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Mr Jeremy Threlfall
Assistant Director Rail
Economic Regulation Authority
PO Box 8469
Perth BC WA 6849

Dear Mr Threlfall

NWIOA response to the ERA Draft Determination re TPI's Costing Principles

I refer to the Draft Determination on the Costing Principles proposed by the The Pilbara Infrastructure (TPI) published by the Economic Regulation Authority (ERA) on 24th November 2009. In response to the ERA's invitation to provide submission on the Draft Determination, the North West Iron Ore Alliance (NWIOA) responds as follows.

1. SECTION 2 TIMING AND ROUTE SECTIONS

The actual definition/purpose of the costing model is an omission from the document. Throughout the TPI Costing Principles and draft determination there is discussion about the Costing Model and what it should contain but there is no actual definition of the Costing Model. As an example, the "WestNetRail Costing Principles" (WNR CP) dated April 2009, define the "WestNet Costing Model" as:

"Means the model that WestNet use to calculate Ceiling costs and includes the associated models and data bases for:

- *the track and signalling and communications model which calculate the GRV of the infrastructure;*
- *track and signalling/communications maintenance models;*
- *the operating costs model;*
- *the overhead and other costs allocation model;*
- *track population data bases;*
- *the usage model which records from RAMS the GTK usage and train movement by route section, and supporting detail for these models including unit rates, assumptions and sources of information as well as the physical characteristics of the infrastructure including distance and specifications."*¹

In addition to the ERA's Required Amendment 2 (which we are in agreement with) that states that "A statement should be included to the effect that TPI will design its costing model to accommodate the addition of multiple route sections in the future", the TPI Costing Principles must also clearly state that the

¹ WestNetRail Costing Principles April 2009, Definitions, p24

costing model is the model used to calculate access pricing. This will remove any doubt that access pricing will be negotiated by sections of line and not the whole line.

The NWIOA would disagree with PricewaterhouseCoopers (PwC) opinion that the additional text from Section 1.4 of the WNR CP proposed by the NWIOA for inclusion in the TPI Costing Principles (TPI CP), "would not add materially to the information provided by TPI in this section of its Costing Principles"². In particular the NWIOA consider the first sentence of the last paragraph, namely "The route ceiling costs together with the volume detail provided as part of Section 7(1)(b)(i) of the Code will assist access seekers to assess price consistency and accuracy"³, to be a vital component of the regime. Publication of route section costs and gross tonne kilometres (GTK), together with train paths are vital tools in assessing not only price considerations but are also vital with regard to forward planning for individual mine expansion. Such feasibility studies require estimation of capital charges and likely access charges for any consequential expansion of the rail network.

The TPI CP provides no guarantee that the above information would be available (as is the case with WNR) and without any definition of the costing model there is no onus for TPI to supply route section data sufficient for access users to plan forward expansions and the likely access charges thereof. The NWIOA would therefore ask the ERA to reconsider the last three paragraphs of Section 5 of the NWIOA Submission dated 1st October, 2008, particularly as there is no definition of a costing model in the TPI CP.

Unfortunately there has been some period of time between the initial public submissions to the TPI Part 5 Instruments and the staggered release of Draft and Final Determinations and we would therefore cross reference this submission with the NWIOA Submission regarding TPI's Train Path Policy in that the specification of capacity be calculated in terms of GTK rather than train paths⁴. The Part 5 Instruments of Train Path Policy (TPP) and Costing Principles (CP) cross reference one another and for instance in the WNR regime costs are allocated in terms of GTK per section of line, actual tonnages are recorded in terms of GTK per section of line and access charges are calculated as \$GTK per section of line. Whilst the WNR TPP refers to access seekers submitting a train path to WNR to see if such a path can be accommodated such access seeker would generally calculate the GTK for the section of line before submitting the train path in order to see if the section of line had capacity or needed additional capacity for that train path. Additionally the Pilbara railways do not operate on train paths but rather fleet trains as they are ready and therefore the capacity of the line is based on GTK. We would request that the ERA reconsider the capacity modelling with regard GTK as if an operator chooses to run a train of 20,000 tonnes compared to a train of 30,000 tonnes the line capacity remains the same if capacity is measured by GTK rather than train paths.

² The Pilbara Infrastructure Pty Ltd (TPI) Draft Determination on TPI's Costing Principles, Economic Regulation Authority Western Australia, paragraph 55, p14

³ North West Iron Ore Alliance Submission TPI Costing Principles, 1 October 2008, p10

⁴ The Pilbara Infrastructure Pty Ltd (TPI) Part 5 Instruments Submission for the proposed Train Path Policy, North West Iron Ore Alliance 5th September 2008, Section 2.1 Specification of Capacity, second last paragraph, p10.

