

## Part 10: Reporting

### 10.1 Reports

#### 10.1.1 Annual financial report

- (a) Aurizon Network will produce financial statements for Aurizon Network in accordance with the Costing Manual and all other applicable requirements of this Undertaking.
- (b) The financial statements referred to in **clause 10.1.1(a)** shall be certified as accurate by Aurizon Network's Executive Officer.
- (c) Within six months after the end of each Year in the Term, or such longer time as agreed by the QCA, Aurizon Network will publish on the Website the financial statements relating to the relevant Year which have been prepared and certified under **clause 10.1.1(b)**.

#### 10.1.2 Annual compliance report

- (a) Within ~~six~~four months of the end of each Year in the Term, or such longer time as agreed by the QCA, Aurizon Network will publish on the Website an annual compliance report in relation to the subject Year containing the information set out in **clauses 10.1.2(e) and 10.1.2(f)** and which will be accompanied by an audit report prepared in accordance with **clause 10.8** in respect of Aurizon Network's compliance with its obligations under this **clause 10.1.2**.
- (b) Where an annual compliance report has been published under **clause 10.1.2(a)**~~10.1.2(a)~~ and Aurizon Network has ~~actual~~ knowledge of a material error in the annual compliance report, Aurizon Network will, as soon as practicable but no later than ~~one month~~three months after acquiring knowledge of the material error, publish on the Website either, at Aurizon Network's discretion, an erratum or a corrected annual compliance report identifying the material errors. An error will be a material error where:
  - (i) if the error is a numerical error, the number reported deviates from the correct number by an amount of more than 2% or \$250,000; or
  - (ii) otherwise Aurizon Network or the QCA considers the error to be material.

In addition, Aurizon Network shall promptly notify the QCA of any errors that Aurizon Network has ~~actual~~ knowledge of in the annual compliance report unless the QCA has otherwise been notified or is aware of the error.

- (c) Aurizon Network will, in conjunction with the publication on the Website of an annual compliance report in accordance with **clause 10.1.2(a)**, provide to the QCA a supplementary report that presents the information included in the public annual compliance report for each of the following classes of Access Holders:
  - (i) Third Party Access Holders (on an aggregated basis); and
  - (ii) Aurizon Party Access Holders (on an aggregated basis).
- (d) Information in relation to Aurizon Network's compliance with this Undertaking over the subject Year as follows:
  - (i) the number and percentage of Access Applications acknowledged in accordance with this Undertaking and within the applicable timeframe nominated in **clauses 4.3(c) and 4.4(a)**;
  - (ii) for those Access Applications received in accordance with this Undertaking and that have not been acknowledged within the

- applicable timeframe nominated in **clauses 4.3(c)** and **4.4(a)** the average delay (in days) taken to acknowledge the Access Applications;
- (iii) the number of requests for Capacity Information and percentage acknowledged in accordance with the applicable timeframe nominated in **clause 4.2(c)**.
  - (iv) the number and percentage of Indicative Access Proposals provided in accordance with this Undertaking within the applicable timeframe nominated in **clause 4.6(d)** (or clause 8.5(r));
  - (v) the number and percentage of Access Applications received in accordance with this Undertaking for which the time for the provision of an Indicative Access Proposal was extended in accordance with either **clause 4.6(d)** (or **4.6(g)(ii)**);
  - (vi) for those Indicative Access Proposals provided in accordance with this Undertaking but that have not been provided within the applicable timeframe nominated in **clauses 4.5(d)**, ~~and 4.5(d)(ii)~~ and clause 8.5(r), the average delay (in days) taken to provide the Indicative Access Proposals;
  - (vii) the number of instances where an issue has been referred to Dispute resolution in accordance with the process set out in **clause 11.1**;
  - (viii) the number of instances where an issue has been referred to Dispute resolution in accordance with the process set out in **clause 11.1** and Aurizon Network was found to have committed a breach of this Undertaking;
  - (ix) the number of instances where Aurizon Network has received a written complaint from a Third Party that any one or more of the following has occurred:
    - (A) ~~it has allegedly breached one or more of its obligations in Part 3~~;
    - (B) an Aurizon Associate has allegedly breached a confidentiality deed or confidentiality provisions contained in another arrangement with Aurizon Network pursuant to which the Confidential Information was disclosed to it; or
    - (C) the Ultimate Holding Company has allegedly breached the Ultimate Holding Company Support Deed.

