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1 V/Line Submission to the Essential Services Commission – March 2009

1.1 *Submission – overview*

- V/Line Passenger Pty Ltd (**V/Line**) has been the operator of the Victorian regional rail network since 4 May 2007.
- V/Line's previous Access Arrangement was the Access Arrangement made by the Essential Services Commission (**Commission**) for Pacific National (Victoria) Limited on 29 June 2006 as varied on 24 April 2007 to substitute V/Line for Pacific National (Victoria) Limited, the previous below rail operator.
- This document constitutes an application to renew V/Line's Access Arrangement pursuant to section 38ZR of the *Rail Corporations Act 1996 (RCA)*, to be effective from the expiry of the existing Access Arrangement (i.e. 26 June 2009, pursuant to section 38ZR(5) of the RCA).
- Set out in Part 2 of this document are two copies of V/Line's proposed Access Arrangement; one being a clean version, and the other version marked-up against V/Line's existing Access Arrangement which was approved by the Commission in April 2007.

1.2 *Review of Victorian Rail Access Regime*

- V/Line is aware of the Government's intention announced in the February 2008 Annual Statement of Government Intentions to conduct a review of the access regime to consider the relevant recommendations arising from the Rail Freight Network review and take into account the access provider ceasing to be a vertically integrated private rail operator.
- V/Line therefore proposes to seek only limited variations to its current Access Arrangement, noting that V/Line is a willing access provider to rail freight operators.
- However, variations are proposed to address certain issues faced by V/Line.

1.3 *Funding and track standard*

- V/Line is almost totally dependent on the State for funding for the below rail business, including for the funds required to enable the passenger business to make an internal transfer to the below rail business.
- V/Line operates under the Corporations Act and is required to maintain its solvency. It is therefore important that regulation and customer contracts for access to the network do not require a financially unattainable standard of service.

- Access revenue from freight operators is currently running at low levels¹ due to ongoing drought and a restructure of the local rail freight industry.
- V/Line seeks alignment in the Access Arrangement of what it is required to deliver to access seekers with the funding it receives from Government to maintain the network.
- The attached information indicates the level of funding sought from the Director of Public Transport and the level committed or expected to be committed for the period 2009-10 to 2011-12. These figures demonstrate an overall forecast increase in the maintenance deficit on both the passenger and the freight only network.
- V/Line's network maintenance program is developed and agreed with the Department of Transport (**DOT**) under processes which are expected shortly to be formalised in a revised Regional Infrastructure Lease.
- V/Line proposes that the required track standard for the purpose of the Arrangement be able to be varied by notification to the Commission. The circumstances in which such variation may be required (upwards or downwards) include where the nature and extent of any State-funded maintenance works or projects to be undertaken on the network in a particular period impact upon track standard.
- V/Line has included Performance Standards in the proposed Access Arrangement to reflect the track standard which is expected, based on current projections, to apply from 26 June 2009 (being the commencement date of the renewed Access Arrangement).
- If the current standard continues to be a requirement, V/Line may only be able to 'comply' by booking lines out of service when they may have been able to remain open at a lower operating speed.

1.4 Consistency with Pacific National Access Agreement

- V/Line also seeks an Access Arrangement which is (other than in the proposed treatment of maintenance standards referred to above) consistent with the Access Agreement negotiated by the State with Pacific National prior to buyback – this agreement has a life of ten years from 4 May 2007.
- In particular, V/Line seeks:
 - to include explicit reference to the right to book lines out of service; and
 - the removal of the limitation of 20% on the variation between grain and non-grain access prices to reflect the negotiated outcome in the agreement with Pacific National.

1.5 Pricing

- Maximum network prices for reference services have effectively been determined in the 2007 Pacific National Access Agreement for access from V/Line for the period since surrender of the infrastructure lease to the State

¹ Because of the structure of the rail freight industry V/Line considers information about freight traffic and revenue to be Commercial in Confidence – see 2.1.

on 4 May 2007. These rates are below those previously approved by the ESC. Under this ceiling, V/Line considers pricing to be a matter of Government policy (noting that DOT administers some rebate programs to effectively further reduce these charges).

- Due to the ongoing drought and restructuring of the rail freight industry in Victoria, rail freight access revenue is running at low levels. Terminal access charges revenue is non-material.
- V/Line's draft Business Plan and Budget for the period 2009-10 to 2011-12 forecasts revenue to continue at this low rate. However, the result could vary in either direction.

1.6 Capital

- VicTrack is the owner of the Regional Network and capital improvements (whether before or after the threshold date of 30 April 1999) are held in its balance sheet, not V/Line's. V/Line's capital base for the RNA business therefore primarily comprises track maintenance machinery and vehicles and is small in relation to the value of the network.
- The weighted average cost of capital to be applied should reflect that V/Line is a government owned business.

1.7 Revenue cap

- The purposes of the Revenue Cap include preventing rail operators paying more in access charges than is required to finance the network and ensuring that Government subsidies are used to provide benefits to the end users of the network. Consideration needs to be given to the interaction of:
 - the concept in the Pricing Orders of the pass through of Government funding for a Government owned business such as V/Line where the Government has the dual role of owner and funds provider on the one hand, and purchaser of services to the public on the other; and
 - the Commission's 'steady state' approach to determining the revenue requirement,

on a Government owned business' ability to recover the maintenance deficit.

