

1 Ballast fouling

1.1 Overview

This part of the submission outlines the QRC's position in relation to the Aurizon Network proposal to include a \$43 million adjustment to the UT4 allowable revenue to recover the net costs associated with the impairment charges and ballast undercutting costs incurred over UT3.

The QRC notes that ballast fouling on the central Queensland rail network and the maintenance costs to restore the ballast has been a longstanding issue across many Undertakings.

The Aurizon Network submission appears to be based on the presumption that until the causes of the ballast fouling were well understood and it had an approved coal dust management plan, Aurizon Network had no way to manage or prevent the ballast fouling and that it was therefore unreasonable and unjustifiable for the Authority to have made the impairment. The QRC does not believe these arguments to be well founded or justified nor do they provide an adequate rebuttal of the original reasons for the QCA's 2010 Pricing Decision.

QRC's position is that Aurizon could and ought reasonably to have efficiently managed the risk of coal fouling the ballast. Aurizon Network had, and has, both the ability and the responsibility, as the owner of the infrastructure, to mitigate the risk of ballast fouling and undertake maintenance practices which efficiently minimise its impact.

Even if the precise and proportionate causes of ballast fouling were unknown until recently, the premise of the 2010 DAUU Aurizon network submission and the UT4 submission was that Aurizon permitted loading practices which exacerbated coal loss for the greater good of the coal industry. This implies that Aurizon was aware that loading did impact coal loss and hence ballast fouling and accordingly, Aurizon could previously have sought to address the issue.

1.2 Aurizon Network's position

In the QCA's 2010 Draft Decision on pricing, the QCA decided to reduce the Regulated Asset Base (**RAB**) by \$107 million, which was derived as:

'...the difference, in net present value terms, between an efficient level of ballast maintenance and the amount QR Network will need to spend over the next 7 years in order to address concerns with the condition of the ballast in central Queensland.'

This reduction in asset value was based on Aurizon Network's inability to demonstrate efficient management of costs associated with coal loss in the rail corridor which led to the ballast fouling and the need for significant remedial works. The QCA identified that there may be a range of plausible reasons why the practice of allowing wagons to be loaded in a manner that apparently exacerbated ballast fouling was permitted.

The QCA stated that it will consider re-including this deduction in the future if Aurizon Network is able to demonstrate that:

- (a) its past approaches to ballast fouling have been cost effective; and
- (b) it has adopted an efficient approach to maintaining a sound ballast (whether through ballast cleaning and/or fouling prevention).

Aurizon Network contends that it was not reasonable for the QCA to have reduced the RAB by \$107 million on the basis that:

- (a) Aurizon Network did not, and does not, have direct control over the factors that lead to coal spillage which results in fouling of the ballast nor that this function is necessarily its primary responsibility;
- (b) the decision was made with the benefit of hindsight and did not appropriately take into account the information and standards available to management at the time nor an appropriate cost benefit analysis (and that conducting such a cost benefit analysis would be extremely difficult and complex); and
- (c) it was not reasonably foreseeable that the RAB would be reduced for management's failure to observe the relevant standard in relation to coal fouling and that no past maintenance failure had occurred so the 2001 decision is not relevant; and
- (d) the application of the Hunter Valley as a comparator for the purposes of assessing the efficiency of ballast cleaning was inappropriate.

1.3 Aurizon Network's responsibility to prevent ballast fouling

While the QRC acknowledges that there a range of factors that contribute to coal spillage and subsequent ballast fouling (e.g. weather, coal density, train speed etc.), Aurizon Network has both the ability and responsibility to prevent, and efficiently remediate the effects of, ballast fouling on its network.

Aurizon Network's assertion that it only has an ability to directly influence the response to coal fouling and that it is not able to influence practices that can lead to coal fouling does not accurately represent its rights and obligations. For instance:

1. If Aurizon Network was aware that wagon loading practices could lead to coal loss and ballast fouling, Aurizon Network could have sought to address this in past Access Undertaking submissions including via the Standard Access Agreements, connection agreements. Aurizon Network has not until recently sought to do so.
2. Under clause 8.5 of the UT3 Standard Access Agreement Aurizon Network has broad rights in relation to spillage, leakage and contamination.
3. Most Train Loading Facilities are built on Aurizon Network's land. To the extent that a Transfer Licence or other licence was not already in place (and even if in place) it is likely that Aurizon Network had the ability to implement procedures that would minimise coal loss.

1.4 Further Submission

The QRC notes that there are a range of technical matters posed in the Aurizon Network submission which require some specialist input. The QRC proposes to make a further submission on this topic in the future.