broken down into each of the above categories.
  - (x) ~~in respect of the the number of~~ instances where Aurizon Network has received a written complaint from a Third Party of any one or more alleged breach described in clause 10.1.2(d)(ix):
    - (A) the average time to handle such complaints; and
    - (B) the number of instances where ~~that it has allegedly breached one or more of its obligations in Part 3 and~~ Aurizon Network, an Aurizon Associate or the Ultimate Holding Company (as applicable) was found to have committed a breach of a type described in clause 10.1.2(d)(ix) of these ringfencing obligations.

broken down into each of the categories described in clause 10.1.2(d)(ix);
  - ~~(ix)~~ (xi) the percentage of Aurizon Network employees in each of the categories described in clause 3.21(a) ~~receiving, in the course of performing their duties, Protected Information~~ who have completed

training in accordance with **clause 3.21(a)**;

(xii) the number of instances where:

(A) an Access Holder has made a written complaint to Aurizon Network about an incorrectly calculated bill, and where Aurizon Network's investigation into the complaint identifies that the bill was materially incorrectly calculated; or

(B) absent a written complaint, Aurizon Network identifies that a bill was materially incorrectly calculated;

~~(x)~~(xiii) in respect of written complaints that Aurizon Network has made a decision in breach of Aurizon Network's traffic management decision making matrix contained in **clause 11** of **schedule G** (for each of the Third Party Access Holders ~~Railway Operators~~ collectively and Related Operators as Access Holders collectively):

(A) the number of complaints received by Aurizon Network;

(B) of the complaints received by Aurizon Network, the number which are currently being assessed by Aurizon Network; and

(C) of the complaints received by Aurizon Network, the number which, after being assessed by Aurizon Network, were verified as breaches; and

~~(x)~~(xiv) in respect of written complaints that Aurizon Network has made a decision in breach of Aurizon Network's Contested Train Path decision making process contained in clause 10 of schedule G (for each of the Third Party Access Holders ~~Railway Operators~~ collectively and Related Operators as Access Holders collectively):

(A) the number of complaints received by Aurizon Network;

(B) of the complaints received by Aurizon Network, the number which are currently being assessed by Aurizon Network; and

(C) of the complaints received by Aurizon Network, the number which, after being assessed by Aurizon Network, were verified as breaches.

(e) Information in relation to the outcome of Aurizon Network's negotiations with Access Seekers over the subject Year as follows:

(i) the average length of the Negotiation Period (in days), where the Negotiation Period has commenced in accordance with this Undertaking and has ceased as the result of the execution of an Access Agreement, or variation to an existing Access Agreement, in respect of the Access sought by the Access Seeker;

(ii) the average length of the Negotiation Period (in days), where the Negotiation Period has commenced in accordance with this Undertaking and has ceased as the result of any reason other than the execution of an Access Agreement, or variation to an existing Access Agreement, in respect of the Access sought by the Access Seeker; and

(iii) the number of instances where a Negotiation Period commenced in accordance with this Undertaking has ceased as the result of the execution of an Access Agreement, or variation to an existing Access Agreement, in respect of the Access sought by the Access Seeker,

with such information to be reported separately for Train Operations Agreements, End User Access Agreements and other Access Agreements.

- (f) Information on the average length of time (in days) from the date of receipt of a written request for a Transfer (completed and submitted in accordance with the requirements of the relevant Access Agreement), to the date of execution by Aurizon Network of the new Access Agreement giving effect to the Transfer.

### 10.1.3 Annual maintenance cost report

- (a) Within ~~six~~four months after the end of each Year in the Term, or such longer time as agreed by the QCA, Aurizon Network will publish on the Website a maintenance cost report for the relevant Year, in a format to be agreed with the QCA from time to time, containing the information set out in **clause 10.1.3(b)** for the geographic areas specified in **clause 10.1.3(c)**.
- (b) Aurizon Network will, in the maintenance cost report required by **clause 10.1.3(a)**:
- (i) report its:
- (A) actual maintenance costs in the subject Year compared to the forecast maintenance costs accepted by the QCA for the purpose of determining Reference Tariffs, and provide an explanation of significant variations between actual and forecast maintenance costs; and
- (B) actual scope of maintenance compared to the forecast scope of maintenance accepted by the QCA for the purpose of determining Reference Tariffs, for the following maintenance activities:
- (1) ballast undercutting;
- (2) rail grinding (for mainline);
- ~~(3)~~ resurfacing (for mainline);
- ~~and~~
- ~~(4)~~ General Track Maintenance; and
- ~~(3)~~(5) any other specific maintenance activities as advised by the QCA from time to time,
- and provide an explanation of significant variations between actual and forecast scope of maintenance;
- ~~(ii)~~ report the actual MCI and the forecast MCI accepted by the QCA for the purposes of determining Reference Tariffs for the subject year (including the indices, if any, comprised in the MCI) and provide an explanation of how any significance differences have or will impact on Aurizon Network's maintenance costs;
- ~~(ii)~~(iii) report for individual coal systems:
- (A) annual Below Rail Transit Times;
- (B) OTCI results; and
- (C) the number of major reportable safety incidents reported to the Safety Regulator, excluding those reported under **clause 10.1.3(b)(iv)**;
- ~~(iv)~~ report on:-
- ~~(A)~~ the number of derailments where the cost to Aurizon Network of recovery from the derailment exceeded AUD\$100,000; and
- ~~(B)~~ any material effect on the completion of planned maintenance work due to action taken to restore Rail

