



**Submission to the
QCA Review of the Aurizon
Network Draft Northern Bowen
Basin System Rules**

September 2013

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1 INTRODUCTION AND BACKGROUND

Asciano Limited (Asciano) welcomes the opportunity to provide comments to the Queensland Competition Authority (QCA) on the Aurizon Network Draft Northern Bowen Basin System Rules (Draft NBB System Rules).

Asciano has previously provided comment to both Aurizon Network and the QCA on draft Goonyella System Rules. The Goonyella system is the largest system covered by the Draft NBB System Rules.

Asciano continues to have concerns with both the general manner in which the NBB System Rules may be implemented and specific details contained within the Draft NBB System Rules. These concerns are outlined in this submission. In particular Asciano strongly opposes any final approval of the NBB System Rules until the current regulatory process related to the 2013 Aurizon Network Draft Access Undertaking (DAU) is finalised. The outcome of this NBB System Rules process has the potential to impact on issues currently being addressed by the 2013 DAU regulatory process. At the very least Asciano believes that any final submissions to this NBB System Rules process should be delayed until the 2013 DAU is finalised.

This submission contains no confidential information and may be considered a public document.

2 GENERAL ASCIANO COMMENTS ON THE DRAFT NBB SYSTEM RULES

Asciano recognises that a single set of operating rules for the Northern Bowen Basin coal rail systems allows for the efficient operation of these systems.

NBB System Rules Interaction with Other System Rules and the UT4 Regulatory Process

Asciano has a general concern as to how the final NBB System Rules will integrate with both the Capricornia System Rules currently being developed and the Aurizon Network Draft Access Undertaking (DAU) submitted to the QCA in April 2013.

Asciano believes that the Capricornia System Rules and NBB System Rules should be consistent where possible¹ and should be considered via consistent regulatory processes. Such consistency will minimise the potential for misalignment between the NBB System Rules and Capricornia System Rules.

The Draft Capricornia System Rules and the Draft NBB System Rules were submitted by Aurizon Network to the QCA under the 2010 Access Undertaking (UT3) however Aurizon Network has now submitted the 2013 DAU (UT4) to the QCA. The NBB System Rules sit under the Network Management Principles which are contained in Schedule G of UT3 and Schedule H of UT4. (UT4 maintains a requirement for system rules, but when approved the system rules are outside the access undertaking. This approach is similar to the approach in UT3).

Given the system rules must be consistent with the access undertaking Asciano is concerned that the NBB System Rules may need to be revised following a final decision on UT4. Asciano is seeking clarification as to how the Draft NBB System Rules submitted under UT3 will be amended to align with any changes made to the Network Management Principles and other relevant clauses through the UT4 approval process. (Asciano recognises that the Draft NBB System Rules, while submitted under UT3, include a provision for changing the system rules to accommodate variations to the Network Management Principles that may occur as part of the UT4 process; however Asciano believes that this process should be clarified).

Asciano notes that under section 7.6.4 of UT4 that the system rules can be amended without explicit QCA approval. This is of great concern to Asciano as any approved set of NBB System Rules arising from this current regulatory process may then be amended by Aurizon Network following the UT4 regulatory process without stakeholder consultation or QCA approval processes. Asciano believes any amendments to system rules must be subject to a QCA approval process. This is because system rules essentially act as an extension of the Network Management Principles that are prescribed in the Access Undertaking. Asciano is also of the view

¹ For example

- the treatment of the maintenance multiplier applies in the Capricornia system rules but does not in the NBB system rules
- the NBB and the Capricornia System Rules both have a 48 hour lockdown period; however there is no regard that the NBB system rules applies a 72 hour rolling plan and the Capricornia system rules applies a weekly plan for the scheduling of services.

that it may be more appropriate to wait until UT4 is finalised before the QCA approve a final set of NBB System Rules which are then consistent with UT4 (a similar approach should be adopted for the Capricornia system rules).

