14 August 2019

Rail Access, review of RailCorp compliance for FY16, FY17 and FY18
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop NSW 1240
Submitted by online portal

Dear Sir/Madam

Pacific National is pleased to provide a submission to IPART on its Draft Decision on RailCorp's compliance with the New South Wales Rail Access Undertaking (the undertaking) for its Hunter Valley Coal Network (HVCN) in 2015-16, 2016-17 and 2017-18 (Draft Decision).

We note IPART identified a compliance issue as RailCorp's access revenue for 2017-18 exceeded the full economic cost of providing access (the floor/ceiling test). This resulted in an over-recovery of access revenue from coal customers. RailCorp claimed an over-recovery of $4,424,943, however IPART's calculations reveal an actual over-recovery of $7,956,472.

IPART expressed concern over the frequent over-recovery by RailCorp and it wants to conduct a full review of the access regime to be able to effectively enforce compliance with the undertaking – for example, IPART does not currently have the power to monitor compliance with the under and over recoveries account.

In our 28 May 2018 submission to IPART on the undertaking review of rate of return and remaining mine life, Pacific National strongly supported a review of the undertaking. Put simply, the undertaking is not effective in constraining monopoly behaviour. The over-recovery (and the under reporting of the over-recovery amount) is further evidence of this deficiency.

It is likely the over-recovery is even higher than calculated. The RailCorp network is a shared network. Passenger transport is prioritised over freight and capital expenditure and maintenance on the network reflects this prioritisation. The standalone cost for rail freight is not a rail comparison but a road comparison – particularly as more and more freight shifts to road in NSW (including to and from the Ports). For example, the total number of containers hauled by rail at Port Botany fell by about 5 per cent in 2018 (from 2017).

This situation is counter-intuitive. Rail freight transport has significant inherent benefits for the economy and community relative to road – to quantify in terms of positive externalities, a 2017 Deloitte Access Economics report found moving freight by rail (instead of road) generates benefits for society of around 1.45 cents per tonne kilometre.

Conversely, moving freight off rail incurs 14 times greater accident costs and produces 16 times more pollution per tonne kilometre. However, despite rail freight transport imposing far fewer costs to the community in terms of accidents, congestion and emissions than road, these economic externalities are not factored into transport infrastructure prices – rail access is charged up to double that of road. RailCorp is one of the worst offenders, based on indicative data its FY18 charges were the second highest of all the network providers on a $GTK basis, specifically for Sydney Trains non-coal freight.

The proposed IPART undertaking review (recommended in the Draft Decision) presents an opportunity to address this imbalance. In the first instance, indicative tariffs should be set by the regulator to constrain RailCorp's monopoly pricing. In other jurisdictions with regulator set indicative tariffs, access charges have been reduced by as much as 36% compared to the tariff initially proposed by the monopoly rail provider.

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An efficiently set indicative tariff is far more likely to limit the opportunity for over-recovery than the current floor/ceiling test approach. It would also be a superior outcome to IPART's recommendation for RailCorp to publish unit rate data to assist users understand how much of an over-recovery relates to them. Users would also benefit from volume discounts on access charges if rail charges are set equal to, or less than, road prices on a tonne per kilometre basis.

In the past, an explicit recognition of modal shift has not been built into rail access charges. However, this is exactly the recommendation proposed by Pacific National to the Queensland Competition Authority for Queensland Rail – a road to rail modal shift rule. Specifically, the rule requires Queensland Rail to reduce its access charges (and be able to demonstrate how it has set its access charges) to increase rail to road modal shift. The methodology for setting access charges under this rule must use an appropriate road to rail proxy to reduce access charges to equal road prices on a tonne per kilometre basis. This should be done for RailCorp.

Pacific National notes IPART's Draft Decision incorrectly asserts:

> "We understand that it is typical, but not universal, for contracts between rail operators and users of rail freight services to include access charges as a direct pass-through. This contractual structure has the effect of making **rail operators indifferent to access prices and removes any incentive for them to seek recourse for overcharging** (*emphasis added*)"

We would submit even a cursory review of Pacific National's (as well as other rail operators) submissions to regulators, government inquiries and reviews reveals rail operators to be unabashed champions of growing the volume of freight moved on rail relative to road. The key to achieving this is to abolish or at least significantly reduce rail freight access charges consistent with the recommendations above.

Pacific National is more than happy to meet with IPART to discuss the matters raised in this submission.

Yours faithfully

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