MS2026/1 TWU & ARTIO Application for a Road Transport Contractual Chain Order – Fuel Cost Recovery

Review of the Road Transport Contractual Chain Order

Submission

Bus Industry Confederation

Australian Public Transport Industrial Association

Position

1. The Bus Industry Confederation (BIC) and Australian Public Transport Industrial Association (APTIA) make this submission in response to the Statement by the Fair Work Commission issued on 26 August 2026.
2. The BIC and APTIA maintain their support for fuel cost recovery measures in the form of the Order and therefore support its re-enlivenment.
3. BIC and APTIA therefore request that the Commission re-enliven the Order and amend its cessation clause so that the Order may automatically suspend and reactivate in response to market fluctuations while the circumstances specified in clauses 1.1 and 1.2 continue to exist.
4. Parties continue to require, in absolute terms, a legal mechanism that prescribes the way in which fuel cost recovery operates.
5. The contractual environment in which our industry operates can be rigid. Government contracts commonly run for multiple year terms, while many services such as rail replacement buses, rely on tendering processes that did not envision the existing and prolonged fuel crisis.
6. Put plainly, if existing contracts do not contain adequate fuel cost recovery mechanisms and the Order ceases to exist, Operators will have no contractual or regulatory basis on which to seek fuel cost recovery.
7. Our members have reported instances in which Primary parties advised them that they were no longer entitled to receive fuel cost recovery payments.
8. Accordingly, Operators continue to bear the consequences of the ongoing fuel crisis, despite evidence presented in our previous submissions that they already operate on extremely narrow margins.

The Emergency Situation

9. The Order states:

   This Order relates to the circumstance of the fuel supply chain disruption resulting from, or which continues to be affected by:

   1.1 the significant reduction in shipping through the Strait of Hormuz; and

   1.2 conflict in the Middle East.

10. The circumstances governing the operation of this Order are clear and, in our view, incontestable. Shipping through the Strait of Hormuz (Strait) remains significantly reduced, and the conflict in the Middle East is ongoing.

11. It is not in the BIC's purview to provide the Commission with expert advice regarding the state of world affairs. However, we submit paragraphs 9 to 18 below demonstrate that the conditions which brought about this Order still exist and are correctly labelled an emergency.

12. The reduction in shipping through the Strait of Hormuz continues. Unverified reports indicate that oil tankers have exploded after hitting mines laid in the Strait. At the time of this submission, shipping numbers were also down by 10 vessels when compared to the previous day.[1]

13. Furthermore, the conflict in the Middle East shows no signs of abating. Diplomatic talks are faltering, while other militant groups, including the Houthis, are escalating their activities.[2]

14. Analysts observe that, rather than the oil market having reached a new equilibrium, there is still high potential for the market to experience further oil shocks and shortage, saying that the world is potentially weeks away from returning to critically low levels of oil supply.[3]

15. Australia's fuel supply has gone through a period of relative stability. However, diesel fuel stock supplies have dropped from their high in June of 39 days in reserve to 32 days' supply as of 8 September 2026.[4]

[1] https://www.reuters.com/world/middle-east/hormuz-traffic-dwindles-after-middle-east-attacks-intensify-2026-09-15/ Accessed 16 September 2026.
[2] Ibid.
[3] https://www.abc.net.au/news/2026-09-15/oil-could-surge-to-150-dollars-middle-east-war-intensifies/107155830 accessed 15 September 2026.
[4] https://www.dcceew.gov.au/energy/security/australias-fuel-security/minimum-stockholding-obligation/statistics accessed 15 September 2026.

16. Nonetheless, the Order identifies a diesel terminal gate price (TGP) above $2.00 per litre as the relevant measure of fuel supply disruption. The diesel TGP remains above that threshold and is currently hovering around $2.60 per litre.

17. Whilst there has been a short period of relative reprieve where the terminal gate price (TGP) of diesel fell below $2.00 per litre, the price of diesel remains alarmingly high and continues to escalate.

18. Finally, Ministerial fuel response meetings with industry have not ceased. Rather, they remain available to be reconvened if circumstances require.

19. Participants in these meetings do not suggest that the current fuel crisis is over. Rather, they consider that the present period is a reprieve and that conditions are likely to deteriorate again if the war involving Iran continues or escalates.

Proposed Amendments to the Order

20. The BIC and APTIA submit that amendments to the cessation clause in the Order should provide for fluctuations in the market.

21. The Order should allow for its automatic suspension and reactivation in response to market fluctuations, below and above the existing TGP $2.00 per litre threshold, provided that the circumstances specified in clauses 1.1 and 1.2 continue to exist.

22. We therefore support the submission made by the Australian Trucking Association, demonstrated most clearly at paragraph 28, regarding the interpretation of clause 5.3 of the Order.[5]

About

23. The BIC is the peak national body representing Bus Operators, Suppliers and Manufacturers.

24. The BIC advocates on behalf of our members to federal, state and territory governments and associated bodies, to ensure the safe and efficient carriage of passengers, along with safe and sustainable operations and supply chains that support the industry.

25. Within the BIC Supplier Group, we include members who form part of the contractual supply chains that encompass car carrying and general road transport.

26. APTIA is the industrial relations arm of BIC and a respondent to the Passenger Vehicle Transportation Award 2020.

27. APTIA has nation-wide membership spanning all state associations, public and urban transport operators. The state associations are:

[5] https://www.fwc.gov.au/documents/sites/ms2026-1/ms2026-1-submission-ata-2026-09-11.pdf accessed 16 September 2026.

i. BusNSW
ii. BusVic
iii. QBIC
iv. TasBus
v. BusSA
vi. BusWA

28. Our members operate all public transport across Australia, contracted to State Governments to deliver services.

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Bus Industry Confederation

Australian Public Transport Industrial Association

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