Asciano believes that the issues addressed via the system rules are of sufficient importance that the system rules should be included in the access undertaking and be subject to QCA scrutiny. Asciano is concerned that there is a potential lack of regulatory oversight of future system rule amendments for the Capricornia and NBB System Rules. Regulatory oversight should be achieved by including the system rules in the access undertaking in some form.

Improved Pathing Flexibility

Asciano believes that the current system rules can be improved by the development and implementation of clearer rules and processes that facilitate more pathing flexibility. While improvements in pathing flexibility require amendments to other processes and documents, not just the system rules, the system rules should be sufficiently flexible to accommodate improvements as they occur.

Asciano strongly supports the development of processes that facilitate increased pathing flexibility.

Alignment of System Rules and Commercial Processes

Asciano continues to be concerned with the continuing disconnect between the operational processes for scheduling services (such as the system rules) and the commercial processes for selling and charging for services (such as the access agreements and take or pay rules). Aurizon Network is contractually obligated to provide a certain number of Train Service Entitlements but these obligations do not appear to be well reflected in the operational processes for scheduling train services. The proposed NBB System Rules act to minimise Aurizon Network's exposure to contractual risks. Asciano believes that there needs to be a stronger alignment between the access agreements agreed by Aurizon Network and the operational processes Aurizon Network uses to meet its obligations under these agreements.

3 DETAILED ASCIANO COMMENTS ON SPECIFIC ITEMS WITHIN THE DRAFT NBB SYSTEM RULES

This section addresses Asciano's comments on the details of some sections of the Draft NBB System Rules.

Comment on Preamble – Definitions and Considerations

The term “TSE Consumption” is defined in terms of the 48 hour schedule and similarly Page 6 sections of the Draft NBB System Rules frames TSE Consumption within the weekly period. Asciano recognises that the defined term “TSE consumption” relates to the 48 hour schedule matrix however given that TSEs are more generally assessed on a monthly basis as TSE are contracted based on monthly entitlements Asciano believes that a different term could be used to avoid confusion.

Asciano has a further concern related to TSE Consumption that while the TSEs are consumed in the 48 hour period changes to a weekly plan outside the 48 hour period can only be swapped within the weekly period with Sunday as the cut-off day. Effectively this results in an outcome that the TSEs which were ordered in the 10 day period will be deemed as being consumed for planning purposes regardless of whether they are actually consumed.

Following from this is the risk is that Aurizon Network may believe their obligation is the lower of ordered paths or contracted paths and that if paths are not ordered then others users can over-order with no offset to the Take or Pay liability of the under ordering party and if there is any variability in the TSEs ordered in the 10 day period then Aurizon Network is no longer obligated to provide the contracted paths.

Asciano believes that this issue must be clarified.

Definitions and interpretation - Page 5

Clarity is required surrounding what takes precedence when there are inconsistencies with the NBB System Rules, Access Undertaking or an Access Agreement. On the bottom of page 5, it states that if there are inconsistencies between these documents, then the Access Undertaking or Access Agreement (as applicable) prevails to the extent of that inconsistency. Asciano is of the view that there may be situations where only one of these documents can prevail in such situation. Asciano believes that a hierarchy of documents should be included.

Comment on Section 1.1 – Context

In describing the context of the system rules Asciano believes that the role of both the access undertaking and access agreements should be discussed in both section 1.1 and section 3. Asciano believes that the access undertaking and access

agreements should be the main guides to decision-making in relation to system operations and believes that the contracted TSEs should be seen as a critical input into the train planning process.

In addition Asciano notes that Figure 1 makes reference to QRN above rail operations in the Legend but does not refer to Pacific National above rail operations. Figure 1 should be amended to provide the perception of that Aurizon Network is a ring fenced network operator.

Comment on Section 1.2 – Governance Framework

As outlined in section 2 above Asciano is concerned that the NBB System Rules can be amended without explicit QCA approval. Asciano believes that the issues addressed via the system rules are of sufficient importance that the system rules should be included in the access undertaking and be subject to QCA scrutiny. Asciano is concerned that there is a potential lack of regulatory oversight of future system rule amendments.