[Infrastructure after derailments.](#)

- (c) The actual and forecast maintenance costs will be separately reported for each Coal System, unless otherwise agreed by Aurizon Network and the QCA, provided that the Goonyella to Abbot Point System will not be reported on an independent basis separately from the other Coal Systems and the Goonyella Newlands Connection will be treated as though it was part of the Newlands System. The actual and forecast scope of maintenance will be reported for the Coal Systems in aggregate.
- (d) Where a report has been published under **clause 10.1.3(a)** and Aurizon Network has actual knowledge of a material error in the report, Aurizon Network will, as soon as practicable but no later than ~~three months~~one month after acquiring knowledge of the material error, publish on the Website either, at Aurizon Network's discretion, an erratum or a corrected report identifying the material errors. An error will be a material error where:
- (i) if the error is a numerical error, the number reported deviates from the correct number by an amount of more than 2% or \$250,000; or
  - (ii) otherwise, Aurizon Network or the QCA considers the error to be material.

In addition, Aurizon Network shall promptly notify the QCA of any errors that Aurizon Network has actual knowledge of in the report unless the QCA has otherwise been notified or is aware of the error.

**10.1.4 Annual maintenance cost report to the QCA**

- (a) Within ~~six~~four months after the end of each Year in the Term, unless otherwise agreed between Aurizon Network and the QCA, Aurizon Network will provide the QCA with a maintenance cost report for the relevant Year in the format agreed between Aurizon Network and the QCA. The format may be varied from time to time by agreement between Aurizon Network and the QCA or, failing agreement, as required by the QCA.
- (b) The maintenance cost report will be certified as accurate by Aurizon Network's Executive Officer.
- (c) The maintenance cost report will report Aurizon Network actual maintenance costs and scope of maintenance compared to the forecast maintenance cost and scope of maintenance accepted by the QCA for the purpose of determining Reference Tariffs and will include:
- (i) a detailed description of its actual maintenance cost and scope of maintenance for mechanised maintenance separately for each Coal System and for the Coal Systems in aggregate; and
  - (ii) a detailed description of its actual maintenance costs, separately for each Coal System, for:
    - (A) General Track Maintenance;
    - (B) facilities maintenance;
    - (C) \_\_\_\_\_ trackside systems maintenance;
    - (D) \_\_\_\_\_ mechanised maintenance;
    - (E) \_\_\_\_\_ electrical overhead maintenance; and
    - (F) \_\_\_\_\_ telecommunication maintenance;
  - (iii) an explanation of significant variations between the actual and forecast maintenance costs and scope of maintenance,

provided that the Goonyella to Abbot Point System will not be reported on an independent basis separately from the other Coal Systems and the Goonyella

Newlands Connection will be treated as though it was part of the Newlands System.

Within one month after the submission of the Maintenance Cost report to the QCA, Aurizon Network will provide Access Holders, and where the Access Holder is a Railway Operator, their Customers, with a briefing in the form of a presentation on the contents of the maintenance cost reports and on details of the scope of maintenance for the forthcoming Year.

