

2009 RAIL ACCESS ENQUIRY  
Summary of Issue Paper Comments

Issue Paper	Comment	GWA Answer
<b>ABB</b>	Rail sidings that provide access to grain loading facilities should come under the South Australian Access Regime.	<p>In GWA's submission it was pointed out that the sidings GWA owns do come under the SA access regime and are subject to open access provisions.</p> <p>The ARTC sidings come under the ARTC access regime and are also subject to open access. GWA's management agreement with ARTC specifies that access must be provided as long as ARTC terms are accepted.</p>
<b>ASCIANO</b>	Access terms and conditions including price limits should be scrutinised and approved by the Regulator.	<p>Access terms and conditions were scrutinised and approved by the Regulator as part of the review of GWA's Information Brochure in early 2007.</p> <p>SA access regime encourages price negotiation and GWA has provided information on its pricing when requested to access seekers as part of access negotiations. Cost information has to be provided to allow scrutiny of prices during the arbitration process. Requirement for reference tariffs was removed from Information Brochure as part of 2005 review.</p> <p>Asciano has compared the SA access regime to the ARTC and QR regimes which cater for higher volumes of traffic and where more information is available on competitive pricing. This information becomes available to GWA through the negotiation process in SA which allows us as access provider to better tailor prices to the needs of the</p>

		<p>customer.</p> <p>A formal review process would be costly both for GWA and ESCOSA and could negate some of the benefits of negotiation.</p>
<b>ASCIANO</b>	<p>Reference to access at owners risk should not be allowed when ARTC and QR regimes require access provider to provide a safe network able to meet the path requirements contained in access seekers contracts.</p>	<p>Negotiated access contracts contain GWA undertakings on track standards, where the access seeker requires it. The terms and conditions in the GWA Information Brochure are designed to also cover Ad Hoc access to yards and sidings where usage may be irregular and where maintenance issues may result in the periods between inspections. The owners risk provisions are designed to protect GWA in these situations and have not been included in any access contract GWA has negotiated, track standards are difficult to find for branch lines, but GWA since 2003 has attempted to maintain track in line with Westnet branch line standards for standard gauge and narrow gauge track where historically track is up to that standard and traffic volumes permit. On broad gauge track and in yards GWA is maintaining track fit for purpose based upon design standards and good engineering practice while standards are being developed. As mentioned above it is unfair to compare conditions on low volume single user tracks with conditions on the high volume high usage tracks managed by ARTC and QR.</p>
<b>ASCIANO</b>	<p>Reference prices should be published covering the major tasks on the network. These reference prices should detail how access on a particular network segment is priced.</p>	<p>On single user track segments this would mean publishing individual customer prices. Current ceiling prices do equate to current volumes of traffic on track and do equate to the reference tariff that Asciano requests on single user tracks. GWA believes that a negotiated price with a fair arbitration system is a more cost efficient access regime than the more regulated regime Asciano is proposing.</p>

<b>ASCIANO</b>	Asciano is unaware of any statement from the Commission noting each year that GWA has complied with its audit and/or if any non compliance had been found.	Information on the performance of the access regime is published in the Commission’s annual report and in the annual rail access compliance report.
<b>ASCIANO</b>	Asciano puts a case for not including the Leigh Creek line in the SA Access Regime because the costs of regulation would outweigh the benefits.	GWA believes that the argument put by Asciano for not including the Leigh Creek line, which is a relatively high volume line in SA terms, in the SA Access regime, is precisely GWA’s argument for not increasing regulation on other lines on which much lower volumes are being hauled and costs would have to be borne by the customer.
<b>ASCIANO</b>	The inclusion of a mediation process into Part 6 of the ROA Act to allow a dispute to be referred to the chief executive officers of both parties prior to going to arbitration.	Could be worthwhile. Would provide a last ditch chance to negotiate and provide another opportunity to negate the need for arbitration.
<b>ASCIANO</b>	A new confidentiality provision to impose conditions limiting access to or disclosure of, the information or documentary material provided by an access seeker to another party including associated companies without prior written consent.	A worthwhile suggestion if it also extends to information provided by an access provider to access seekers. GWA has used confidentiality agreements when supplying sensitive access pricing information to customers to date.
<b>ASCIANO</b>	Supply a timeframe for arbitration proceedings. The timeframe of six months proposed in the Issues Paper would be sufficient.	Timeframe of six months for arbitration is a positive suggestion.
<b>GRA</b>	GRA has paid a fair price for access over the past ten years, which should have provided for the assets to be maintained, however, is now being asked to pay again to perform “catch up” maintenance, i.e. the current regime does not commit the access provider to properly maintain the asset.	The current prices were negotiated in 1998 before the current access regime came into operation. The rate was therefore struck on a vertically integrated basis and there is no split between above and below rail. That a “fair price” was paid for access is therefore a value judgement on GRA’s part.  Track maintenance was performed to maintain track to the