Asciano believes that the section on governance framework should also address the interrelationship between the NBB System Rules and the Capricornia System Rules.

Comment on Section 3 – Planning

Asciano is concerned that the planning process as outlined in section 3 does not take account of contract TSEs. The planning procedure outlined in the Draft NBB System Rules is focussed on internal Aurizon network planning processes. This can be seen in Figure 4 in section 4.3 where the inputs in the Master Train Planning flow chart are Aurizon network inputs and the outputs are Aurizon network outputs. The planning needs to be broadened to include mine, port and rollingstock considerations and the focus of the planning process should be maximising the volume of coal moved.

Asciano believes that the planning procedure must:

- identify the redundancy built into the network and thus identify the ability of the network to address maintenance and day of operations variability while still meeting contractual obligations with regard to contracted paths;
- identify the days per year that contractual obligations with regard to contracted paths will not be met;

- demonstrate that there are system paths which connect an origin with a destination (typically a port slot); and
- outline system contracted paths and available paths.

The increased transparency of information arising from such a planning process will allow better co-ordination of the supply chain and a better understanding of how contracted TSEs will be delivered.

Thus the planning procedure should be re-cast to include a broader focus on ensuring that the planning results in a process which allows Aurizon Network to provide the TSEs necessary to meet its contractual obligations and if possible, provide additional train paths in order to maximise the volumes of coal moved.

Comment on Section 4.2.1 and 4.2.2 – CAAC and CACS

While Asciano welcomes the availability of the Critical Asset Alignment Calendar (CAAC) and Critical Asset Constraint Summary (CACS) these documents do not provide sufficient visibility of the capacity that the network can handle on any given day. Asciano believes that further information should be provided so that there is sufficient visibility of the capability of the network on any given day that allows better planning ability to stakeholders in the supply chain.

Comment on Section 4.2.1 – Four Week Pathing Availability Plan

Under section 4.2.3 the Four Week Pathing Availability Plan indicates possessions for the next four weekly periods with only the possessions for the first 3 of those weekly periods being “locked down”. Asciano believes that to the extent that TSEs are lost due to variances from this three week “lockdown” period in their Four Week Pathing Availability Plan then these lost TSEs should be considered Aurizon Network cancellations. This ensures possessions are kept within planned timeframes and limits impacts on the network.

More generally on the issue of maintenance and possessions Asciano believes that the NBB System Rules should address the issue where possessions may impact on paths on days preceding or following possession periods. For example while paths may be theoretically available on the days preceding or following possession, in practice these paths may not be usable as trains may be unable to make return journeys to make use of these paths. This issue may be best addressed in the Four Week Pathing Availability Plan.

Comment on Section 4.4.2 – Cyclic Traffic

Section 4.4.2 of the Draft NBB System Rules indicates that the risk of the train plan varying from contractual entitlements will sit with the access holder. Asciano believes that this approach is too simplistic – the risk should sit with the party best placed to manage the risk. Thus if the risk arises from access holder variations then the risk should sit with the access holder, but if the risk is due to variations arising from an Aurizon Network issue then the risk should sit with Aurizon Network.

In addition, section 4.4.2 of the Draft NBB System Rules refers to “annual TSEs”; however section 4.6 refers to TSEs as being a monthly entitlement. Asciano believes that the TSEs are a monthly entitlement. The reference to annual TSEs should be amended to ensure clarity.

Asciano understands that Aurizon network considers that access agreements are agreed on an even railings basis. Given this Asciano believes that this even railings position should be reconciled with scheduling approaches which depart from even railings approaches.

Comment on Section 4.6 – Determination of Aurizon Network TSE Obligation

The formula to calculate indicative weekly TSEs in section 4.6 is

$$\text{Indicative weekly TSE} = \text{Annual net tonnage} / 360 \text{ days} / \text{nominal payload} \\ \times 7 \text{ days} \times 2 \text{ (Rounded up)}$$

Asciano is aware that this is inconsistent with the method Aurizon Network adopts for TSE in access agreements. The indicative weekly TSE specified in access agreements are derived from the monthly TSEs, which is the true contractual basis. This discrepancy in TSE calculations further raises a concern that the method used to allocate TSEs amongst all access holders should be set out in the access undertaking to ensure consistent and equitable treatment of all access holders.

