Friday, 2 May 2014

Dr Malcolm Roberts
Executive Chairman
Queensland Competition Authority
GPO Box 2257
Brisbane QLD 4001

By email: rail@qca.org.au

Dear Dr Roberts,

Asciano Submission on the Aurizon Network Draft Amending Access Undertaking to Extend the Term of the 2010 Access Undertaking

This Asciano submission is in response to the Draft Amending Access Undertaking (DAAU) submitted by Aurizon Network to the Queensland Competition Authority (QCA) in April 2014. The DAAU proposes to:

- extend the terminating date for the 2010 Aurizon Network Access Undertaking to the earlier of 30 June 2015 or the date on which the undertaking is withdrawn; and
- implement transitional tariffs for 2014-15, and an adjustment mechanism for dealing with revenue over recoveries and under recoveries arising in 2013-14.

The details of the Aurizon network proposal are contained in an Explanatory Memorandum.

Asciano Comment on Time Frames
Aurizon Network's 2010 Access Undertaking expires on 30 June 2014 and consequently Aurizon Network is seeking an extension until 30 June 2014. Given the current status of the regulatory process relating to the Aurizon Network Draft Access Undertaking Asciano recognises that an extension of time is necessary. In particular Asciano believes that in relation to the Draft Access Undertaking it is more important that the QCA makes the best regulatory decision possible rather than making a regulatory decision to meet a given time frame.

Although Asciano recognises that the time extension is necessary, Asciano is concerned that this extension may provide Aurizon Network with benefits that may occur by locking in assumed higher tariffs for a further year (even though these higher revenues may be returned to end users via the current Draft Access Undertaking process, as foreshadowed by the Explanatory Memorandum (page 7)).

Asciano is seeking that if any identifiable benefit accrues to Aurizon Network due to the time extension that the QCA take this benefit into consideration when making decisions on the Aurizon Network Draft Access Undertaking.

Asciano Comment on Transitional Tariffs

Blackwater AT5 Over Recovery
Asciano note that the Explanatory Memorandum has the Blackwater AT5 tariff over recovering its costs by $5.8 million in 2013-14, due in part to higher volumes (Explanatory Memorandum page 8). Asciano is seeking clarity as to whether these forecast higher volumes are an extrapolation of a year to date figure or if there is an assumption that electric volumes are growing strongly in the latter part of 2013-14.

Given that there are higher electric volumes in Blackwater in 2013-14 such that costs are being recovered, this raises concerns as to Aurizon Network's motives in seeking to recover the costs of

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electric infrastructure in the Blackwater system from diesel operators through various regulatory processes extending from 2011 to 2014, particularly when these diesel operators were typically not a related party to Aurizon Network.

Given the most recent Blackwater AT5 DAAU there is a possibility that in the future any under recovery will be recovered from all users, including diesel users. Asciano continues to argue strongly that electric infrastructure costs should only be met by those parties that use the electric infrastructure.

Furthermore In relation to AT5 tariffs Asciano continues to have concerns with the smoothing of the regulatory asset base across time. Asciano is seeking that the QCA confirm that these approaches are consistent with the QCA Act and the pricing principles, particularly in regard to the potential for price discrimination.

Aurizon Network Forecasting
Section 3.3 of the Explanatory Memorandum (page 12) states:

> *... the volumes are only necessary for the purposes of establishing transitional Reference Tariffs rather than also confirming the basis on which Take or Pay amounts are triggered (and indirectly the amounts calculated). This means that liabilities for UT1 Take or Pay, which includes a monthly element, cannot be confirmed on an ex-post basis until UT4 is finalised.*

This statement raises several concerns, including:

- the volume forecasts must be determined prior to the financial year for which they apply in order to avoid any potential for the "gaming" of the forecasts;
- the volume forecasts used for determining both the Reference Tariffs and Take or Pay trigger test must be identical. If these volumes were not identical there would be the potential for a major misalignment between Reference Tariff rates applied during the course of the year and Take or Pay calculations made at the end of the year. Furthermore this misalignment of volume forecasts would:
    - reduce certainty for producers; and
    - result in Reference Tariff rates which are not a correct reflection of the capacity planned to be delivered.
- the volume forecasts differentiate the treatment of UT1 contracts. Asciano strongly believes that UT1 contracts should not benefit further from differential treatment in regards to Take or Pay (noting that the UT1 contract's approach to Take or Pay is already favourable when compared to UT2 and UT3 contract's approach to Take or Pay). Due to the sequential nature of the application of Take or Pay, UT2 and UT3 contracts will be disadvantaged through the socialisation of the remaining Take or Pay balance.

Furthermore Section 3.3 of the Explanatory Memorandum (pages 12-13) notes that the Aurizon Network tonnage forecasts increase from 2013 -2014 to 2014-2015, and the approach used to make these forecasts has been adjusted between these two years. Asciano believes that that there should be greater consistency in Aurizon Network forecasting, and as such the system forecasting should be on the same basis for 2013 -2014 and 2014-2015.

System Premiums and Rebates
Section 4.3 of the Explanatory Memorandum (page 14) states:

> *... the bulk of any variation in rebates associated with the difference between actual and forecast volumes should be recovered from, or returned to, producers rather than incorporated with the FY2015 Revenue Cap Adjustment Amounts.*

Asciano is concerned that the exclusion of rebates from the Revenue Cap may reduce the transparency as to the rebates recovered or returned by Aurizon Network in the year in question.

Middlemount Reference Tariffs
Asciano (via its Pacific National subsidiary) currently provides train operations to the Middlemount Mine. Asciano notes that the QCA has recently commenced a separate consultation process on the proposed Middlemount Tariffs. Asciano will address issues relating to these Middlemount Reference Tariffs in a submission to this separate consultation process.

Section 4.5 of the Explanatory Memorandum (page 15) states that if the Middlemount Reference Tariffs are not approved by the QCA by 30 June 2014 then Aurizon Network will retrospectively apply the Goonyella System Tariffs. Asciano believes this arbitrary deadline in inappropriate.

Section 5.2 5 of the Explanatory Memorandum (page 17) makes reference to the completion of the Rolleston electrification works in December 2014. Asciano is seeking additional clarity form Aurizon Network as to how this electrification work will be incorporated into the Reference Tariffs. Asciano notes that these electrification works were not approved by Blackwater users and users, and given that the works are mine specific, Asciano believes that the user of the infrastructure should be the only user that pays.

Asciano Position
Asciano recognises that the expiry date extension in the DAAU gives all parties certainty and the time extension is preferable to the access undertaking falling away. As such Asciano supports the time extension component of the DAAU; however Asciano does not support the pricing component of the DAAU until the issues raised by Asciano in the submission above are more fully addressed by Aurizon Network.

Please contact Stuart Ronan on (02) 8484 8056 if you wish to discuss this submission.

Yours Faithfully

[redacted]

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