		<p>FRA standard and then where possible to bring the line up to the Westnet standard for branch lines. What GRA expected was full renewal and improvement in track carrying capacity and performance over the period, which has not been possible for the rates being charged.</p>
<b>GRA</b>	<p>The current arrangement provides for a monopoly rate of return.</p>	<p>GWA take this to mean monopoly rates of return on the Below Rail portion of its rate – as the ESCOSA legislation has no relevance to the Above Rail business. Again therefore it is a value judgement on the part of GRA.</p> <p>In striking its Below Rail pricing, most recently to GRA in around March 2008, GWA in fact used below market IRR (or low risk rates of return) in access calculations and rarely charges the ceiling price to maintain competitive pricing.</p>
<b>GRA</b>	<p>There is no incentive for the vertically integrated operator to perform efficiently in the current regime.</p>	<p>GWA is a public listed company with a responsibility to maximise shareholders returns on invested capital – how therefore is it in GWA’s interest to run a less than efficient operation?</p> <p>GRA is using this enquiry to publicise its belief that GWA should be upgrading above rail equipment within the current price structure which is irrelevant to this enquiry.</p> <p>GWA has always managed to meet the tonnages required by it under our previous contract and to meet the terms of its contract with GRA.</p>
<b>GRA</b>	<p>That the provision in the CIRA framework for price monitoring be reflected in the South Australian rail access regime so that investment required and carried out for particular sections of railway is transparent.</p>	<p>GRA is looking for a far more regulated regime than the CIRA provisions contemplate and want an independent assessment of investment required in rail and an independent allocation of costs for that investment.</p>

<b>GRA</b>	The regime as currently constituted favours the vertically integrated incumbent i.e. it does not promote competition.	Access pricing does not impede competition at Ceduna. The remoteness of the railway line, the requirement for narrow gauge equipment and the need for stand alone maintenance facilities are probably more of a factor. None of these factors are relevant to what the access regime is in place to govern.
<b>GRA</b>	GRA does not believe that the regulatory regime around third party access solves the fundamental economic problems with maintaining the competitive position of rail transport.	GWA agrees that the access regime cannot on its own solve economic problems with maintaining the competitive position of rail transport especially in a low volume environment. Other avenues need to be taken into account as has happened with Government investment in the rail network on Eyre Peninsula. It is unreasonable to expect the access regime to on its own solve these problems.
<b>GRA</b>	GWA's only source of income for the railway is GRA. Other mineral developments (Cheetham Salt and Iluka) in the area have opted for road transport as a solution because of the high cost base of the current commercially obsolete rail operation.	<p>The volumes being transported by Cheetham were not sufficient to allow investment in rail infrastructure.</p> <p>The Iluka mine is a significant distance (200km) from the end of the rail line and has opted for road because of the amount of new rail that would be required to service their mine. For Illuka to use the current rail infrastructure, it would mean effectively double handling their product – loading onto truck at the mine, unloading truck at the rail head and then reloading the product into rail wagons. That process is cost prohibitive, as is the investment in new rail to the mine.</p> <p>GWA would love to attract Illuka to use the existing rail line and thereby increase its customer base and profitability on this line.</p>
<b>GRA</b>	Outcomes of the current access regime do not appear to promote an economic investment to keep the freight flow	The access regime is not designed to promote investment – investment should be as a result of commercial

