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Ms Clara Cuevas
Manager, Regulatory Reform
Department of Treasury
Locked Bag 11, Cloisters Square
Perth, Western Australia 6850

By email: regulatoryreform@treasury.wa.gov.au

Dear Ms Cuevas,

Invitation for Submissions – Review of the Western Australian Rail Access Regime

Alcoa welcomes the opportunity to respond to the Draft Decision Paper released in December 2018 regarding proposed changes and potential improvements to the Western Australian Rail Access Regime (the Regime).

Overall, the Draft Decision Paper makes substantial and positive steps in reforming the existing framework and goes some way in addressing the concerns raised by Alcoa earlier in the process. There are, however, still some areas where the proposed framework can be strengthened to better meet the objective of the Railways (Access) Act 1998 (the Act) to “establish a rail access regime that encourages the efficient use of, and investment in, railway facilities by facilitating a contestable market for rail operations”.

Alcoa is keen for the Regime to be modernised to ensure that the rail asset regulatory framework encourages economic growth and development, as well as reasonable, competitive access costs and returns. The Economic Regulation Authority (ERA) has an important role to play in that modernisation and to provide an improved level of regulatory oversight and guidance that encourages a fair and contestable rail access market.

The following points detail feedback on the latest Draft Decision Paper for review and consideration:

1. Merits review

Alcoa agrees with the Draft Decision Paper in 9.3 and does not support ‘merits review’ of all regulatory decisions.

Alcoa does, however, support merits reviews of decisions underpinning the determination of the Weighted Average Cost of Capital (WACC) (see Alcoa’s original submission dated 17 November 2017, item 2.7). The potential cost impact of any administrative error in this context is high and, as a result, merits reviews should remain an option for affected parties. This approach supports the objective of the Regime which is to provide a “contestable market” and would ensure that judicial review is not the first option for parties seeking to dispute the determination of the WACC.

2. Valuation of the network

The network must be accurately and efficiently valued as the valuation forms the major component of the costs and costing principles of the Regime. Alcoa provides the following comments and recommendations on the valuation of the network:

- i. The ERA, as the independent organisation tasked with regulatory oversight on these issues, should be accountable for establishing a framework to update the costing principles that flow from the Depreciated Optimised Replacement Cost (DORC) (refer Table 3, Task 1 p. 17 of Draft Decision Paper).
- ii. The methodology used to calculate major periodical maintenance costs should be included in the Rail Network Valuation Costing Principles and Access Seekers should have the opportunity to review maintenance costs as part of the process for determining the DORC and forward process (refer Table 3, p. 17 of Draft Decision Paper).
- iii. Access Seekers should have an opportunity to make a formal submission regarding the determination of the Regulated Asset Base (RAB) as part of the five-yearly review, as well as during the initial review (see Table 3, Task 3)
- iv. The RAB should only increase as a result of capital investment by the Railway Owner. Access Seekers that contribute capital to network infrastructure should not be required to pay the Railway Owner for use of assets that they have paid to provide or upgrade. These assets should be excluded from the RAB. By the same rationale, rail assets funded by other parties (e.g. the government by investing in level crossings) should also be excluded from the RAB.
- v. We note the range of asset valuations provided in the report titled “Cost Benefit Analysis of a New Pricing Mechanism for Rail Access in WA” in Appendix 4 of the Draft Decision Paper. We highlight that the valuations are substantially higher when compared to reliable benchmark valuations and would seek to understand the intended use of this information and whether such information is intended in any way to set precedent for future calculation.

Consistent with ii. and iii. above, Access Seekers should be provided with the opportunity to review and provide feedback on the full calculation methodology and application of the asset base and cost structures.

- vi. A fairer costing method should cover the transition period between rail standards in the RAB. This method should balance the incomplete roll-out of new standards with continued incentives for the Railway Owner in implementing changes. For example, while most of the South West Mainline is rated to 25t axle loads, there are some bridges and culverts which are only rated to 21t. Access Seekers should not be required to pay the full rate for a 25t-rated system while it is incomplete.

3. Qualitative performance

The Draft Decision Paper does not address accountability for the quality of the network (i.e. service level, targeted service level, track performance). Publicly available reporting on the quality of the network and transparency regarding standards would encourage efficient use of, and investment in, the railway facilities over the asset lifecycle.

Present and available historical information should be published at least monthly for:

- section transit time lost to speed restrictions;
- rail service cancellations attributed to the railway owner; and
- scheduled outage impact on services.

Alcoa has historically enjoyed a strong relationship across government departments, regulators, railway owners and industry peers. We are grateful for the opportunity to participate in the review of the Regime and the associated consultation and look forward to next steps in the process.

If clarification is required on any of our comments, please do not hesitate to contact me directly.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'MD', with a long horizontal line extending to the right.

Matthew Dale
Senior Manager, Transportation & Logistics
Alcoa of Australia Ltd

End of Correspondence