

Metro Trains Melbourne Pty Ltd

Access Arrangement

1 July 2006

(as varied on 30 November 2009 to
substitute Metro Trains Melbourne
Pty Ltd for Connex Melbourne Pty
Ltd)

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1 INTRODUCTION

1.1 Purpose of this Document

This document is the Access Arrangement in relation to the Metro Trains Melbourne Pty Ltd (ACN 136 429 948) ("MTM") rail network.

It was submitted by Connex Melbourne Pty Ltd ("Connex") to the Essential Services Commission of Victoria (the "Commission") in accordance with sections 38W and 38X of the *Rail Corporations Act 1996* as amended by the *Transport Legislation (Further Amendments) Act 2005*.

Connex ceases to operate the MTM rail network and to operate passenger trains on the MTM rail network on 30 November 2009. MTM will lease and operate the MTM rail network and operate passenger trains on the MTM rail network, commencing on 30 November 2009. MTM has applied to the Commission to be substituted for Connex as the access provider under this Access Arrangement.

MTM notes that it is not providing Reference Services to itself or a related body corporate of MTM.

1.2 Commencement Date and Term

This document will commence on 1 July 2006.

The term of the Access Arrangement is five years after the commencement of this Access Arrangement.

1.3 Composition of the Access Arrangement

This Access Arrangement and its Attachments contains those elements that are required by sections 38W and 38X of the *Rail Corporations Act 1996* as amended by the *Transport Legislation (Further Amendments) Act 2005*.

1.4 Definitions and Interpretation

The definitions are generally as set out in this Access Arrangement are as set out in MTM's Access Agreement provided in Attachment A.

1.5 Contact Details

The contact person for further details in relation to this Access Arrangement Information and the Access Arrangement to which it relates is:

Mark Gerstel
General Manager - Commercial
Metro Trains Melbourne Pty Ltd
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2 DESCRIPTION OF SERVICES

2.1 Overview

This Access Arrangement applies to all Declared Rail Transport Services.

MTM will make available one Freight Reference Service to Operators and one non-reference service to Operators.

To the extent practicable and reasonable, Operators may obtain a Service which includes only those elements that the Operator wishes to be included in the Freight Reference Service. To the extent practicable and reasonable, MTM will provide an Incremental Cost for an element of a Service if requested to do so by an Operator.

2.2 Freight Reference Services

The Freight Reference Service covers:

- mainline running of a Freight Train from its origin to its destination; including
 - the use of passing loops to facilitate mainline running of the Freight Train; and
 - the use of sidings for operational and incidental purposes.

Access includes, in addition to the use of the Network, the benefit of other services essential to the use of the Network such as signalling and train control services. Access explicitly excludes the use of electric trains by an Operator.

The standard Reference Service and Reference Tariff are based on the following conditions, as well as other any other conditions set out in the standard Access Agreement in Attachment A:

- maximum speed and axle load/configuration consistent with the Addenda;
- compliance with MTM standard Terms and Conditions and Protocols as set out in the standard Access Agreement; and
- compliance with nominated sectional running times.

2.3 Non-Reference Services

MTM provides the following non-reference service for Operators:

- Non-reference services for passenger trains; and
- A non-reference service for ad hoc non-passenger movements (which are not Freight Reference Services).

The Terms and Conditions set out in this Access Arrangement for the Reference Services are a reasonable indication of the terms and conditions that would be made available for non-reference services. The precise form and charges for non-reference services will be negotiated between MTM and Operators.

3 REFERENCE TARIFFS

3.1 Standard Freight Reference Services

The Reference Tariffs for the Access Arrangement Period are set out below. These are reducing by 1% annually in real terms in line with MTM's proposed X factor.

| \$2005/06 | 2006/07 | 2007/08 | 2008/9 | 209/10 | 2010/11 |
|-------------|---------|---------|--------|--------|---------|
| \$/'000 GTK | 5.58 | 5.52 | 5.46 | 5.41 | 5.36 |

The reference tariffs are to be converted to a nominal tariff by applying the growth rate between the CPI in the March quarter immediately preceding that financial year and the base March 2005 CPI.