#### 10.1.5 Quarterly Network Performance Report

~~(a)~~ Unless otherwise agreed between Aurizon Network and the QCA, Aurizon Network will, within ~~the later of:~~

~~(b)~~ twenty Business Days after the end of each Quarter in the Term ~~; or if the Ultimate Holding Company is obliged to give to ASX Limited under ASX Limited's Listing Rules a copy of the reports referred to in section 314(1) of the Corporations Act, that are to be, or have been, provided to the Ultimate Holding Company's security holders – thirty days after the provision of those reports to ASX Limited,~~

~~(e)~~(a) publish on the Website a report, in a format agreed with the QCA from time to time, in relation to the relevant Quarter containing the information set out in **clauses 10.1.5(b) to 10.1.5(g)**, inclusive;

~~(e)~~(b) information on the number and reliability of Train Services that operated in the relevant Quarter, as follows:

- (i) the number and percentage of Train Services that reached their destination within the Allotted Time Threshold;
- (ii) the number and percentage of Train Services that did not reach their destination within the Allotted Time Threshold:
  - (A) due in any material respect ~~primarily~~ to the acts or omissions of Aurizon Network;
  - (B) due ~~primarily~~ in any material respect to delays attributed to a Railway Operator; and
  - (C) otherwise than that are due ~~primarily~~ to ~~other~~ matters ~~not~~ identified in either **paragraph (A)(1) or (B)(2)**; and
- (iii) the total number of Train Services;

~~(e)~~(c) information on the average transit times of Train Services that operated in the relevant Quarter, as follows:

- (i) the average Above Rail Delay;
- (ii) the average Below Rail Delay; and
- (iii) the average Unallocated Delay,

in minutes per 100 train kilometres, for all Train Services;

~~(f)~~(d) information on the availability of the network for Train Services in the relevant Quarter, as follows:

- (i) number and percentage of Train Services cancelled due to a reason that can be attributed directly to Aurizon Network as Railway Manager;
- (ii) number and percentage of Train Services cancelled due to a reason that can be attributed directly to a an Access Holder (which would include cancellations attributable to its Nominated Railway Operator) ~~Railway Operator~~; and
- (iii) number and percentage of Train Services cancelled due to a reason

that cannot be clearly assigned as directly attributable to a ~~Railway Operator~~ Access Holder or to Aurizon Network as Railway Manager;

- (e) information on the safety of Train Services that have operated in the relevant Quarter, being the number of reportable incidents, as reported to the Safety Regulator;
- (f) information for each Coal System on network service quality, as follows:
  - (i) speed restrictions in the relevant Quarter, being the average percentage and the average number of kilometres of Track under temporary speed restrictions; and
  - (ii) the most recent measure of Track quality for the network measured by a quality index with component measures including gauge, top, twist and versine;
- (g) information for each Coal System on coal carrying Train Services that have operated in the relevant Quarter, being:
  - (i) the aggregate gtk;
  - (ii) the aggregate nt;
  - (iii) the aggregate ntk;
  - (iv) the aggregate egtk;
  - ~~(v)~~ the average actual Below Rail Transit Time
  - (v) Percentage (including the methodology for calculating the amount);
  - (vi) the aggregate Train Paths used by the relevant Train Services;
  - (vii) the aggregate Train Paths contracted for relevant Train Services in accordance with the relevant Train Service Entitlements; and
  - (viii) the aggregate number of Train Paths available for coal carrying Train Services; and
- (h) subject to **clause 10.1.5(h)**, information for each Coal System for the relevant Quarter in respect of:
  - (i) the aggregate number of Train Paths scheduled; (B) the aggregate number of Train Paths used for
  - (ii) planned maintenance;
  - (iii) the aggregate number of Train Paths used for unplanned maintenance; and
  - (iv) the percentage of Train Paths available but not used; and
  - ~~(iv)~~(v) other information reasonably requested by a Supply Chain Group.
- (i) Subject to **clause 10.1.5(h)**, for the purposes of **clauses 10.1.5(b) to 10.1.5(d)**, the Train Services will be aggregated as follows, Train Services operated for the purpose of:
  - (i) transporting coal within each Coal System;
  - (ii) transporting freight products, and bulk minerals (other than coal); and
  - (iii) providing long distance passenger transport.
- (j) Other than for **clause 10.1.5(e)**, the Goonyella to Abbot Point System is not subject to the reporting requirements in this **clause 10.1.5**. For the purposes of reporting under **clauses 10.1.5(b) to 10.1.5(f)**, the Goonyella Newlands Connection is part of the Newlands System.
- (k) Aurizon Network will ensure that the information contained in a report under

this **clause 10.1.5** is accurate.

