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17 May 2013

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

Dear Dr Roberts

Aurizon welcomes the opportunity to respond to Queensland Rail's proposed Draft Amending Access Undertaking to further extend the 2008 Access Undertaking (extension DAAU).

Aurizon also reaffirms its commitment to work cooperatively with Queensland Rail and the QCA to progress the completion of the first access undertaking prepared by Queensland Rail since its separation from Aurizon. The recent workshops provided a valuable opportunity for relevant stakeholders to contribute and provide their insights without the need for formal written submissions to the QCA.

Queensland Rail has proposed to extend the termination date of the 2008 Access Undertaking (the 2008 AU) to 31 December 2013, and roll-forward the Western System reference tariffs by the Brisbane Consumer Price Index. Aurizon acknowledges that this approach is consistent with the escalation provisions in the relevant Standard Access Agreements.

The extension DAAU notes that this approach is consistent with how transitional tariffs have been determined by the QCA on occasions where the approval date of an access undertaking followed the commencement date. Notably, this occurred during the approval of QR Network's 2005 and Aurizon Network's 2010 Access Undertakings.

However, the extension DAAU does not note a key point of difference between the current circumstances and these previous arrangements. In the case of the approval of the QR Network's 2005 and Aurizon Network's 2010 Access Undertakings, a reference tariff had been submitted at least 9 months prior to the termination date of the undertaking that they were replacing. These reference tariffs were then subject to consultation well before any extensions were sought.

The extension DAAU is the fourth extension of the 2008AU that Queensland Rail has sought since the separation of the Central Queensland Coal Network from the remainder of the Queensland narrow gauge network on 30 June 2010. This means that Queensland Rail is now seeking to roll-forward the current tariff for the fourth time in nearly three years without having yet provided any detail on its proposed tariff methodology. Further, Queensland Rail has not provided any detail on whether the current tariff remains reasonable, having regard to the material changes in circumstances that have occurred since the approval of that tariff including:

- the material increase in volumes in that system with coal volumes increasing to 84% of total number of trains in 2011-12<sup>1</sup>;
- the material deterioration in financial market conditions noting the recent Aurizon Network 2013 Draft Access Undertaking proposes a weighted average cost of capital (WACC) of 8.18% relative to the current approved WACC of 9.96%. Indeed, Queensland Rail has allowed for changes in the WACC after the approval date and that based on current inputs has advised stakeholders that it expects a WACC of 7.68%<sup>2</sup>; and

<sup>1</sup> Queensland Rail (2013) Below Rail Financial Statements for the Year Ended 30 June 2012, p. 11

<sup>2</sup> Based on a 20 day average yield on 5 year Commonwealth Government Bonds for period ending 30 April 2013 of 2.91% and Queensland Rail's proposed margin of 4.77%.

- the net of effect of depreciation relative to capital replacement.

Aurizon notes that under the terms of the 2008AU<sup>3</sup>, it would ordinarily be expected that such a material change in circumstances would be associated with a Review Event and require Queensland Rail to submit a variation to the reference tariffs.

Should Queensland Rail's proposed Western System tariff not be submitted by 30 June 2013, the QCA may, if it considers it necessary, exercise the option of requiring a variation to the reference tariff, subsequent to approving the extension DAAU.

Queensland Rail also notes that the adjustment charge provisions will provide for retrospective application of the approved tariff to 30 June 2013. However, retrospective application of tariffs does not address the issue of cash flow timing identified by access holders in the QCA working group held on 12 April 2013.

These issues suggest Queensland Rail could have exercised its discretion to reduce the tariff, albeit in a without prejudice manner, to provide immediate price relief consistent with expectations for a reduced Western System tariff. This would have been welcomed by Aurizon, as the only access holder and operator of coal carrying train services in the Western System, and our customers.

Given the above, while appreciating the need for a further extension of the 2008AU, Aurizon would strongly encourage the QCA to facilitate the development of a Western System reference tariff in order for consultation to commence on the tariff methodology.

Aurizon would also like to highlight that the ongoing coverage of the Queensland Rail network by a voluntarily approved access undertaking does not appear to be at Queensland Rail's discretion. In particular, the transfer notice of 29 June 2010 requires that in relation to Queensland Rail the 2008AU will apply

*" for the period from 30 June 2010 to the date the QCA approves a subsequent access undertaking for Queensland Rail under the QCA Act that replaces the Access Undertaking in so far as it relates to Queensland Rail".*

Therefore, the continuance of the 2008AU through extension of the termination date would appear necessary to ensure the ongoing compliance with the transfer notice. It would also appear preferable for the termination date for 2008AU to align to the requirements of transfer notice.

Lastly, as noted in our submission of 3 May 2013, the provisions in the 2013DAU in relation to the Western System coal reference tariff only apply if Queensland Rail submits a proposed tariff prior to the 30 June 2013. The extension DAAU provides no guidance as to when a tariff proposal will be submitted. Aurizon seeks clarification from Queensland Rail on this point.

If you have any queries in relation to this matter please contact Rachel Martin by phone on [REDACTED] or via email at [Rachel.Martin@aurizon.com.au](mailto:Rachel.Martin@aurizon.com.au).

Yours sincerely [REDACTED]

Andrew MacDonald  
Senior Vice President Commercial and Planning

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<sup>3</sup> Clause 2 Part A of Schedule F of 2008AU