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## FINAL DRAFT ARTC UNDERS AND OVERS POLICY

I refer to your e-mail dated 26 November 2007 inviting comments on ARTC's draft Unders and Overs Policy dated 19 October 2007 ("Policy").

I wish to confirm that QR has been duly consulted by ARTC with regard to this policy as per the requirements of Schedule 3, Clause 4(f) of the NSW Rail Access Undertaking.

As advised to ARTC by letter dated 25 September 2007, QR supports the underlying principles incorporated in the Policy and agrees with ARTC's proposed philosophy to determine an equitable distribution of Unders and Overs between the various Access Seekers.

However, QR holds the position that zero balancing as the single method for reconciliation proposed under section 3.4 of the revised draft is too restrictive. Whilst adjusting access rates for the following year could result in differential pricing and thus should be avoided, a second option of mutual agreement between the parties would enable increased flexibility without reducing equity. This second option, which was previously offered in the original Policy, could provide a means to prevent "round robin" payments. As it stands, it is still unclear how ARTC intends to mitigate or prevent the collection of an Under amount from one operator and corresponding Over payment to another operator for a single haul that has neither over nor under performed in a given year. There should be a mechanism to prevent the situation whereby one operator is billed by ARTC for its share of underperformance which it then passes through to its customer (the mine) and ARTC reimbursing the Over amount back to the other operator who then passes it back to its customer (the same mine).

QR has sought but not yet received clarification from ARTC regarding whether domestic coal mines transporting within the Constrained Network are to be charged at the ceiling rate. If those mines pay less than the ceiling rate QR does not support the concept of including domestic coal in the Unders and Overs calculation. If they

are to pay at the ceiling rate and ARTC intends to include domestic hauls in the Unders and Overs calculation, the Policy should be amended accordingly.

With regards to the proposed approach to information disclosure that would apply to different classes of "Access Seeker" as outlined in section 3.3 and Annexure A of the document, on the whole the Undertaking and the Policy need to be consistent in terms of both definitions and disclosure requirements. QR accepts ARTC's case as provided in the revised version 1.1 of the Policy dated 4 September 2007. This is as follows:

*ARTC holds the view that whilst the definition of Access Seeker in the Undertaking is appropriate in relation to certain processes required by the Undertaking, such as the Capital Consultation Process, the application of the Unders and Overs process, in the sense of allocation and reconciliation, is really only appropriate in practical terms with those parties that have physically made payments to the access provider. In this sense the access provider has no knowledge of the pass through (or otherwise) arrangements for access charges to end users. The PN submission points out that 'the level of separation of the Unders and Overs to mine level is unnecessary and is beyond the scope of the contractual arrangements held by ARTC in supplying track access ... '.*

ARTC should consult with all Access Seekers as per the Undertaking in terms of Policy development and the Capital Consultation Process. As the ultimate payer of access charges and user of available capacity, the end customers such as mines have an interest in the calculation methodology and investment decisions. However, with regards to the resulting allocation and reconciliation of Unders and Overs it is agreed that it is more practical for ARTC to deal directly with those Access Seekers with whom ARTC has a financial relationship, ie Rail Operators. It should then be the responsibility for the Rail Operators to pass appropriate information and charges through to their end customers eg the mines.

QR appreciates the consultation process employed in the development and finalisation of this Policy. Should you wish to discuss this submission in greater detail, please do not hesitate to contact either myself or Kym Garvan on (07) 3235 1533.

Yours sincerely



John Harnischfeger  
11 December 2007