating a contestable market for rail operations. The access regime provides potential access seekers little surety that a negotiated outcome will be achieved within a commercially acceptable timeframe and any negotiation breakdown or dispute is subject to an open ended arbitration process. It is logical that when faced with such uncertainty, many access seekers will have no commercial choice other than to negotiate an arrangement with the Rail Owner outside the Code's cumbersome regime.

CBH is of the view that the Authority's concerns regarding the compliance and administration costs of publishing floor/ceiling prices are insignificant when compared to the public detriment that will flow from a less open and transparent access regime. If any changes are to be made, it is CBH's view that more thorough access charges should be published covering the whole of the grain rail network based on a methodology which is reflective of the current state of the track and not on the current theoretical or idealistic practice.

CBH is the primary or sole user of the grain rail network and a user of WestNet Rail's southwest rail network. CBH does not use and does not envisage using the railway operated by The Pilbara Infrastructure. CBH acknowledges that this letter should be read in this context.

CBH appreciates the opportunity to comment on the Issues Paper.

Yours sincerely,

For: Co-operative Bulk Handling Limited



ALLYN WASLEY
General Manager Operations