3.2 Non-Standard Freight Reference Services

The access charge for a service that meets the conditions set out in section 2.2 of this Access Arrangement and the conditions in the standard Access Agreement in Attachment A of this Access Arrangement will only differ from the standard Reference Tariff in section 3.1 above where the service characteristics requested by an Operator differ from the characteristics or conditions set out in section 2.2 of this Access Arrangement.

In such circumstances, MTM will determine the access charge by assessing variations to the standard Reference Tariffs to ensure that the change in the revenue that would be received by MTM reasonably reflects the change in costs and risks to MTM arising from the provision of the non-standard service.

4 CHANGES IN REFERENCE TARIFFS

4.1 Annual Variations in Tariffs

MTM will have the right to vary the Reference Tariff for the Freight Reference Service at the end of each financial year subject to compliance with the (CPI-X) reference tariff control formulae set out in the Access Agreement in Attachment A to this Access Arrangement.

The reference tariff control formula ensures that the Reference Tariff does not increase, as a result of any proposed variation to Reference Tariffs, at a rate that is greater than $CPI - X$ (where X is 1%).

4.2 Variation of the Access Arrangement

Section 38ZO allows MTM to vary its Access Arrangement.

MTM intends to vary this Access Arrangement if the State Government provides forecasts of capital expenditure to MTM for assets that are not 'contributed assets'.

MTM also proposes to re-open the Access Arrangement where Passenger Timetable changes are approved by the Director of Public Transport. Such a decision would have a material impact on the Reference Tariff.

If the State forecasts capital expenditure during the Access Arrangement Period, then:

- MTM will advise the Commission that it intends to vary its Access Arrangement in line with section 38ZO of the Rail Corporation Act; and
- MTM will prepare new Reference Tariffs for the Freight Reference Services which reflect a fair and reasonable allocation of capital expenditure to the Reference Services. MTM will submit a revised Access Arrangement and Access Arrangement Information to the Commission.

MTM will comply with the process set out in section 38ZO such that the proposed variation will be consistent with the account keeping rules, the ring fencing rules, the capacity use rules, the network management rules, the negotiation guidelines, the pricing principles and any methodology for the calculation of prices determined by the Commission under the Pricing Principles Order, and the principle of passenger priority.

5 Terms and Conditions

Terms and Conditions for the provision of standard Freight Reference Services are set out in the standard Access Agreement in Attachment A.

The following applies in relation to the determination of the value of the Performance Bond and any variation to the protocols:

5.1 Value of Performance Bond

The value of the Performance Bond an Operator is required to provide as part of the standard Access Agreement is determined as follows:

- Access seekers that have:
 - A BBB or greater credit rating;
 - Net tangible assets of \$2 million or more; and
 - Provided their most recent set of audited accounts (as part of their access application as specified in Schedule 2, clause 2.1 of the Train Path Request Process and Protocol)

are required to provide a Performance Bond with a maximum amount equal to four weeks access charges. This maximum amount is consistent with the level used by ARTC in its approved access undertaking; or

- Access seekers that have a credit rating less than BBB and/or net tangible assets less than \$2 million are required to provide a Performance Bond with a value to be determined by MTM after having regard to the risk level and frequency of access requested by the Operator but being no more than \$500,000.

5.2 Variation to protocols

MTM acknowledges that the Commission expects it to consult with Operators prior to seeking the Commission's approval for a change to protocols that require its approval under the Network Management Rules or the Capacity Use Rules. MTM must use all reasonable endeavours to undertake such consultation prior to any such application, and to provide the Commission with evidence that such consultation has been conducted.

Attachments

- A ACCESS AGREEMENT
- B TRAIN PATH REQUEST PROCESS AND PROTOCOL
- C ADDITIONAL CAPACITY WORKS PROTOCOL
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