	<p>on rail, rather it maintains favouritism towards shifting the task to road in the short term and exposing the entire operation to future risk should the price of carbon or fuel increase.</p>	<p>negotiations between companies who are prepared to make binding commitments towards each other.</p> <p>Unlike the road user, a private company pays and there is seldom any contribution from the public sector. Road transport has the permanent advantage that the public sector funds the roads and does not seek a toll, thereby eliminating a cost faced by rail.</p> <p>The access regime should not put the access provider in a position where the company is forced to make investment without fair return to maintain use of rail facilities. An investment has to be made in this track and GRA needs to accept this and either be part of that investment or, as has happened with the Eyre Peninsula grain lines, if this investment is not viable, find other means of funding the work. In the case of the Eyre Peninsula grain lines GWA lead discussions with grain producers, grain companies and Federal and State Governments to obtain funding to upgrade these lines.</p>
<b>GRA</b>	<p>GRA's experience is that the current regime fails to provide for either price transparency or protect GRA from the access provider structuring their offer to cover inefficiency in the above rail operations by increasing its below rail price.</p>	<p>As discussed above GRA is trying to include above rail issues in an enquiry into the access regime.</p> <p>GWA attends monthly performance meetings with GRA to discuss train running and there is limited discussion of above rail inefficiency. GWA is therefore somewhat confused by this comment as GRA has ample opportunity to raise their efficiency concerns with GWA.</p>
<b>GRA</b>	<p>However price monitoring itself by itself is unlikely to prevent the access provider's current commercial behaviour which has been to charge GRA a reasonable sum for the maintenance of the track yet spend only a</p>	<p>The access component of the current price is not sufficient to allow track renewal and an upgrade to heavier axle loads and faster track speeds that GRA expects – this is a problem across the entire industry and faced by ARTC on</p>

	fraction of that amount on the track each year.	common user track, let alone single use track at Thevenard.
<b>GRA</b>	GRA believes that to operate successfully the access regime should at least provide sufficient funds for the access provider to maintain the track. However in the case of the rail infrastructure between Kevin and Thevenard, the access provider has chosen not to use these funds for this purpose but rather take them as profit. As a consequence the above rail cost has increased.	GRA make the assertion that we have failed to maintain the track, however GWA has had an increasing maintenance regime and cost on this track over recent years (as the speed of track erosion has increased). GWA has not been in a position to make significant “investment” in the track to restore its efficiency and function to past levels, however the price charged did not cover this.
<b>GRA</b>	In contrast ARTC provide details on their website of the standards applying to the asset, the asset performance, each line segment DORC, the access price, the ceiling and floor limits and the maintenance and capital expenditure for each line segment. This provides a reasonable level of expectation that other access providers should do the same or at least be able to provide these details as part of an access price negotiation. In GRA’s experience with the intrastate access provider this is not the case with several aspects of this information unavailable or inconsistent.	GWA provides details on derailments, maximum running speeds, ceiling and floor prices and details whether capital projects are proposed for each line in its Information Brochure. GWA supplies access prices on request when requirements are specified. GWA supplies ESCOSA with its annual operating costs as part of its annual access accounts and must be in a position to supply costs by line segment if requested.  It is untrue that aspects of our information are unavailable. We have in fact provided GRA with more information than required under the ESCOSA documentation both by letter and in person at a meeting with GRA in mid 2008. GWA has supplied its 2008 DORC calculation for the Kevin to Thevenard line to GRA and participated in a robust discussion of the calculation method.
<b>GRA</b>	Areas in the current regime which have discouraged GRA from pursuing an access pricing dispute are: the definition of “prudent” or efficient operation which is difficult to establish without readily published and	The amount of definition that would be required to provide the benchmarks GRA believes are needed would result in a highly regulated and costly access regime for the volumes of product that are transported on rail in SA. As has been

	<p>accessible benchmarks, and the degree to which there may be room for interpretation in the calculation of the valuation of the regulatory asset base and the DORC calculation.</p>	<p>stated previously GWA has and will in this case negotiate these benchmarks as part of access negotiations.</p>
<b>GRA</b>	<p>GRA's interpretation of the correct DORC calculation methodology is that correctly applied it should not reward the access provider for starving the asset of renewal funding as the access ceiling price would be lower. An increase in the transparency of pricing would greatly assist the process of obtaining rail access and ensure that adequate provision is being made for maintenance and renewals.</p>	<p>The first access price calculation guidelines came out in January 2000. The current contract with GRA was signed in 1998.</p> <p>Pricing was calculated more on capacity to cover ongoing costs and the need to retain customers, than on the access regime for the below rail component. When the first ceiling price was calculated for track in 2005 the transport rate had been escalated to (\$3.45) per tonne for both above and below ground services. The ceiling price was \$1.92. An analysis of the pricing model at the time resulted in a price breakdown of \$2.85 for above rail and \$0.85 for below rail, far below the calculated ceiling price.</p>
<b>GRA</b>	<p>GRA believes that the operation of the current rail access regime encourages the access providers downstream above rail services to remain inefficient both from itself having inefficient sources of supply on long term contracts with little apparent incentives to perform and having commercially obsolete equipment. This does not promote effective competition rather to the contrary is protecting an inefficient above rail provider who would otherwise lose the business.</p>	<p>If GRA is referring to long term contracts from its track maintenance contractor as being inefficient, GWA called tenders for track maintenance in 2007. Tenders were received from a number of accredited track maintainers with national experience. The current maintainer was the most cost effective option for both GWA and GRA.</p> <p>Again the value judgement by GRA that we are not encouraged to provide efficient contracts or robust equipment is incorrect. GWA has overhauled all locomotives for that business within the past 5 years.</p> <p>The new contract being negotiated clearly sets out the capital that will be invested in track and equipment by GWA.</p>

