



21 August 2013

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

By email: rail@qca.org.au

Dear Dr Roberts,

Asciano Comments on the QCA Draft Decision on the Aurizon Network Capricornia System Rules

Introduction and Background

Asciano welcomes the opportunity to make this submission to the Queensland Competition Authority (QCA) regarding their Draft Decision on the Aurizon Network proposed Capricornia System Rules.

Asciano previously made a submission to the QCA on the proposed Capricornia System Rules in October 2011. To the extent that issues raised by Asciano in its 2011 submission have not been addressed in the QCA Draft Decision Asciano is seeking that these issues be considered prior to the QCA making any Final Decision.

This submission is public.

Asciano Concerns with the QCA Draft Decision

Asciano has several concerns with the QCA Draft decision as outlined below.

General Comments on the Draft Decision

Asciano recognises that the Draft Decision supports many of the positions put forward by Asciano in its submission of 2011, and as such Asciano generally supports the positions put forward in the Draft Decision, however Asciano is seeking that the QCA further consider issues raised by Asciano in this submission.

System Rules and the Regulatory Process

System rules, including the Capricornia system rules, sit under the Network Management Principles. These Network Management Principles are contained in Schedule G of UT3 and Schedule H of the proposed UT4. (UT4 maintains the requirement for system rules to be maintained but, when approved, the system rules are outside the access undertaking. This approach is similar to the current approach in UT3).

The Capricornia system rules were submitted by Aurizon Network to the QCA under UT3 and the UT3 Network Management Principles; however UT4 has now been submitted to the QCA by Aurizon Network. Given the system rules must be consistent with the access



undertaking Asciano expects that the Capricornia system rules may need to be revised following a final decision on UT4.

Asciano is seeking clarification as to how the Capricornia 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 notes that under section 7.6.4 of the proposed UT4 that the system rules can be amended without explicit QCA approval. This is of concern to Asciano as any approved set of Capricornia system rules arising from this current regulatory process may then be amended by Aurizon Network following the UT4 regulatory process. Asciano believes that it may be more appropriate to wait until UT4 is finalised and then have QCA approve a final set of Capricornia rules which are consistent with UT4 (or alternatively have an agreement in place that any amendments arising from UT4 will be subject to QCA approval).

More generally 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.

In addition Asciano notes that in August 2013 Aurizon Network submitted proposed North Bowen Basin system rules to the QCA for approval. These 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.

There is a general view that the Capricornia and North Bowen Basin system rules should be consistent. For example in relation to the Capricornia system rules submission Aurizon Network sought an extension of time to prepare a combined, consistent submission considering both the Capricornia and North Bowen Basin system rules¹. Similarly the QCA (Draft Decision page 4) recognises that there are common elements between the Capricornia and North Bowen Basin system rules. Asciano believes the Capricornia and North Bowen Basin system rules should be consistent and considered via consistent regulatory processes.

Asciano's concerns are that:

- there is a potential lack of regulatory oversight of future system rule amendments for the Capricornia and North Bowen Basin system rules. Regulatory oversight could be achieved by including the system rules in the access undertaking in some form; and
- the Capricornia and North Bowen Basin system rules should both be reviewed and approved in a consistent manner. This need for consistency with UT4 and consistency across systems means that the QCA Final Decision on Capricornia system rules should be delayed to align with North Bowen Basin system rules and UT4 timeframes.

Transfer of Paths

In its previous submission to the current QCA review of the Capricornia system rules Asciano argued that the rules should act to facilitate the effective and timely transfer of

¹See <http://www.qca.org.au/rail/2010-DAUamend/PropSysRules/Capricornia.php>

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paths. The Draft Decision recognises the benefits that improved path transfer processes could bring but is not requiring amendments to the system rules as the issue of path transfer is likely to require amendments to the undertaking and access agreements.

Asciano continues to support the development and implementation of clearer rules and processes that facilitate more effective and timely transfers or paths, and so allow for improved efficiencies in the management of TSE portfolios. Asciano will pursue this issue through the UT4 process.

Specific Comments on the Draft Decision

Master Train Plan – Draft Decision Section 2.1

Asciano supports the amendments required in the Draft Decision.

Asciano believes that the Master Train Plan must also:

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

In addition, Asciano believes that it would be beneficial if in the Master Train Plan process Aurizon Network could also provide a table or other document outlining system contracted paths and available paths. The increased transparency of information via such a table allows both better co-ordination of the supply chain and a better understanding of how contracted TSEs will be delivered.