2. SECTION 3.1.2 ECONOMIC LIFE OF ASSETS

The variation in the TPI asset life, noted by the ERA, for earthworks and bridges of 50 years compared to 100 years for WNR would not appear to be supported by other independent consultants calculations of these asset lives used by the Australian Rail Track Corporation (ARTC) and submitted to the ACCC and by the Independent Pricing and Regulatory Tribunal (IPART). The ARTC asset lives for bridges and earthworks developed by PwC⁵ are 100 years for earthworks and 100 years for bridges. Similarly for bridges Booze Allen Hamilton⁶ calculated for the IPART 2001 Hunter Valley DORC Review asset lives of 80 years for steel bridges and 100 years for concrete bridges.

Similarly the TPI asset life of 20 years for rail curves greater than 800mm are a significant variation to the WNR asset life of 60 years. The ARTC generally use an asset life for rail of 50 years for the Hunter Valley and presumably an impact curve would be of a lesser life.

Presumably, the WNR asset lives reflect WNR's heavy haul rail sections of line and whilst the NWIOA appreciates that, because of the higher axle loads and faster speeds of iron ore heavy haul, TPI's asset lives would be of a lower order than WNR. However, the proposed TPI asset lives for the above assets represent a significant variation to the WNR asset lives and the NWIOA submits that they should be factored higher based on evidence from other jurisdictions.

3. SECTION 3.1.3 RATE OF RETURN AND SECTION 4 DEFINITION OF OPERATING COSTS

The NWIOA notes that the ERA will consider the application of any asymmetric (stranding) risk under its future floor and ceiling costs determination for TPI's railway. The NWIOA would reiterate our earlier comments regarding such risk assessment in the NWIOA submissions regarding WACC⁷ and Costing Principles⁸ that the NWIOA is of the view that there is minor stranding risk to the main line as there are mitigation strategies inherent in the access process, and on both the supply and demand sides, there are fundamental market forces which, by any reasonable consideration, suggest this risk is minor.

4. SECTION 4.2 EFFICIENT COSTS

The second bullet point of Required Amendment 9, requires TPI to add, as the second paragraph to Section 4.1 of the TPI CP, the first paragraph under section 3.2 of the WNR CP. We agree with this addition but believe that it is important that the second paragraph of section 3.2 of the WNR CP should also be appended. This paragraph states that "In measuring efficiency, WestNet recognises that these costs change over time especially as a result of innovation and technological change."

Summarising, we believe that the second bullet point of Required Amendment 9, should require TPI to add, as the second paragraph to Section 4.1 of the TPI Costing Principles, the whole of section 3.2 of the WNR CP.

⁵ ACCC, Review of ARTC DORC Valuation, PricewaterhouseCoopers, March 2008, p21.

⁶ Final Report, Valuation of Certain Assets of the Rail Access Corporation, Booze Allen Hamilton for IPART, Section 6, Condition Assessment Hunter Valley, p87.

⁷ NWIOA WACC Submission regarding the TPI Railway to the Authority 15/10/2008, p10.

⁸ NWIOA Costing Principles Submission regarding the TPI Railway to the Authority 1/10/2008, p8.

5. SECTION 4.3 ALLOCATION OF OPERATING COSTS

The NWIOA notes "The Authority agrees with PwC that GTK provides a better measure of demands placed on the railway infrastructure than the simple measure of train kilometres as proposed by TPI"⁹. The NWIOA would refer the Authority to comments in Point 2 above regarding GTK as a measure of capacity or "demands on the railway" as train sizes within a train path can vary and agree with the Authority train kilometres is also an inadequate measure of "demands on the railway" for the same reason.

6. SECTION 6.1 INDEXATION OF FLOOR AND CEILING

We agree with the ERA that the CPI-X indexation approach should apply to the TPI costs following its floor and ceiling costs determination. We support an efficiency factor review in the future and welcome the opportunity to contribute to public consultation on this topic.

Should you wish to discuss any of these matters further please contact me on 0412196497.

Yours faithfully

Catherine Pinchin
Director, Legal, Regulatory and Corporate Affairs
North West Iron Ore Alliance

⁹ Draft Determination on TPI's Costing Principles, Economic Regulation Authority, 24 November 2009, paragraph 268, p42.