<p><b>GRA</b></p>	<p>Effective above rail competition is prevented by the fact that the track has been allowed to deteriorate to such a point where GRA suspects that the access provider is pricing in a “risk” premium for any other operator other than its own above rail vertically integrated operation to access the asset.</p>	<p>This is a value judgement on GRA’s behalf.</p> <p>Negotiations commenced in 2003 with GRA to upgrade track to improve performance and increase axle loads. The company has refused all offers that have included a contribution to upgrade costs from GRA, even when it has been included in the price and recovery is over an extended period of up to 15 years. During this period of 6 years where investment could not be agreed the track has continued to deteriorate. GRA needs to accept some responsibility for this as without a contract, GWA is not in a position to make the long term investment required.</p>
<p><b>GRA</b></p>	<p>As other railways in Australia improve productivity GRA’s access provider’s vertically integrated above rail operator is one of the few with operators with 12 t axle load locomotives, the average age of which is around 40 years. The restriction of the line to 12 t axle load is a barrier to entry to an operator with a more modern and productive fleet.</p>	<p>Aside from main line, high volume, multi user track, GWA would contend that other regional railroads are suffering the same fate as that of the Ceduna line. The regional grain lines in Victoria are a good example of a single use track that is not commercial to maintain at current or upgraded levels without the agreement of customer to pay increased rates.</p>
<p><b>GRA</b></p>	<p>GWA’s track maintenance provider also enjoys protection from competitive pressure as a result of the pricing principles as there is no mechanism for cost transparency against industry benchmarks.</p>	<p>See above. GRA also fails to accept that maintenance costs will be higher at Ceduna because of the remoteness of the railway line.</p>
<p><b>GRA</b></p>	<p>By GRA’s calculations the haulage charge paid over the last contract period and previously should adequately cover the costs of providing an efficient service including the ongoing like for like renewal requirements of the infrastructure assets.</p>	<p>This is a value judgement on GRA’s behalf. There is little or no risk premium factored into GWA access charges in accordance with ESCOSA guidelines.</p>

<b>GRA</b>	As a result the current service level has declined requiring the imposition of severe temporary speed restrictions this in turn is leading to an increase in operating costs and the use of suboptimal renewal technologies and strategy.	GWA is meeting all GRA operational targets, a fact that can be backed up by operational data provided to GRA on a monthly basis and confirmed at monthly management meetings.
<b>GRA</b>	The vertically integrated access provider has managed to successfully set terms and conditions for access which has favoured their own above rail operator in particular:	<p>The current contract with GRA does not deal in detail with access terms and conditions. The contract GWA has proposed deals with track and access conditions to the level GRA has requested.</p> <p>GWA has clearly stated its preparedness to have KPI mechanisms in the new contract to deal with efficiencies etc.</p>
<b>GRA</b>	The addition of an unduly large risk component to the price so that additional maintenance expenditure is required to operate a train other than their own trains.	This is a value judgement on GRA's behalf. There is little or no risk premium factored into GWA access charges in accordance with ESCOSA guidelines.
<b>GRA</b>	The lack of a defined and implemented standard for track maintenance practices which means a new entrant cannot adequately price the risk of operating rollingstock over the asset.	GWA has adopted the Westnet standard for maintenance of branch lines and is attempting to bring the Kevin to Thevenard line up to this standard, within the constraints of the current access pricing.
<b>GRA</b>	Inconsistent application of training and accreditation requirements.	GWA put a charge on accrediting wagons and locomotives in its last access price offer, based upon recent experience with accrediting large amounts of equipment for use on GWA tracks. While the requirement to accredit is included in the Information Brochure, the charge was not included in the 2007 Information Brochure. Ad Hoc access for which the Information Brochure caters normally requires accreditation of individual pieces of equipment rather than a complete fleet as will be required if GRA changes operators.

