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Dear Michael

DRAFT RAIL ACCESS REGIME DISPUTE RESOLUTION GUIDELINE

Thank you for the opportunity to provide comment on the Draft Rail Access Regime Dispute Resolution Guideline. The proposed Guideline appears to provide a suitable framework for managing disputes.

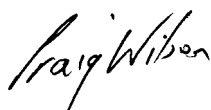
One area where it is difficult for access users to be able to substantiate their concerns sufficiently enough to ground a dispute, is in the area of regulatory compliance. For example, it is difficult for an access user to ascertain if there is correct compliance with the Revenue Cap. The Commission's Rail Access Pricing Guideline, Section 6.2, concludes that where an access provider benefits from government support, then it is incumbent upon the access provider to apply to the Commission for a variation of its Revenue Cap under section 38ZO of the Rail Corporations Act. The conclusion goes on to state that the Commission may investigate compliance with this requirement at any time.

Given that third parties are not privy to the full details of government financial support and V/Line revenue information, access users are not in a position to establish whether this Revenue Cap has been breached and therefore the role of the Commission to investigate compliance at any time, is the most appropriate mechanism in the first instance, to address compliance concerns.

It would be Pacific National's expectation that such compliance concerns could continue to be raised with and investigated by the Essential Services Commission as a separate issue and therefore negate the need to speculatively address these issues via a dispute resolution process. It is Pacific National's expectation that, in its role as regulator, such sensitive and variable compliance obligations could either be regularly audited by the Commission as a matter of course, or when there had been evidence pointing to significant changes.

Pacific National has no further comment for consideration by the Essential Services Commission regarding this Dispute Resolution Guideline.

Yours sincerely



Craig Wilson
Manager – Commercial & Regulation