



Appendix B

Key Changes in the 2014 Draft Access Undertaking and Standard Access Agreements

Key Changes from 2013 Draft Access Undertaking

Key changes

	Change included	Reason
Intent & Scope	<ul style="list-style-type: none"> Clarification of Aurizon Network's obligation to supply electricity to access holders/rail operators. 	<ul style="list-style-type: none"> Request from stakeholders.
Ringfencing	<ul style="list-style-type: none"> Extension of non-discrimination provisions to include export terminal operators. New obligation that in the Ultimate Holding Company Support Deed that Aurizon Holdings may not take action which would cause Aurizon Network to breach the 2013 DAU. Clarification of the access related functions undertaken by Aurizon Network, and that these will only be completed by Aurizon Network employees. Aurizon Network will not discriminate based upon source of funding Further process included around secondment of employees. Development of a standard confidentiality deed. 	<ul style="list-style-type: none"> Request from stakeholders & consultation with Asciano.
Negotiation process	<ul style="list-style-type: none"> Additional rigor included in process for negotiating with access seekers. Increased obligation for Aurizon Network to act reasonably and in good faith when negotiating with access seekers. 	<ul style="list-style-type: none"> Request from stakeholders.
Access agreements	<ul style="list-style-type: none"> Revert to 2010 DAU process with the standard access agreements being the starting point for negotiations with access seekers rather than commercial negotiation as first attempt. 	<ul style="list-style-type: none"> Request from stakeholders.
Pricing principles	<ul style="list-style-type: none"> Inclusion of principles for pricing of expansion projects agreed with the QRC (refer Attachment 1). Correction of errors in the distance discount formula. 	<ul style="list-style-type: none"> Request from stakeholders. Error found.
Available capacity allocation & management	<ul style="list-style-type: none"> Clarification that allocation of capacity is independent of the funding arrangements for delivering that capacity. Additional rigor around criteria for allocation of capacity to remove perceived subjective tests, in particular the ability to use access rights test. Increase obligation for Aurizon Network to act reasonably and in good faith when determining capacity allocation. Additional rigor around process for renewal and transfer applications. System Rules are required for all coal systems where requested by access holders. 	<ul style="list-style-type: none"> Request from stakeholders.

Key changes (cont.)

	Change included	Reason
Network development & expansion	<ul style="list-style-type: none"> Ensuring the expansion process delivers suitable information and involvement for access seekers to satisfy governance requirements. Structured process of potential expansions being studied progressively by concept, prefeasibility and feasibility studies. Inclusion of a new capacity allocation mechanism for capacity created by expansions, based on the reasonable likelihood of the access seeker being able to use the access rights at the earliest time. Greater number of dispute points (with associated suspension of works) and therefore an increased risk to the timely development of expansions. Greater prescription of what will be included in the Network Development Plan Inclusion of consultation process for variation of System Operating Parameters. Changes to user voting process 	<ul style="list-style-type: none"> Consultation with QRC. Request from stakeholders. Linked to pricing principles.
Connecting private infrastructure	<ul style="list-style-type: none"> Expanded coverage of these provisions for anyone wanting a connection not just an access seeker. 	<ul style="list-style-type: none"> Requests from stakeholders.
Reporting	<ul style="list-style-type: none"> Removal of annual performance reports and reinstatement of quarterly reports. Metrics for quarterly reports have been reviewed and updated to ensure they are relevant. Additional reporting obligations for maintenance activities. Reinstate QCA approval of the auditor for compliance and report audits, and include a requirement for the QCA to determine the scope of an audit for the audit plan. Obligation to report on Aurizon Network staff compliance with ringfencing training. Reinstatement of conditions based assessment for the rail infrastructure. 	<ul style="list-style-type: none"> Request from stakeholders & consultation with Asciano. Request from stakeholders.

Key changes (cont.)