<b>GRA</b>	Provide incentives to reduce costs or otherwise improve productivity. GRA's experience is in fact the opposite of this requirement as the access provider has consistently refused to pass on the savings from above rail productivity gains arising out of below rail investment.	This is a value judgement on GWA's behalf. This contradicts earlier assertions that GWA has not made any below rail investments.
<b>GRA</b>	This includes the basic maintenance requirements associated with investing in timber component renewal to enable the asset to perform as designed as well as infrastructure upgrading to allow equipment to operate which is consistent with basic rail industry norms of 23 tonne axle load in South Australia and 25 to 30 tonne axle load elsewhere in Australia for bulk commodity transport on the Defined Interstate Network.	The costs of upgrading to 23 tonne axle loads have been discussed with GRA but their willingness to invest in the upgrade has been an issue.  Comparing the "Bulk Commodity" task at GRA to other parts of Australia is misleading. The networks to which they refer are multi user and significant tonnage.
<b>GRA</b>	The decline in asset productivity can be measured by the reduction in maximum line operating speed from 60 km/h in 1997 at the start of the contract with G&WA to the current speed of 30 km/h.	At the time of GWA's purchase of the Kevin to Thevenard line speed restrictions had been put on the line due to lack of investment which meant that the maximum speeds on the line could not be achieved. The reduction to an overall speed of 30 km/h represented a more realistic approach to the speeds that were and could be achieved on this line.
<b>GRA</b>	GRA's experience is that the ancillary infrastructure such as the ownership of servicing facilities and associated track presents another hurdle to be overcome in gaining access to the SA intrastate.	GWA agrees that the cost of providing ancillary infrastructure such as maintenance facilities is an important factor in costing new business, one which GWA has had to take into account in a number of tenders for new business.
<b>GRA</b>	The information in the brochure was inaccurate, incomplete and changeable during negotiations. Inaccurate items included items included:	

	<ul style="list-style-type: none"> <li>○ The published allowable axle loading on the line.</li> <li>○ The line upgrade proposals; and</li> <li>○ The line transit time (currently substantially slower than the published time).</li> </ul>	<p>The axle load for the Kevin to Thevenard line of 16 tonnes published in the 2007 Information Brochure is incorrect and will be reduced to 12 tonnes when the Brochure is updated.</p> <p>There were no line upgrade proposals in place at the time. A commitment to insert 5,000 additional sleepers in the Kevin to Thevenard line this year is likely to be agreed and the Information Brochure will be updated.</p> <p>The line transit time in the Information Brochure of 1.5 hrs will be reviewed and if considered understated will be adjusted when the Information Brochure is updated.</p>
<b>GRA</b>	<p>Missing items included amongst other things any details behind the basis of ceiling and floor prices and the value of and means of calculation of the DORC (which appears extremely high given the line condition, previous capital expenditure and age when compared with ARTC's published line segment values for the interstate network).</p>	<p>General information on how ceiling and floor price calculations were calculated is in the Information Brochure and was agreed by ESCOSA.</p> <p>The DORC calculation as discussed earlier was provided to GRA and their own calculation came up with a similar result to GWA's.</p>
<b>GRA</b>	<p>Items which changed included:</p> <ul style="list-style-type: none"> <li>○ The ceiling price; and</li> <li>○ The line upgrade required to achieve a given level of productivity improvement.</li> </ul>	<p>At a meeting to discuss the access price these issues were not mentioned. We believe that GRA are claiming the ceiling price changed because our access price to them in March 08 included the capital expenditure they requested to bring the track up to 16 tonne axle loads. would have been below the published ceiling price at the time.</p> <p>The line upgrade GRA seem to be referring to must be the capital they asked to be included in the access price to</p>

		bring the track up to 16 tonne axle loads.
<b>GRA</b>	GRA's experience is that the current act fails to adequately structure a negotiation process or explicitly provide for transparency between above and below rail pricing.	GWA has negotiated in good faith with GRA and made a number of pricing offers, none of which have been accepted.
<b>PENRICE SODA</b>	No specific comments on the current access regime except to say that, in their experience allowing a rail operator to own track has significant benefits that work in favour of the operator. Once standardisation is complete Penrice believes that the Gawler to Angaston line should come under the control of the State Government.	Under the current access provisions GWA cannot take advantage of external investment in track. GWA cannot see any advantage in the State Government taking control of the Gawler line which still involves a considerable investment on GWA's behalf which would have to be addressed by the Government and which would need to be taken into account in any access pricing. Unless the State Government requests recompense from GWA for the standardisation it would seem to be to the advantage of Penrice to remain with the current ownership under the current access regime.
<b>WESTERN PLAINS</b>	No major issues to discuss	