



North West
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February 25, 2010

By email: records@era.wa.gov.au

Mr Russell Dumas
Director
Economic Regulation Authority
PO Box 8469
PERTH BC WA 6849

Dear Sir

Pilbara Infrastructure Pty Ltd (TPI)
Draft Determination on TPI's Over-Payment Rules

We write in respect of the Economic Regulation Authority's Notice dated 15 January 2010 in relation to the Draft Determination on TPI's Over-Payment Rules proposed by the TPI as part of the Part 5 Instruments proposals under the Railways (Access) Code 2000 (**Code**).

North West Iron Ore Alliance Ops Pty Ltd (**NWIOA**) represents the interests of "junior" producers of iron ore in the Pilbara region of Western Australia. NWIOA welcomes the opportunity to submit their comments to the ERA as per the attached Annexure.

Should you require any clarification on the points raised, please contact Catherine Pinchin on 9389 3021.

Yours sincerely

Catherine Pinchin
Director, Legal Regulatory and Corporate Affairs

attach

“ANNEXURE”

North West Iron Ore Alliance's Submission
in relation to
the Economic Regulation Authority's
Draft Determination on TPI's Over-Payment Rules Paper

Introduction

The Economic Regulation Authority (**ERA**) has released its draft Determination in relation to the Over-Payment Rules (**OPR**) proposed by The Pilbara Infrastructure Pty Ltd (**TPI**), as part of the Part 5 Instruments proposals under the Railways (Access) Code 2000 (**Code**). The North West Iron Ore Alliance (NWIOA) welcomes the opportunity to provide a further brief submission.

Under Part 5 of the Code there are five Instruments that lay the principles for ultimately determining the segregation of a railway owner's functions from those of an infrastructure operator and determining the ultimate floor and ceiling price for route sections of the railway for the infrastructure operator and the access seeker to negotiate, under a negotiate and arbitrate model.

During the period commencing September 2008 until January 2010, the NWIOA has responded to the ERA's various requests for public submissions relating to the ERA's Issues Papers and Draft Determinations for TPI's Part 5 Instruments proposals under the Code.

Throughout this consultation process the principal issue addressed by NWIOA is its desire for full transparency under the TPI Regime, as was the case with the WestNet Rail South West Regime (WNR Regime).

Draft Determination on TPI's Over-Payment Rules

Having reviewed the Draft Determination, NWIOA's comments are limited to section 2.1.4.

Section 2.1.4 Breaches of the Ceiling Price Test

The draft determination usefully clarifies that revenue variations exceeding the ceiling aggregate only of a temporary or unpredictable nature will be considered under the OPR and that TPI should adjust longer term revenue variations by renegotiating access charges downwards.

However, in the equivalent section of the WNR OPR non-access revenue may include private and government contributions in accordance with the ERA's approved set of Costing Principles.

Further, NWIOA notes that under Amendment 9 to Section 2.17 of the TPI Regime (Allocation of Non-access Revenue) the non-access revenue is to include both government and private capital contributions.

NWIOA therefore submits that, in order to be consistent in determining the breach of ceiling price test, these contributions should be included in accordance with the approved Costing Principles for TPI. Accordingly, Section 2.1.4 of the TPI Regime should include both private and government contributions in non-access revenue.