	Change included	Reason
Dispute resolution & decision making	<ul style="list-style-type: none"> • Clarification that dispute processes apply to all provisions of the 2013 DAU excepts ringfencing and reporting (these have separate mechanism). • Additional rigor around timeframe and process for disputes. • Changes included to provide consistency between standard access agreement dispute process and 2013 DAU process. 	<ul style="list-style-type: none"> • Request from stakeholders. • Process alignment
Regulatory asset base	<ul style="list-style-type: none"> • Clarification of what is considered capital expenditure. • Inclusion of ability for an auditor to assess compliance with a construction contract derived under the approved procurement strategy for proving prudence of cost. • Amendments to provide for SUFA assets to be incorporated into the regulatory asset base 	<ul style="list-style-type: none"> • Request from QCA. • Request from stakeholders. • Clarification
Reference tariffs	<ul style="list-style-type: none"> • Amendments as required to suit the new pricing principles incorporated in Part 6, in particular application of allowable revenue between system reference tariffs and expansion reference tariffs. • Inclusion of more customer oversight around the operator capping mechanism. • Clarification and additional rigor to the process for review events and adjustment charges. • Additional revenue adjustment triggers relating to costs associated with requested capacity reviews or conditions based assessment of the asset. 	<ul style="list-style-type: none"> • Linked to pricing principles. • Consultation with QRC & requests from stakeholders. • Cost recovery
Network Management Principles	<ul style="list-style-type: none"> • Aurizon Network will develop a strategic train plan which provides access holders with information about the ability to provide access rights for up to two years. • Clarification included on the form of the master train plan • Amendments to the contested train path principles for simplification • Additional provisions around Aurizon Network's requirement to deal with confidential information from access holders in accordance with the 2013 DAU 	<ul style="list-style-type: none"> • Request from stakeholders • Clarification

Key Changes from 2013 Standard Access Agreements

Key changes

	Change included	Reason
Supply Chain Rights	<ul style="list-style-type: none"> Amended so that Access Holders are only required to demonstrate that they hold or will reasonably likely hold supply chain rights for the train services. 	<ul style="list-style-type: none"> Request from Stakeholders
Renewal Right	<ul style="list-style-type: none"> Removed right of renewal to avoid confusion with renewal processes in the Access Undertaking. 	<ul style="list-style-type: none"> Alignment with Access Undertaking
Access Interface Deed	<ul style="list-style-type: none"> (SOAA) removed requirement for a Relinquishment Fee in the instance where the Operator fails to provide an Access Interface Deed (AID) from an End User. (AHAA) included an AID between the Operator and Aurizon Network so that many of the liability provisions relating to the Operator in the AHAA can be removed. 	<ul style="list-style-type: none"> Request from Stakeholders Addresses Stakeholders concerns
Billing	<ul style="list-style-type: none"> Amended to provide mutual set-off of amounts owed between the Access Holder and Aurizon Network. Included an obligation for Aurizon Network to provide a greater amount of detail to the Access Holder for all invoices provided. Removed ability for Aurizon Network to charge Access Holders an Overload Charge. Aurizon Network has made relevant drafting changes to ensure that Schedule 4 is consistent with Schedule F of the Access Undertaking and the new pricing principles included in Part 6 of the Access Undertaking. 	<ul style="list-style-type: none"> Requests from Stakeholders

Key changes (cont.)

	Change included	Reason
Resumption of Access Rights	<ul style="list-style-type: none"> Reverted back to the UT3 resumption test of 85% of Train Services for any four consecutive quarters (from the proposed 2 out of 3 quarters). Included a test of reasonableness in determining whether an End User has the ability to utilise access rights. Removed requirement that Access Holders notify Aurizon Network of Underutilisation Events, Included requirement that Aurizon Network must act promptly when providing the proposed and final resumption notice. Clarified that Access Holders can dispute whether there is an Underutilisation Event. 	<ul style="list-style-type: none"> Requests from Stakeholders
Relinquishment and Transfer of Access Rights	<ul style="list-style-type: none"> Included requirement for Aurizon Network to be reasonable in determining assumptions for calculation of relinquishment and transfer fees. Clarified that Access Holders can dispute the calculation of relinquishment and transfer fees. 	<ul style="list-style-type: none"> Requests from Stakeholders
Reduction of Nominated Monthly Train Services if Payload Exceeded	<ul style="list-style-type: none"> Included an ability for the Access Holder to request an increase in the Maximum Payload and reduce its Nominated Monthly Train Service Entitlements. Pending discussions with QRC and QCA – removal of the Relinquishment Fee for reduction of Nominated Monthly Train Service Entitlements (for equivalent tonnage). 	<ul style="list-style-type: none"> Requests from Stakeholders
Reduction of Nominated Monthly Train Services if Nominal Payload Increased	<ul style="list-style-type: none"> Included a requirement for Aurizon Network to consult with industry about the options to increase the capacity of the network prior to issuing a Notice of Intention to increase the Nominal Payload. Amended the implementation timeframes from 14 months to 18 months or as otherwise agreed between the parties to reflect rollingstock procurement timeframes. Clarified that the final estimate of the Net Financial Effect cannot include costs or detriments that the Operator should have anticipated at the time of the original estimate of Net Financial Effect. 	<ul style="list-style-type: none"> Request from Stakeholders