Asciano believes that if Aurizon Network calculates TSEs using a year of 360 days then it stands to reason that the network should be available for these 360 days. This is not the case due to maintenance shutdowns of at least 24 days a year (two per month) in addition to other maintenance shutdowns outlined in the CACC. The fact that the network is not available for these 360 days results in the weekly TSE obligations being under- calculated as the denominator is being artificially increased.

Asciano believes that the methodology outlined above should be reconsidered on the basis of a smaller denominator, perhaps 340 days.

In addition the NBB System Rules should clearly outline the methodology used for the rounding of paths, the methodology for the reconciling of monthly, weekly and annual entitlements and confirmation that 30 day months are assumed.

More generally, the NBB System Rules should be more explicit in this section addressing the process of what occurs in the event that the provision of TSE obligations is not met by Aurizon Network. Asciano believes that, in the event that requests for TSE allocations within weekly or monthly entitlements have not been supplied due to Aurizon Network related reasons then access holders monthly TSE entitlements should be recalculated to allow these TSEs to be recovered over the year.

Comment on Sections 5.2 ad 5.3 – Scheduling Hierarchy and Schedule Development

Section 5.2 outlines a scheduling hierarchy which includes the scheduling of ad hoc train services at point 4. However section 5.3 which addresses the development of schedules makes no explicit reference to ad hoc trains and their scheduling. Asciano believes that section 5.3 should explicitly reference ad hoc scheduling.

Comment on Section 5.3.2 – Train Orders

Section 5.3.2 implies that consumption of paths, including TSEs, is based on weekly train orders stating “All Train Orders received for Cyclic Traffic up to the MTP TSE allocation for the Weekly Period of the Access Holder will be treated as Contracted TSE Orders”. Asciano believes that the NBB System Rules should be clearer surrounding the consumption of paths does not occur at the Train Order stage of the scheduling process.

This section 5.3.2 adds to the concerns Asciano raised above in its comment on TSE consumption in the section “Comments on Preamble – Definitions and Considerations”. Effectively basing TSE consumption on weekly train orders results in an outcome that the TSEs which were ordered will be deemed as being consumed for planning purposes regardless of whether they are actually consumed and following from this is the risk is that Aurizon Network may believe their obligation is the lower of ordered paths or contracted paths and that if paths are not ordered then others users can over-order with no offset to the Take or Pay liability of the under ordering party. Thus Aurizon Network will not be contractually required to deliver the

path that the access holder has effectively purchased through Take or Pay arrangements.

Asciano believes that this issue must be clarified.

Comment on Section 5.3.3 – Allocating TSEs to Paths

In relation to the Draft NBB System Rules, Figure 6 and Appendix C, Asciano is seeking clarification as to whether it is the intention to have the “FY Provided %” based on an Access Seeker’s total TSEs. If this is the intention, it would be inconsistent to what is being proposed in UT4 in relation to the allocation of a contested train path - section (8.3 (a) (vii) and (viii)).

Asciano has a concern regarding the example given in Figure 6 – in this example “YTD Provided = the greater of the YTD MTP TSE Allocation or the TSE Consumed Services”. Asciano believes that this method would lead to a situation where the “FY Provided %” will not truly reflect the TSE operated by an Access Holder. If there is a contested train path decision to be made this will certainly disadvantage an Access Holders in a contested train path scenario where they have a lesser chance of being allocated the contested train path, because their FY Provided % is deemed higher than the percentage they actually operated. The contested train path would be allocated to the Access Holder who is most behind (i.e.; with the lowest FY Provided %). Asciano believes that the YTD Provided should only be the TSE Consumed Services. Otherwise the FY Provided % column in this example is misleading as it would include services that were not actually operated by the access holder.

