

30 January 2009

Mr James Cox
Chief Executive & Full Time Member
Independent Pricing And Regulatory Tribunal
PO Box Q290, QVB Post Office NSW 1230

By email: ipart@ipart.nsw.gov.au

Dear Mr Cox,

REVIEW OF HUNTER VALLEY RATE OF RETURN & REMAINING MINE LIFE

Asciano welcomes the opportunity to comment on the Independent Pricing And Regulatory Tribunal (IPART) 2009 review of the rate of return and remaining mine life relevant to the Hunter Valley rail network in the context of the NSW Rail Access Undertaking (NSWRAU).

The review takes place at a time when there are significant changes expected to occur both in the regulation of the Hunter Valley rail network and the commercial arrangements between the track owner and other stakeholders. The ARTC is currently consulting on a Access Undertaking which will be submitted to the ACCC which fundamentally changes the access relationships. In particular, the producers will contract directly with ARTC and hold rail capacity. Asciano is supportive of these developments and engaging fully in ARTC's consultation process.

As well as the contractual changes expected, there has been a significant shift in focus amongst stakeholders towards facilitating the considerable investment required in new rail capacity to meet the expected growth in coal exports. The conduct of the 5-yearly review into the returns from the rail network is therefore most timely.

Given that we are approaching February and the ARTC has yet to submit its undertaking to the ACCC, we believe that the targeted timeframe of a new operational undertaking by July 2009 is unlikely to be met. This makes the IPART review extremely relevant. We also note and agree with RailCorp's position that it will adopt the IPART determined rate of return. RailCorp will not be affected by the upcoming ARTC undertaking, lending an importance to IPART's review even when ARTC has moved under the ACCC jurisdiction. Further, the likelihood that the RIC rail infrastructure beyond Werris Creek will one day be affected by a revenue ceiling reinforces the continuing role that IPART will have regarding the economic parameters used to determine access charges in NSW.

ARTC's submission is based on substantial papers from Synergies and Booz. Asciano assumes and encourages IPART to follow its previous practice of conducting a detailed assessment of the parameters used to calculate the weighted average cost of capital (WACC) and remaining mine life.

Given the upcoming changed contractual relationships, it is not appropriate for Asciano to engage as significantly as it has done in the past on the rate of return and mine asset life issues. Our interest is that adequate capacity is delivered in a timely and efficient manner. We believe that this is best achieved by through dialogue between the producers and ARTC and thus urge IPART to pay particular attention to the producers' views on ARTC's proposals.

While substantial documentation has been provided by ARTC in support of its claims, it is noted that no estimate or guidance has been provided as to the likely impact on access prices should ARTC's claims be approved. The substantial investment program coupled with the shorter economic life that would result from ARTC's claims suggests that there may be substantial price rises. It would be useful to the process if the access fees that result from the proposed changes are transparent.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Tim Kuypers', with a stylized flourish extending from the bottom.

Dr Tim Kuypers
General Manager
Access & Regulation