Key changes (cont.)

	Change	Reason
Short Term Transfer Process	<ul style="list-style-type: none"> A short term transfer process has been developed and consulted on with stakeholders. No drafting changes have been included in the UT4 SAAs at this point but will be incorporated at the conclusion of consultation with stakeholders and QCA. 	<ul style="list-style-type: none"> Request from Stakeholders
Aurizon Network Approval of Operating Plans	<ul style="list-style-type: none"> Included an ability for the Access Holder to dispute where Aurizon Network does not approve an Operating Plan. Included a test of reasonableness when Aurizon Network determines whether an Operating Plan meets Aurizon Network's requirements. 	<ul style="list-style-type: none"> Request from Stakeholders
Compliance with Aurizon Network's Accreditation	<ul style="list-style-type: none"> Clarified that Aurizon Network is only relieved from non-compliance with the SAAs to the extent that the relevant act or omission is reasonably required for the purposes of: <ul style="list-style-type: none"> Complying with its Accreditation; Ensuring that it's Accreditation is not at risk of amendment, suspension, cancellation or revocation. Amended so that the End User and Operator must not do anything which they know or ought reasonably to know would result in the amendment, suspension, cancellation or revocation of Aurizon Network's Accreditation. 	<ul style="list-style-type: none"> Request from Stakeholders
Alterations to Train Services	<ul style="list-style-type: none"> Deleted majority of the clause outlining rules for notification and rescheduling of train services, whether cancelled by the End User or Aurizon Network as these are dealt with in the Network Management Principles and System Rules. 	<ul style="list-style-type: none"> Alignment with Access Undertaking
Interface Representatives	<ul style="list-style-type: none"> Included a reciprocal obligation on Aurizon Network to provide appropriately qualified representatives to be responsible for interface and environmental issues and efficiently and effectively perform the responsibilities of the interface representative. 	<ul style="list-style-type: none"> Request from Stakeholders

Key changes (cont.)

	Change	Reason
Relationship with Operator (AHAA Specific)	<ul style="list-style-type: none"> • Included an AID to govern the contractual relationship between the Operator and Aurizon Network in relation to utilisation of the Access Rights. • Removed the exclusion of liability to the Operator from the AHAA and included in the AID. • Removed the End User's indemnity for any claims the Operator may have against Aurizon Network under the AHAA. 	<ul style="list-style-type: none"> • Addresses Stakeholders concerns
Liability & Indemnities – Third Party Losses	<ul style="list-style-type: none"> • Amended so that the End User's indemnity to Aurizon Network for certain liability to third parties does not include consequential loss. 	<ul style="list-style-type: none"> • Request from Stakeholders
Liability & Indemnities – Duty to Mitigate	<ul style="list-style-type: none"> • Extended obligation to mitigate the losses covered under an indemnity. 	<ul style="list-style-type: none"> • Request from Stakeholders
Liability & Indemnities – Delays to Train Movements	<ul style="list-style-type: none"> • Removed the carve-out for liability where the delay to Train Movement is attributable to a customer of another Railway Operator. 	<ul style="list-style-type: none"> • Request from Stakeholders
General	<ul style="list-style-type: none"> • Included requirement throughout the SAAs for Aurizon Network to be reasonable in taking actions and/or making decisions in administering the agreements 	<ul style="list-style-type: none"> • Request from Stakeholders