It is apparently that the above method in determining YTD Provided has also been reflected in Schedule H, 8.2 (b) of UT4, which has yet to be approved by the QCA, which Asciano also does not agree with on the above basis.

Comment on Section 5.3.4 – Cross System Traffic

The Draft NBB System Rules propose to resolve mine load out congestion as a result of cross system traffic on the basis of “order of arrival”. Asciano is concerned that there is potential for the “order of arrival” to be manipulated by train operators and/or network planners in order to secure the mine slot. A more transparent process should be considered. For example the existing Schedule G Contested Train Path process could be considered. There appears to be no reason why the Contested

Train Path process cannot be applied despite each train departing from a different origin.

Comments on Sections 5.3.6 and 5.3.7 – ITP Draft Development and Distribution and ITP Acknowledgement and Acceptance

Asciano believes that in developing and finalising the Intermediate Train Plan and distributing the plan to the train operators Aurizon Network should also provide in writing the reason for not supplying any train services requested by the train operators including

- details of any “won” and “lost” contested paths
- reasons for any schedule times longer than access agreement sectional run times, and
- reasons for any alternative path provided.

Under section 5.3.7 acceptance of the Intermediate Train Plan is assumed if acceptance does not occur by 16:00 hours. Asciano believes that in the event that there is an issue with the schedule and if there is communication between an access holder and Aurizon Network that there is an issue with the schedule then acceptance should not be assumed. If there is no communication then acceptance should be assumed.

Comment on Section 6.1 – Types of Requests to Alter Train Services

In relation to Section 6.1 dot point 2 “Cancelled Train Services”, Asciano believes that it should be clarified that the Aurizon network email to access holders advising of newly available paths will be simultaneous (i.e. the same email will be sent to all Access Holders at same time).

In relation to Section 6.1 dot point 3 “Rescheduling Train Services”, Asciano is seeking clarification of the impact on TSE consumption in the event that a train is rescheduled within the 48 hour schedule environment. For example, if Aurizon Network requests Pacific National Coal to reschedule a train, and the alternative offered path cannot be accommodated or is not acceptable to Pacific National Coal, the train is cancelled. In this situation, is the cancellation cause assigned to Aurizon Network (for their inability to provide the original path) or to Pacific National Coal (for their inability to run on the alternative offered path)? Asciano believes that in this example cause should be assigned to Aurizon Network.

In relation to Section 6.1 dot point 4 “Diverted Train Services” footnote 7 contains no detail. Aurizon Network should clarify if a footnote was intended to appear.

Comment on Section 6.2 – 72 Hour Schedule

Section 6.2 notes that acceptance of the 72 hour schedule is required within 1 hour of the schedule being released at 16:00. Acceptance of the schedule is assumed if acceptance has not occurred by this time. Asciano believes that this time frame may be too limited in the event that there is an issue with the schedule, and if there is communication between an access holder and Aurizon network that there is an issue with the schedule then acceptance should not be assumed at 17:00.

Comment on Section 6.3 – 48 Hour Schedule

There is an inconsistency in wording concerning the confirmation and finalisation of the 48 hour schedule. The definition section of the Draft NBB System Rules states the 48 hour schedule is finalised each day at midnight, whereas section 6.3 describes the 48 hour schedule as being confirmed and “locked down” at 16:00 hours, becoming visible on Vizirail at midnight. If the 48 hour schedule is not finalised until midnight, an access holder should be able to request changes up to midnight, without consuming additional TSE. Stating the schedule is “locked down” at 16:00hrs implies additional TSE may be consumed for changes made between 16:00 and 00:00, thus effectively bringing the 48 hour schedule forward an additional 8 hours. The NBB System Rules should clarify that changes requested prior to 00:00 will not consume additional TSE.

More generally the 48 hour schedule should include details of scheduled sectional running times including crossing times, passing times and above rail and below rail dwells. In the event that such information cannot be provided in the 48 hour schedule it should be provided in the 72 hour schedule.