- (l) A report published under **clause** Error! Reference source not found. will include a comparative presentation against the aggregate, published information, for the ~~corresponding Quarter of the~~ preceding ~~Year~~ four Quarters provided that for the reports in respect of the Quarters in the first Year during the Term, the information for the preceding ~~four Quarter~~ Year shall ~~be include~~ that published for the Quarters in that preceding Year under the 2010 Undertaking.
- (m) Where a report has been published under **clause** Error! Reference source not found. and Aurizon Network has actual knowledge of a material error in that report, Aurizon Network will, as soon as practicable but no later than ~~three months~~ one month after acquiring knowledge of the material error, publish on the Website either, at Aurizon Network's discretion, an erratum or a corrected report identifying the material errors. An error will be a material error where:
- (i) if the error is a numerical error, the number reported deviates from the correct number by an amount of more than 2% or \$250,000; or
  - (ii) otherwise, Aurizon Network or the QCA considers the error to be material.
- In addition, Aurizon Network shall notify the QCA of any error that Aurizon Network has knowledge of in the network performance report as soon as Aurizon Network acquires the knowledge of that error unless the QCA has otherwise been notified or is aware of the error.
- (n) Aurizon Network will, in conjunction with its public release of a report under this **clause 10.1.5**, provide to the QCA a supplementary report that presents the information included in the published report for each Railway Operator. If a supplementary report relates to a Railway Operator, Aurizon Network will provide to that Railway Operator those parts of the supplementary report that relate to that Railway Operator.

#### 10.1.6 Annual Regulatory Asset Base roll-forward report

- (a) To the extent that the capital expenditure in the report under **clause 1.4** of **schedule E** has been accepted as prudent in cost, Aurizon Network will, within one month after that, publish on the Website a report, in a format to be agreed with the QCA from time-to-time, of changes to the Regulatory Asset Base for the relevant Year, containing the information set out in **clause 10.1.6(b)** for each Coal System.
- (b) Aurizon Network will, in the Regulatory Asset Base roll-forward report include details of:
- (i) the opening value of the Regulatory Asset Base for the relevant Year;
  - (ii) indexation of the Regulatory Asset Base;
  - (iii) depreciation of the Regulatory Asset Base;
  - (iv) capital expenditure that is included in the Regulatory Asset Base, separately identifying individual projects with a value in excess of \$10 million;
  - (v) disposals and transfers from the Regulatory Asset Base;
  - (vi) the closing value of the Regulatory Asset Base for the relevant Year; and
  - (vii) for comparative purposes, the value of the Capital Indicator for the subject Year,
- separately reported for each Coal System.



## 10.2 Breach reports to the QCA

- (a) Subject to ~~clause 10.2(c)~~**10.2(d)**, Aurizon Network will report to the QCA any breaches of this Undertaking of which Aurizon Network is aware, including advising the QCA of the nature of the breach and the remedial action proposed or taken by Aurizon Network in respect of the breach, at the following times:
- (i) within 10 Business Days after the end of each calendar month, in relation to any breaches of obligations with respect to timeframes that occurred within that calendar month; and
  - (ii) in relation to other breaches, as soon as Aurizon Network becomes aware of the breach.
- ~~(b) — There is no obligation on Aurizon Network to make the report in clause 10.2(a) where, if that information was sought from Aurizon Network by the QCA under section 105, 126 or 150AA of the Act, Aurizon Network could lawfully refuse to provide it to the QCA.~~
- ~~(c) — If Aurizon Network is obliged to report a breach to the QCA in accordance with this clause 10.2 and that breach directly and adversely affects the interests of an Access Seeker, Access Holder or, if applicable, a Train Operator, then Aurizon Network will also provide the information reported to the QCA in respect of that breach to the relevant Access Seeker, Access Holder or Train Operator. Nothing in this clause requires Aurizon Network to provide an Access Seeker, Access Holder or Train Operator with information relating to a~~
- ~~(d)(b) breach consisting of a failure to meet a required timeframe affecting that Access Seeker, Access Holder or Train Operator.~~
- ~~(e)(c) Where Aurizon Network does not report a breach or a remedial action proposed or taken by Aurizon Network to the QCA on the basis of the exception in this clause 10.2, Aurizon Network must notify the QCA of this and Aurizon Network or the QCA may apply to the Supreme Court of Queensland for a determination of whether that exception applies.~~