Attachment 1

Pricing Principles

Pricing Principles

Principles and Features

- Provides consistent approach for new train services and expanding existing train services
- It is critical that the methodology for determining reference tariffs is clear, transparent and fair
- New/expanding users should generally pay an access charge which at least reflects the full incremental cost (capital and operating) of providing additional capacity
- If averaging the cost of an expansion across new/expanding users would increase access charges paid by existing users, then a new reference tariff should apply for expanding users, i.e. existing users should not experience a material increase due to an expansion, and new expanding users who pay an incremental tariff will not be required to make a contribution beyond full incremental cost
- Where existing users receive a clear benefit from an expansion, an allocation of project costs to existing users (through reference tariffs) may be appropriate i.e. increase System Allowable Revenue (SAR) commensurate with economic benefit

Pricing Principles

Principles and Features (cont.)

- Where an expansion has a lower incremental cost than that of the existing reference tariff, or any previous tariff for an expansion, averaging down should apply to the existing reference tariff or most expensive previous expansion (i.e. the cost of the most expensive prior expansion is averaged down).
- Once an expansion has been socialised with an existing tariff the cost of the expansion cannot be removed from the RAB for that tariff (i.e. once socialised, always socialised).
- The undertaking would contain the above principles, however, the QCA would consider specific circumstances on a case by case basis
- Higher (separate) reference tariff for an expansion will be socialised to a standard system reference tariff (i.e. combined with system reference tariff) after a period of 10 years (or sooner if incremental access charge becomes less than the system tariff or next most expensive expansion)

Pricing Principles

Proposal for UT4

Reference Tariff for an Expansion in an Existing System

- If there is an Expansion in an existing system and the change in System Allowable Revenue (during the ramp-up phase or at maximum contracted level) associated with the Expansion would, (if socialised with the most expensive comparable existing reference tariff), result in an increase in that existing Reference Tariff, then
 - if the increase in the existing Reference Tariff is greater than 5% (materiality threshold), a new Reference Tariff is required only for the Train Services requiring the Expansion; or
 - Otherwise, an amended Reference Tariff (with the existing system tariff or tariff for the most expensive previous expansion) is required for Train Services that utilise comparable infrastructure
- The calculation to determine if an expansion is socialised with an existing system tariff will be based on forecast volumes for the existing tariff and a reasonable volume forecast for the Expansion. If pricing for an Expansion is being determined during the setting of tariffs for an undertaking period (4 years) and the Expansion would meet the 'socialisation' test on average over the undertaking period, a new Reference Tariff is not required.

Pricing Principles

Proposal for UT4 (cont.)

Reference Tariff for an Expansion in an Existing System

- If it is determined that an incremental tariff is applicable during the ramp-up phase (prior to a socialised tariff at the maximum contracted level) the reference tariff for the Expansion will be based on contracted volumes for the Expansion and no system trigger test will be applicable for the purpose of calculating Take or Pay
- Aurizon Network will seek the QCA's pre-approval of the costing allocation associated with the proposed new or varied Reference Tariff. The QCA may publish Aurizon Network's proposal and seek comments from interested participants, to which Aurizon Network must have a reasonable opportunity to respond
- Asset Replacement Expenditure (other than replacement capital caused by expanding users) will be allocated to the lowest existing reference tariff group (e.g. existing system reference tariff). This may accelerate the merging of reference tariff groups
- Notwithstanding the proposed principles, any new and/or amended Reference Tariff shall be approved by the QCA
- New Reference Tariff for an expansion will be socialised with the system Reference Tariff 10 years after first endorsed by the QCA

