

Wednesday, 6 June 2012

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Attention: Leonie Browner, Principal Regulatory Analyst

By email publicsubmissions@erawa.com.au

Dear Sir

Asciano Comments on the Revised Train Management Guidelines and Train Path Policy

Introduction

This letter is being submitted to the ERA in response to the revised Brookfield Rail Train Management Guidelines (TMG) and the revised Brookfield Rail Train Path Policy (TPP) which have been submitted to the ERA for approval.

Asciano welcomes the opportunity to respond to both the revised TMG and revised TPP. Asciano, through its subsidiary Pacific National, operates on the Brookfield Rail network between Kalgoorlie and Perth.

Comments on the Revised Brookfield Rail Train Management Guidelines

Asciano recognises that the TMG provides a framework for the real-time safe and reliable management of rail network services. Comments on specific TMG clauses are outlined below.

Clause 2.3.1

This clause could be further clarified by including the wording underlined below:

In clearing a failed Train from the Network, the Operator of that Train will be consulted to consider alternatives to clearing the failed Train. These alternatives may include, but are not limited to:

Clause 3.1

At several points in clause 3.1.1 and clause 3.1.2 Brookfield Rail is referred to as BR. For the sake of clarity this abbreviation should be defined.

Clause 3.5.1

This clause states that Brookfield Rail may, at any time and without the consent of the User perform repairs, maintenance or upgrading of the Network or take possession of any part of the Network.

While Asciano accepts that Brookfield Rail has the right to take possession of the network, Asciano strongly believes that Brookfield Rail should at the minimum be required to use

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reasonable endeavours to:

- consult with operators prior to any possession; and
- mitigate the impact of possessions on train operators, which should include offering alternate train paths as close as possible in time to the train paths affected.

Clause 4.1.2 b)

This clause indicates that where it believes there is reason to do so, the Regulator may request an audit be conducted into Brookfield Rail's implementation of the Train Management Guidelines but that this audit will occur no more often than every two years.

Asciano believes that the regulator should not be constrained by limiting the number of audits which may occur in a set time period. If the regulator believes an audit is required such an audit should not be prevented by the fact that an audit has occurred in the previous two years.

Comments on the Revised Brookfield Rail Train Path Policy

Asciano recognises that the TPP is a statement of the policy that Brookfield Rail will apply in the allocation of train paths and the provision of access to train paths that have ceased to be used. Comments on specific TPP clauses are outlined below.

Clause 16

This clause outlines the process through which Brookfield rail determines if a train path is under-utilised and notes that this process is managed through the access agreement. Asciano believes that, for similar traffics, access agreements should be consistent in relation to the train path under-utilisation process. Inconsistent application of such a process raises concerns in regard to non-discriminatory treatment of above rail operators.

This clause should also explicitly permit an operator to provide any relevant evidence to Brookfield Rail in relation to the under-utilisation of the train path. For example, the operator may have evidence of force majeure or other information which impacts on the TPP train path under-utilisation process.

If you wish to discuss this response please contact me on (02) 8484 8056.

Stuart Ronan
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