



3 February 2014

Our Ref: 05-006-02-0005/ID:PS

Jeremy Threlfall
Assistant Director Rail
Economic Regulation Authority
Level 4, Albert Facey House
469 Wellington Street
Perth WA 6000

Dear Mr Threlfall

Interim Submission: Brookfield Rail Pty Ltd Floor and Ceiling Cost Determination

Thank you for the opportunity to respond to the Brookfield Rail Pty Ltd Floor and Ceiling Cost Determination. Please note that due to meeting schedules, this submission has not yet been endorsed by the Western Australian Local Government Association's State Council. The Commission will be informed of any changes to this submission following consideration by the State Council.

The Western Australian Local Government Association (*WALGA* or *'the Association'*) is the representative organisation for Local Government in Western Australia. The Association is an independent, membership-based group representing and supporting the work and interests of 138 mainland Local Governments in Western Australia, plus the Indian Ocean territories of Christmas Island and Cocos (Keeling) Islands.

In its consultation document, the Economic Regulation Authority (ERA) indicated that it received Brookfield Rail's determination of floor and ceiling costs for certain routes and that this material is confidential as per section 50(3) of the *Railways (Access) Code 2000*. This adds some difficulty to preparing a submission on this topic, since the Association cannot comment on the validity of Brookfield Rail's estimates of floor and ceiling costs. Local Governments have a strong interest in the outcome of this process due to their broad responsibilities in economic development of the Local Government area and their specific responsibilities for the provision of road infrastructure. An efficient and funded supply chain to enable grain to move from farms through storage and handling facilities to port is a critical component of the competitive viability of the grain industry in Western Australia. The Association has identified a number of important factors that it believes the ERA should consider in determining costs for the routes on Brookfield Rail's network.

Access charges relative to maintenance levels

According to Co-operative Bulk Handling Ltd (CBH), grain supply chain costs in Western Australian are significantly higher than in other countries and rail access charges are the

highest of all Australian States¹. Furthermore, while access charges are high, there is evidence that Brookfield Rail has not carried out sufficient routine maintenance on parts of the network to maintain the previously existing level of service. The condition of certain lines means that Brookfield has imposed speed and weight restrictions which then reduce the productivity of any above rail operator².

The Association understands that Brookfield's lease agreement contains 'fit for purpose' performance standards to ensure the network remains in the condition required by network users. According to the Auditor General's 2013 report on the lease agreement, the Public Transport Authority interprets the lease to mean that performance standards are set at year 2000 levels³. Such performance standards are unlikely to reflect the needs of rail users.

The Association believes that Brookfield Rail's access charges should relate to the level of service that is provided. Where maintenance standards have decreased, access charges for these routes should be set at a low level to reflect this.

Access Charges relative to Capital Investment

Capital investment in the grain freight network has been heavily subsidised by Federal and State Governments. The current lease agreement between the State Government (Public Transport Authority) and Brookfield appears to allow the network operator to not reinvest in the infrastructure. It is assumed that this situation has not changed and hence there will continue to be calls on government to contribute capital to infrastructure renewal of rail lines. It is important that the determination accurately reflects this public investment and does not enable the leaseholder to charge depreciation or a return on capital that it did not invest.

Competitive neutrality between road and rail

The 'price' paid by heavy vehicles for using road infrastructure is set by the 'pay as you go' system (PAYGO) using a combination of fuel excise and vehicle registration charges. These charges are effectively average prices set on a cost recovery basis as PAYGO revenue is used to cover the proportion of road expenditure that is attributable to heavy vehicles.

Because the charges are averaged over the whole road network, this provides a cross subsidy to heavy vehicles that carry heavier than average loads, travel further than average and travel on roads with higher than average marginal costs. Such cross subsidies clearly apply to grain freight by road in WA and have led to over use of road infrastructure relative to

¹ Co-operative Bulk Handling Ltd (2013). *Rail negotiations to go to independent umpire* [media release]. Retrieved from <https://www.cbh.com.au/media-centre/news/2013.aspx>

² CBH calls in Tier 3 third umpire (2013, November 7). *Farm weekly*. Retrieved from <http://www.farmweekly.com.au/news/agriculture/agribusiness/general-news/cbh-calls-in-tier-3-third-umpire/2677555.aspx?storypage=0>

³ Office of the Auditor General (2013). *Management of the Rail Freight Network Lease: Twelve Years Down the Track*. Retrieved from https://audit.wa.gov.au/wp-content/uploads/2013/05/report2013_01.pdf

rail. This was anticipated by the ERA in its submission to the Productivity Commission's 2007 freight inquiry:

Potentially this cross subsidy could have a significant impact on the competitiveness of rail versus road for grain haulage and/or on the long term sustainability of the rail network. If rail owners do not match the artificially low charge for road haulage they will lose tonnage to road. This would be suboptimal from society's point of view as there would be an over use of road and associated under use of rail. However, if the rail owners do match the road haulage charge in order to maintain tonnage then the revenue generated will not be sufficient to contribute to capital. This will result in a deterioration of the rail network⁴.

The Association therefore believes that the current (artificially) low price for road infrastructure is an important consideration in determining Brookfield's access charges.

In addition to the hidden subsidies, the true cost of grain freight by road includes a number of externalities, such as amenity, safety, and pollution impacts. Amenity impacts include the noise and vibrations as heavy vehicles travel through main streets and residential areas. The vibrations from heavy vehicles can also have implications for the integrity of heritage buildings in country towns. Additionally, greater use of heavy vehicles contributes to congestion in urban areas situated along freight routes.

Campaigns in WA have highlighted that many rural roads are unsuitable to accommodate large trucks and local traffic, such as school buses, tourist buses, farm vehicles and light vehicles. This is an important issue in WA's Wheatbelt, since the 'Wheatbelt North' and Wheatbelt South' regions already have the highest rate of serious crashes per 100,000 population in the State⁵.

Even where the State Government has provided funding for upgrades to local roads so that the increased freight task can be accommodated more safely, this has not been accompanied by an increase in Local Governments' operating revenue. Effectively this shifts freight infrastructure maintenance expenditure from Brookfield Rail and the State Government to ratepayers in the areas affected by line closures and restrictions.

Separation of above and below rail operations

The Association believes that the separation of above rail and below rail operations contributes to difficulties in establishing the economically optimal service levels for each line. In contrast, a vertically integrated rail company would have an incentive to maintain lines to a standard that optimises the returns on the combined investment in below rail infrastructure and rolling stock. For example, the combined operator may determine that the lowest total

⁴ Economic Regulation Authority (2006). *Road and Rail Freight Infrastructure Pricing: Productivity Commission Discussion Draft* [submission]. Retrieved from http://www.pc.gov.au/data/assets/pdf_file/0010/48979/subdd106.pdf

⁵ Thompson P E, Hill D L, Beidatsch K P, & Bramwell J (2011). *Reported Road Crashes in Western Australia*. Retrieved from <http://www.ors.wa.gov.au/Stats/Annual/annual-crash-stats-2011.aspx>

cost is achieved with limited investment in track and accepting lower performance standards. Alternatively, higher efficiency may be achieved with increased track investment. Brookfield Rail faces no such incentive to find the optimal service level. Again, this should be an important consideration when the ERA makes its determination.

Thank you again for the opportunity to comment. For enquiries please contact Paul Schollum, Economic Policy Manager, on 9213 2096 or pschollum@walga.asn.au.

Yours sincerely

Ricky Burges
Chief Executive Officer