Pricing Principles

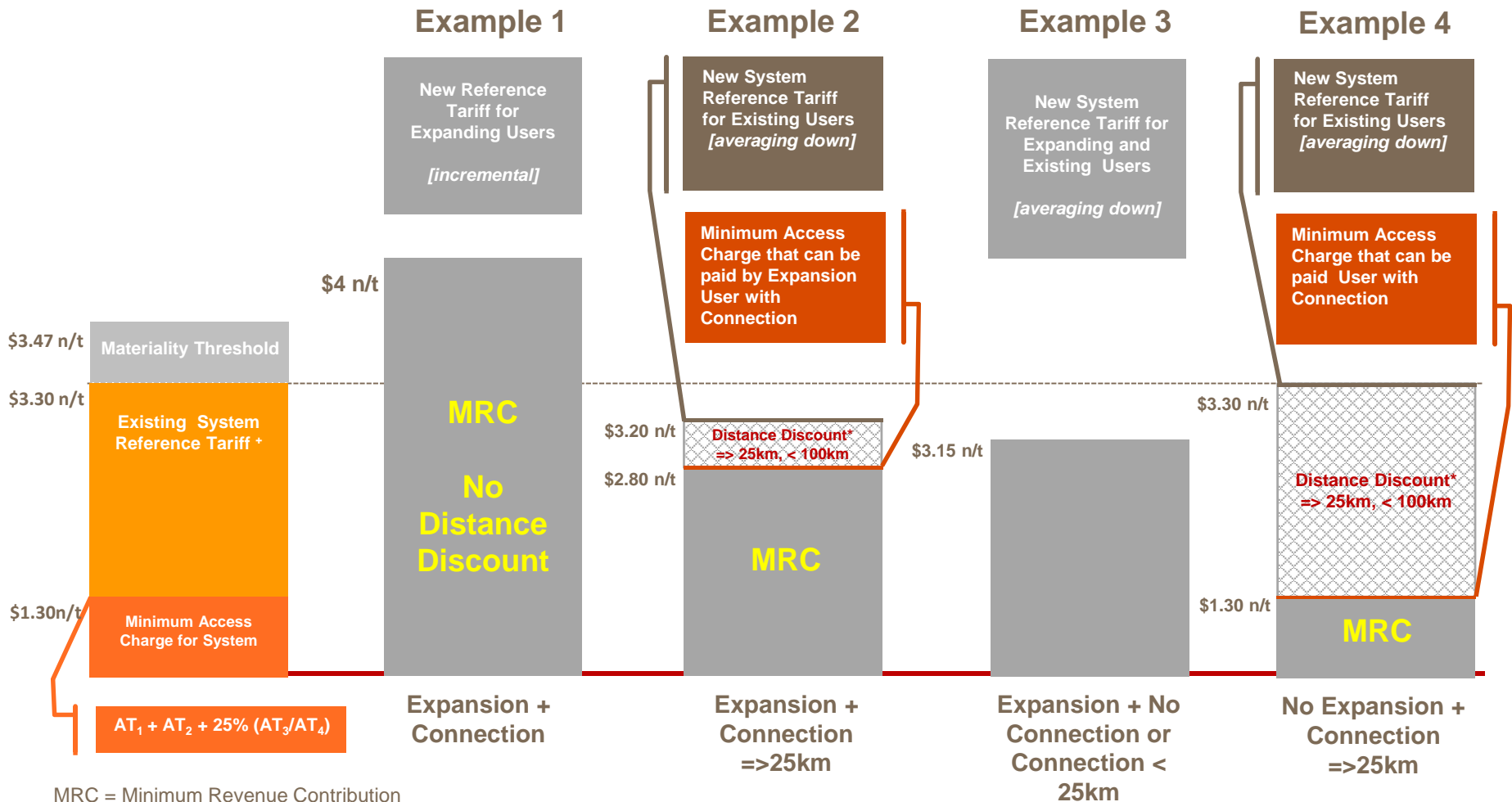
Proposal for UT4 (cont.)

Private Spur (>25km) connecting to CQCN (no Expansion of existing system)

- Any new/varied Reference Tariff (inclusive of Distance Discount) for a new spur connecting to the CQCN will be approved by the QCA in accordance with the principles contained in the Access Undertaking

Pricing Examples

Train Services in the CQCN



MRC = Minimum Revenue Contribution

+ Existing System Reference Tariff or most expensive reference tariff (utilising comparable infrastructure)

* Distance Discount depends on length of the spur connecting to the CQCN

Process Overview

Development of a Reference Tariff