Paths – Draft Decision Section 2.2

The Draft Decision states that for the purpose of the system rules below rail paths should start at Burngrove (Blackwater system) or Earlsfield (Moura system). Asciano believes that below rail paths should start at the mine as this is the path and TSE which is contracted. Asciano believes that there should be clarity as to what would occur if a path was lost between the mine and Burngrove or Earlsfield. For example if the path was lost due to a force majeure event or Aurizon Network cause then the take or pay status and implications should be clarified.

The Draft Decision requires amendments relating to the treatment of above-rail and below-rail delays. Asciano supports these required amendments but remains concerned that there are often a large proportion of delays which are not attributed to either above rail or below rail delays. Asciano believes that the system rules should also include a requirement to introduce a process which will reduce the proportion of unattributable delays.

Maintenance Multiplier Issues – Draft Decision Sections 2.3, 2.4 and 2.5

Asciano broadly supports the amendments required in the Draft Decision as they provide additional clarity around the maintenance multiplier, however Asciano remains concerned that:



- the maintenance multiplier approach can result in Aurizon Network not providing the paths which they are required to provide under contract; and
- under the maintenance multiplier approach Aurizon Network will provide access holders with paths to make up for the portions of their monthly TSEs it is unable to deliver, in accordance with the Contested Train Path Decision-making process. Asciano has concerns with the equity and transparency of the Contested Train Path Decision-making process. (Asciano will seek to address these concerns in the UT4 regulatory process).

More generally Asciano believes that the maintenance multiplier is not required if the Asciano process for path calculation (as outlined in the section “*Calculation - Draft Decision 3.6*” below) is used.

Supply Chain Objectives - Draft Decision 3.5

The Draft Decision requires an amendment that requires the system rules to include a clear set of principles and coal supply objectives that will be applied in assessing whether a solution is best for the supply chain as a whole.

Asciano has a broad concern with this approach as it assumes that Aurizon Network is making decisions for the supply chain as a whole. Asciano is concerned that Aurizon Network has two roles under this approach, namely a role to co-ordinate a coal supply chain and a role to operate a network that is a participant in this chain. There is a potential for conflicts in these two roles. Asciano believes that the role of Aurizon network should be to operate the rail network.

Calculation - Draft Decision 3.6

The Draft Decision accepts Asciano’s view that monthly TSEs should be recalculated if Aurizon Network cannot meet its contractual entitlements but does not accept Asciano’s view that the TSEs should be recalculated as the outstanding annual balance divided evenly over the remaining months of the year. The Draft Decision argues that Asciano’s preferred approach is not practical as the network would not be able to handle the additional demand.

The Draft Decision requires an amendment to establish a process to provide additional paths to access holders for TSEs not delivered in a particular month. Asciano believes that in such a process TSEs should be recalculated as the outstanding annual balance divided evenly over the remaining months of the year. Asciano believes that the approach is practical as there is already redundancy built into the network (which should be explicitly identified in the Master Train Plan as outlined above). This redundant capacity should allow for TSEs to be recalculated as the outstanding annual balance divided evenly over the remaining months of the year. This methodology provides the greatest transparency with regard to other inputs (e.g. rolling stock) required to deliver contracted tones) and allows other service providers and producers time to develop amended asset management plans.

If Aurizon Network is unable to provide it’s contracted TSEs in a particular month then it should be held to account through recognition of this inability to provide its contracted service by identifying these TSEs not delivered as losses arising from an Aurizon Network cause.

The Draft Decision also requires an amendment to establish a mechanism to provide additional paths to access holders for paths lost due to emergency and urgent possessions



arising from an Aurizon Network Cause. Asciano believes that under any such mechanism Aurizon Network should not be compensated for creating additional paths as these paths are replacing paths which have already been contracted.

User and Operated Initiated System Rule Changes

The Draft Decision (page 58) notes that there is no process in the undertaking for stakeholders to propose changes to the system rules and that the QCA believes that the next undertaking should include the ability for access holders to propose changes in certain circumstances. Asciano strongly supports this position and believes that it should be incorporated into the QCA's considerations of UT4.

Conclusion

Asciano has numerous concerns with the proposed Capricornia system rules and the Draft Decision as outlined above. Asciano is seeking that these concerns be addressed before the Capricornia system rules are finally approved by the QCA.

Feel free to contact Stuart Ronan on 02 8484 8056 to discuss this submission.

Yours sincerely,



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General Manager Regulatory