



George Passmore
Director of Business Performance
Queensland Competition Authority
Level 27, 145 Ann Street
Brisbane, Q 4001

Queensland Competition Authority's review of the Independent Expert

25 August 2023

Dear George,

I am writing to the Queensland Competition Authority (**QCA**) in response to the notice dated 28 July 2023 requesting interested stakeholders to submit their views on the Coal Network Capacity Company's (**CNCC**) performance in meeting the responsibilities of the Independent Expert (**IE**).

Capitalised terms in this letter have the meaning given in the UT5 Access Undertaking (**UT5**), unless otherwise defined.

Background

The concept of the Independent Expert was a new proposal that both Aurizon Network and customers agreed as part of an overall package of amendments to the existing 2017 Access Undertaking (**UT5**) in May 2019. Generally, the purpose of the IE was to assess the existing capacity of the Central Queensland Coal Network (**CQCN**) and assess Aurizon Network's performance against its contractual arrangements in relation to Train Service Entitlements. The responsibilities of the IE are set out in Part 7A.3 of UT5 and were approved by the QCA on 19 December 2019.

As required by clause 7A.3.3(a) of UT5, the QCA must complete a review of the IE four years after the Approval Date.

Independence of the IE

The CNCC was established in 2020 to fulfill the responsibilities of the IE for the CQCN. The CNCC was incorporated in April 2020 with appropriate governance being established, including both a Shareholders' Deed and a Company Constitution.

The shareholders of the CNCC include a number of coal mining companies (each a **Coal Shareholder**) and Aurizon Network. As part of the Shareholders' Deed, a Board of Directors has been established and is comprised of an equal number of Coal Shareholder directors and Aurizon Network directors, along with an additional Independent Chair.

To support the IE acting independently, the Board of the CNCC appoints a Chief Executive who reports to and serves under the direction of the Board and meets regularly to review the progress of the IE against its deliverables.

The independence of the CNCC should continue to be the focus of the CNCC Board and assessed regularly.

Deliverables

The IE's responsibilities (outlined in Clause 7A.3 of UT5) include:

- › Conducting Capacity Assessments in accordance with Part 7A and recommending Transitional Arrangements to address capacity deficits identified in the Initial Capacity Assessment Report (ICAR);
- › Reviewing performance information and reporting on actual performance as required by clause 10.8.3; and
- › Determining the rebate payable by Aurizon Network to End Users in accordance with clause 7A.6.

Since the IE was appointed, the following items have been delivered in line with the above responsibilities:

- › CNCC has been set up with appropriate resourcing and funding to deliver on the IE's responsibilities under UT5;
- › The ICAR was published by the IE on 27 October 2021;
- › The IE has recommended Transitional Arrangements to the QCA, following recommendations made by Aurizon Network, in response to identified Existing Capacity Deficits in the ICAR;
- › Completion of the Annual Capacity Assessment Reports and System Operating Parameters for both Financial Years 2022 and 2023;
- › Monthly performance reporting to End Users since November 2021;
- › The calculation of the Performance Rebate for Financial Year 2022; and
- › Ongoing capacity assessments for individual access requests as required under UT5.

UT5 provided the IE with a set of responsibilities that were developed and agreed upon by End Users and Aurizon Network. The responsibilities fulfilled by the IE have been delivered in accordance with the scope agreed as part of UT5. The IE has experienced some initial issues, including the appointment and retention of qualified staff with the required modelling and analytical capability and delivery of tasks against UT5 required timelines. However, the IE and its Board have sought to overcome these in a timely manner.

As the IE continues to embed its practices, it is important that it continues to deliver against the core responsibilities as outlined within UT5. These responsibilities form part of the provision of below rail services for which Aurizon Network remains accountable under the terms of the access undertaking. It is therefore important that the IE's activities remain in line with those responsibilities the Board of the CNCC has determined it should deliver.

Aurizon Network supports CNCC in continuing the role of the IE for the remainder of the term of UT5. Throughout the Term, the Board of the CNCC should continue to review the IE's forward looking workplan to ensure that the IE's responsibilities under UT5 are delivered, and the benefits associated with having an IE function can be realised by the stakeholders of the CQCN.

Should you have any questions in response to this correspondence please contact myself.

Kind regards,



Jon Windle
Manager – Regulation
Aurizon Network