Comment on Section 8.1 – Plan Alteration Rules

The Draft NBB System Rules Section 8.1 dot point 2 provides for a 24 hours email for day of operation changes but the email provided for other changes is not staffed for 24 hours. Asciano believes that access holders should have the ability to request changes to the 72 hour schedule up to midnight (at which point it become the 48 hour schedule and changes incur additional TSE consumption). There is a need to incorporate a process which allows Aurizon Network to consider and process change requests made to the 72 hour schedule between 20:00 hours (when the network planner currently finishes duty) and 00:00.

Comment on Section 9.1.2 – Delays

Section 9.1.2 of the Draft NBB System Rules proposes that regardless of the cause of a delay Aurizon Network will use reasonable endeavours to provide best recovery solution for the supply chain. The concept of a “best recovery solution” should be better defined, perhaps by reference to a set of criteria.

Comment on Section 10.2.1 – Train Performance

Asciano notes that the issue of performance measurement is addressed in both the access agreements Aurizon Network has with its access holders (in particular schedule 5 of the access agreements) and in the Access Undertaking via requirements to develop incentive regulation. Asciano believes that the development of the performance measurement processes in the NBB System Rules should be consistent with performance measurement processes in other regulatory documents and contracts. Asciano strongly believes that performance of actual train paths achieved vs contractual train path entitlements is a critical measure in any system of performance measurement.

Asciano strongly believes that ultimate goal of any supply chain performance measurement and performance management process must be to achieve higher supply chain throughput and / or lower supply chain unit costs. Access Holders have underwritten network capacity to allow the network to deliver actual tonnes not a theoretical capacity. Any suggestion that Aurizon Network is creating additional capacity by establishing rules that allocate loss to other members of the supply chain and then allowing rescheduling or diversion is fundamentally flawed and should not be reflected in any performance measurement process.

In addition, while Asciano recognises that train performance is measured against the original Daily Train Plan except where paths are renegotiated, Asciano has a concern that renegotiated services are not always updated in Vizirail; therefore train performance figures which are based on Vizirail data may be incorrect. For example they may show large delays on operator services despite a new path being agreed. Asciano has a further concern that when the above occurs the above-rail delay codes are often used to justify the discrepancy. To address this issue Asciano is seeking that the NBB System Rules state that the relevant Aurizon Network systems must be updated with the renegotiated path details, in order to ensure this clause applies in practice.

Comment on Sections 10.2.2 and 10.2.3 – Delay Cause identification and Cancellation Cause Identification

Sections 10.2.2 and 10.2.3 address processes for identifying the cause of a delay and the case of a cancellation. Given the nature of these processes disputes could be expected. The current solutions proposed are that disputes can be escalated through the access agreement dispute resolution mechanism or by submitting a contested cancellation request form.

Asciano notes that the QCA Draft Decision on the Capricornia System Rules discussed dispute resolution options. Asciano believes that any finding in the QCA Final Decision on the Capricornia System Rules in relation to dispute resolution should be reflected in the NBB System Rules.

4 CONCLUSION

Asciano Limited welcomes the opportunity to provide comments on the Draft NBB System Rules. Asciano has numerous concerns with both the broad framework of the rules including concerns with:

- the NBB System Rules interrelationship and consistency with the Capricornia System Rules;
- the NBB System Rules relationship with the UT4 process; in particular;
 - Asciano strongly opposes any final approval of the NBB System Rules until the current UT4 process is finalised. The outcome of the NBB System Rules process has the potential to impact on issues currently being addressed by the UT4 process;
 - Asciano has strong concerns with the ability of Aurizon Network to unilaterally amend the NBB System Rules following the final approval of the rules; and
- the lack of pathing flexibility within the Draft NBB System Rules;

In addition Asciano has numerous concerns with the detail of the Draft NBB System Rules these concerns are outlined in section 3 of this submission.

Asciano is seeking that these concerns be addressed in the QCA Draft Decision on the Draft NBB System Rules.