- In the case of the passenger business, the current cap is based on the 2006 Pacific National Access Agreement (for Pacific National to provide access to V/Line). This agreement has been continued on as the basis for the internal transfer between V/Line's passenger operations and the below rail business. However the forecast for the period 2009 - 10 has been reduced by \$2.2 million to \$56.9 million reflecting savings in routine maintenance forecast to be experienced in the below rail business as a result of the transfer of the broad gauge track north of Seymour to ARTC.
- The price in this passenger Access Agreement was negotiated on the basis of recovery of corporate, train operations and routine maintenance costs only. Major Periodic Maintenance (MPM) expenditure was directly funded in 2006-07 and 2007-08 under Major Periodic Maintenance Agreements between Pacific National and DOT.

- These arrangements have continued to the present with DOT primarily funding the passenger operations business (including its below rail access payments) and also, in the below rail business, funding MPM works and a shortfall in freight access revenue

1.8 Network maintenance

- V/Line's passenger network comprises:
 - The four Regional Fast Rail or 'RFR' corridors;
 - Class 2 tracks; and
 - Class 3 and 4 track.
- The Freight only network comprise:
 - The Mildura line (currently being upgraded as a State Rail Project);
 - 'Gold' Lines;
 - 'Silver' Lines; and
 - 'Bronze' Lines.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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- These numbers do not include requirements for substantial expenditure (still being scoped) to rectify a major legacy issue of level crossings which do not comply with the current standard (eg line of sight is inadequate) and to manage environmental regulatory obligations (particularly vegetation management of rail corridors).
- In addition to 'steady state' MPM funding, V/Line has also sought additional funding to enable the maintenance deficit to be eliminated over a period of ten years. However it is not expected that this will be funded in the immediate future.
- V/Line expects its funding for the period 2009-10 to 2011-12 to cover its routine maintenance requirement but has been advised that its funding for MPM works will be below the figures sought.

1.9 Further variations

- V/Line proposes a number of other variations to its Access Arrangement which implement suggestions made by the Commission in the course of prior V/Line access regime variation processes, including in the Commission's final decision of 18 September 2007. These variations include:
 - amending references to 'V/Line Passenger' to now read 'V/Line', to reflect the provision of below rail services to the rail freight industry.

V/Line's Mission and Vision have been modified to incorporate service to the rail freight industry;

- updates of references to Pacific National and the removal of references to the Seymour-Albury and Maroona-Portland corridors which no longer form part of the Network;
 - greater clarity in the wording of Clause 4 provisions regarding V/Line charging incremental costs for Unscheduled Out of Hours Services;
 - a requirement (in Appendix 2) that the Operator confirm in its access application that its drivers have the requisite experience and training to operate services on particular Train Paths;
 - a revised definition of CPI and a revised formula for price escalation;
 - amended descriptions and references to the use of, and updated charges for access to, Somerton Sidings, Melbourne Arrival Sidings, Tottenham Yard and Geelong Grain Loop; and
 - updated Normal Operating Hours (Appendix 9).
- Apart from consequential changes to the standard Access Agreement arising from the above mentioned changes, the Access Agreement has also been amended to:
 - include an acknowledgement that the scope of the Network may change during the life of an Access Agreement (for example, it is expected that the Albion-Jacana line in Melbourne will be surrendered to the Director of Public Transport for inclusion in the ARTC network);
 - include provisions in Clause 6 regarding the practice of booking lines out of service. These mirror provisions negotiated by the State with Pacific National prior to the 'buyback' of the network
 - remove the current limitation of liability to claims in excess of \$100,000, a limitation which V/Line considers to be excessive having regard to the overall level of access transactions currently taking place on the network, noting that the change impacts upon both parties equally; and
 - Make minor amendments to the Regulatory Account Keeping Policy in Appendix 7 to remove reference to a heritage subsidiary which no longer exists and to update V/Line's description of its accounting system.
 - V/Line proposes to retain the following appendices of the Access Arrangement unamended:
 - Appendix 4 dealing with Ring fencing, since V/Line does not conduct above rail freight operations; and
 - Appendix 10, as V/Line proposes to retain the currently approved Procedures for Handling Confidential Access Seeker Information.



2 V/Line Proposed Access Arrangement

3 Access Information

3.1 *Commercial in Confidence*

- Because there are currently only two operators in the rail freight market V/Line notes that disclosure of volume and/or access revenue information will effectively result in disclosure to each of the parties of the amount of business the other has and seeks to have this information kept confidential.
- While V/Line has provided draft 2009-10 budgets and forecasts of its requirements for 2010-11 and 2011-12 for both the passenger and below rail businesses to DOT, to date V/Line has only been formally advised of the MPM budgets for the passenger and freight networks. Other aspects of the budget have not been confirmed. V/Line therefore considers that this material should be treated as Commercial in Confidence. Actual figures obviously become public at year end.

3.2 V/Line Audited Accounts

3.3 V/Line Regulatory Accounts

Supporting files will be provided electronically

3.4 V/Line Budget Forecasts 2008-09 and 2009-10 to 2011-12

Please note that the amount required for MPM Projects – Freight has been reduced from the \$45.0 million advised to PTD (as attached) to \$36.6 million to exclude Portland-Maroon; Benalla-Oaklands and Bronze line sections.

Commercial In Confidence



3.5 Draft V/Line 2009-10 Asset Management Plan

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Please see attached folder





3.6 V/Line 2008-09 MPM Works Plan

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3.7 Information on Network Traffic Volumes

Commercial in Confidence