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## **Aurizon Network - Review of the Declared Services**

24 June 2019

Dear Charles

We refer to our submission of 11 March 2019 (**Response Submission**) in response to the QCA's draft recommendation on declared services on 18 December 2018 (**Draft Recommendation**).

### **1. Overview of Response Submission**

In our Response Submission, Aurizon Network agreed that:

- (i) access to the service on reasonable terms from declaration is likely to promote competition in the above rail haulage market;
- (ii) the total foreseeable demand proposed by the QCA of 260 to 300 million tonnes per annum can likely be satisfied at least cost from the existing Central Queensland Coal Network (**CQCN**) facility; and
- (iii) access on reasonable terms from declaration would likely promote the public interest where the terms of access are determined through commercial negotiation and provide a reasonable commercial return on investment.

However, in our Response Submission, Aurizon Network:

- (i) did not agree that the 2017 Access Undertaking (**UT5**) represents access on reasonable commercial terms and in that context, UT5 is an example of where declaration would not promote the public interest and would fail to satisfy the requirements for an effective access regime and the object of promoting efficient investment in rail transport infrastructure;
- (ii) submitted there are substantial direct and indirect costs associated with a range of matters and that the Draft Recommendation failed to fully assess the impact of those costs when considering whether declaration for the regulatory regime would promote the public interest; and

- (iii) submitted that the declaration should be subject to periodic review every ten years to ensure that the declaration criteria continue to be met in a technologically developing market and for consistency with other regulatory arrangements in the rail industry.

## **2. Material change in circumstances**

On 3 May 2019, Aurizon Network submitted a Draft Amending Access Undertaking (**the 2019 DAAU**) to the QCA seeking to make amendments to UT5.

The 2019 DAAU was developed in consultation with a significant number of Aurizon Network's customers in the CQCN and comprises a package of agreed financial and operational modifications to UT5.

The package of financial and operational benefits negotiated as part of the 2019 DAAU address a number of matters that are relevant to declaration of the service, including concerns that Aurizon Network raised in its Response Submission. As a consequence of the matters agreed with industry in the 2019 DAAU, Aurizon Network is now able to support the declaration of the service for a term of 20 years until 8 September 2040.

## **3. Impact of 2019 DAAU on the Response Submission**

- (i) Promoting public interest, an effective access regime and promoting efficient investment in rail transport infrastructure

The 2019 DAAU builds on the commercial terms reflected in UT5 and delivers significant operational improvements to customers in return for increased financial benefits to Aurizon Network. Consequently, the 2019 DAAU represents access on reasonable commercial terms. That fact, coupled with a longer declaration period of 20 years, creates longer-term certainty for investors in mining operations and to Aurizon Network for investment in the rail infrastructure.

As a consequence of these matters and in the context of the 2019 DAAU, declaration for a 20-year period would promote public interest, reflects an effective access regime and promotes efficient investment in rail transport infrastructure.

- (ii) Costs

In return for greater operational benefits for industry, the terms of the 2019 DAAU also provide greater certainty and lower regulatory risk for Aurizon Network on both its past and future investment in the rail infrastructure. The secured financial return over the longer term proposed in the 2019 DAAU overcomes the concerns raised by Aurizon Network in its Response Submission with respect to the direct and indirect costs associated with regulation.

- (iii) Periodic review of declaration

In Aurizon Network's Response Submission, we submitted that the declaration should be reviewed every 10 years which would be consistent with other regulatory arrangements in the rail sector.

The Response Submission was made against the background of UT5. Since then, industry and Aurizon Network have negotiated longer term commercial benefits and incentives which are not reflected in other rail sector arrangements.

Aurizon Network considers the 2019 DAAU supports the certainty provided by a longer-term declaration period and that the access criterion in section 76(2)(b) of the QCA Act would be satisfied with a 20-year term.

#### **4. Meeting foreseeable demand at least cost**

Aurizon Network's Response Submission agreed that the total foreseeable demand proposed by the QCA of 260 to 300 million tonnes per annum for the recommended term of 15 years can likely be satisfied at least cost from the existing CQCN facility.

While there is uncertainty as to the likely foreseeable demand for the period beyond 15 years, Aurizon Network is not aware of any relevant market projections which involve a material change in demand above the current capacity of the CQCN which could promote the development of a competing below rail service.

If the demand in the additional 5-year period was to be lower than that within the initial 15 years, then there would be sufficient available capacity to meet that demand.

Alternatively, if the total foreseeable demand was to exceed the capacity over the initial 15-year term of the CQCN then that incremental demand for the transportation of coal by rail to the coal export terminals connected to the CQCN would likely be met at least cost by the CQCN through an economically and technically feasible expansion to the facility.

On this basis, the uncertainty of the total foreseeable demand in relation to the additional five years from the draft recommendation should not preclude the QCA recommending a period of declaration of 20 years.

#### **5. Conclusion**

In summary, Aurizon Network supports industry's request for a declaration period for 20 years and industry's submission with respect to that request given that the 2019 DAAU reflects commercially negotiated and agreed amendments to UT5 which will provide Aurizon Network greater regulatory certainty and satisfy the requirements for an effective access regime.

Yours sincerely



Michael Riches  
Group Executive Network