

24 August 2021

Mr George Passmore
Queensland Competition Authority
Level 27, 145 Ann Street
Brisbane QLD 4000
(submitted via QCA Online Submission Form)

RE: QCA Draft Report – Rate of return review

Introduction:

The Queensland Resources Council (**QRC**), on behalf of the QRC's Rail Working Group, welcomes the opportunity to comment on the Queensland Competition Authority's (QCA's) June 2021 Draft Report - Rate of return review.

The QRC's Rail Working Group welcomes the QCA's proactive approach in considering and explaining the intended approach to issues such as this ahead of the commencement of undertaking review processes. We hope that this will encourage regulated entities to submit draft undertakings which are aligned with the QCA's expectations, or at least to explain the basis for any proposed departures from the suggested approach.

We do acknowledge that circumstances may change over time. Therefore, the methodologies applied, and values determined for the rate of return need to be considered during the development of each undertaking. In the case of the Central Queensland Coal Network, we understand that the QCA's current review will not have any impacts until after the expiry of the existing Aurizon Network Access Undertaking (UT5) on 30 June 2027.

Negotiation and the role of the QCA:

We note Aurizon Network's view that *"the terms and conditions of access under a negotiated settlement with a commercially agreed rate of return are preferable to regulatory determined terms and conditions"*¹. While it is possible that certain matters may be negotiated between regulated entities and their customers from time to time, the QCA's role remains critical because:

- Agreement will not always be achieved;

¹ Aurizon Network – Response to QCA Request for Comments on 2021 Rate of Return Review, Page 3.

- The expected regulatory outcomes create a baseline for negotiations; each party can assess the costs, risks, and benefits of a negotiated outcome against the regulatory alternative. The absence of a clear understanding of likely regulatory outcomes will impede the ability of the parties to reach agreement; and
- Even where agreement is reached, the QCA must consider whether that agreement is appropriate, taking into account considerations such as impacts on stakeholders which were not involved in the negotiation.

Comments on the QCA's Draft Positions:

Given the long remaining term of Aurizon Network's Access Undertaking, and the need to consider rate of return matters afresh at the relevant time, the QRC Rail Working Group does not wish to provide detailed comments at this time. However:

- We support the proposal to base the assessment of the cost of debt on publicly available data sources (RBA) rather than proprietary data sources or in-house models;
- We support basing the cost of debt on the expected financing practices of an efficient benchmark firm, which we generally expect would involve progressive refinancing of portions of debt over time.
- We are concerned about the potentially arbitrary nature of "top down" adjustments to the WACC. Such adjustments may lead to an upward bias in WACC assessments, which could result in over-investment, inefficient costs, and adverse impacts on competition. We consider that these adjustments should be avoided. Where the QCA intends to make such an adjustment, we would expect a detailed explanation of the exceptional circumstances which the QCA considers have caused the "bottom up" WACC to be inappropriate and of the methodology employed to calculate the required adjustment.

Thank you for the opportunity to provide this submission.

Yours sincerely


Andrew Barger