## 10.3 Information requested by the QCA

### 10.3.1 Disclosure of Access Agreements

- (a) Upon request by the QCA, Aurizon Network will provide to the QCA signed Access Agreement (including details of Access Charges) to allow the QCA to satisfy itself that the Below Rail aspects of the Access Agreement do not offend against the provisions of this Undertaking or the Act.
- (b) Except as provided for in clause 10.3.1(c), Aurizon Network will permit the public disclosure of the Below Rail aspects of Access Agreements (including Access Charges) provided to the QCA pursuant to this clause 10.3.1 or otherwise.
- (c) Where a party to an Access Agreement considers that the specified parts of the Access Agreement should not be publicly disclosed, it may make a request to the QCA for non-disclosure of those specified parts. The QCA must agree to the request where it is satisfied that disclosure of the information would be likely to damage that party's commercial activities and that disclosure would not be in the public interest.
- (d) For the purposes of clause 10.3.1(a) and clause 10.3.1(b), the Below Rail aspects of Access Agreements will not include:
- (i) the insurance provisions;
  - (ii) the contact details included in the Interface Coordination Plan;
  - (iii) the Rollingstock and Rollingstock Configuration performance

characteristics:

(iv) the IRMP;

(v) any environmental management plan or EIRMR; and

(vi) Operating Plan provisions.

~~In the absence of the prior written consent of Aurizon Network and the relevant Access Holder, the QCA will not publish or otherwise disclose any aspect of an Access Agreement provided to it pursuant to this **clause 10.3.1** or otherwise.~~

### 10.3.2 QCA requested information

- (a) The QCA may, by written notice, request that Aurizon Network provide to the QCA information or a document that the QCA reasonably requires for the purpose of:
- (i) performing its obligations or functions pursuant to this Undertaking; or
  - (ii) determining whether it should exercise powers in this Undertaking.
- The notice must include a description of the information or document required, the purpose for which it is required, and the day by which it is required, provided that the day stated in the notice must be reasonable.
- (b) Aurizon Network will comply with a request by the QCA under **clause 10.3.2(a)** by the day stated in the notice unless Aurizon Network has a reasonable excuse for noncompliance.
- (c) Except for documents that are to or may be made public in accordance with the terms of this Undertaking, nothing in this **clause 10.3** permits the QCA to disclose any information (including the contents of a document) provided to it following a request under **clause 10.3.2(a)**.

### 10.4 Conditions Based Assessment

- (a) Aurizon Network will procure a condition based assessment of the Rail Infrastructure in accordance with this **clause 10.4** no later than 6 months prior to the Terminating Date (**Condition Based Assessment**).
- (b) Aurizon Network will appoint an independent qualified consultant, who has been accepted by the QCA, to conduct the Condition Based Assessment (**Assessor**).
- (c) The Assessor will have a duty of care to the QCA in the conduct of the Condition Based Assessment and, in the event of a conflict between the Assessor's obligations to Aurizon Network and its duty of care to the QCA, the Assessor's duty of care to the QCA will take precedence.
- (d) Prior to commencing the Condition Based Assessment, the Assessor must agree an assessment plan with Aurizon Network, document that assessment plan and obtain the QCA's approval of that assessment plan.
- (e) The assessment plan will:
- (i) consist of a proposed work program for conducting the Condition Based Assessment;
  - (ii) provide for the establishment of an assessment liaison group, comprising the Assessor, Aurizon Network and the QCA, during the course of the Condition Based Assessment to provide a forum for the resolution of any issues that arise; and
  - (iii) propose a methodology for assessing track condition to be agreed between Aurizon Network and the QCA and in the absence of agreement determined by the QCA, but which in any case must be such as to allow for a comparison of results to relevant prior condition

based assessments.

- (f) Aurizon Network will provide the Assessor with any relevant information and access to land or sites, as reasonably required by the Assessor for the purposes of conducting the Condition Based Assessment.
- (g) To the extent Aurizon Network is requested to provide confidential information to the Assessor, the Assessor will be required to enter into an agreement with Aurizon Network in relation to any information provided by Aurizon Network, to the effect that it must keep the information confidential and only use that information for the purpose of conducting the Condition Based Assessment and completing the assessment report.
- (h) The Assessor must provide to Aurizon Network and the QCA a report on the findings of the Condition Based Assessment, including (as far as reasonably practical) identifying the extent to which the Rail Infrastructure has deteriorated by more than would have been the case had good operating practice and prudent and effective maintenance and asset replacement policies and practices been pursued.
- (i) For clarity, the costs and expenses incurred by Aurizon Network in relation to the Condition Based Assessment will be included in the calculation of the AT2-4 components of Reference Tariffs.

## 10.5 Compliance

- (a) Aurizon Network will appoint a Compliance Officer and shall advise the QCA as to the identity of the Compliance Officer and of any changes to the identity of the Compliance Officer during the Term.

~~(b)~~ The Compliance Officer will be appropriately resourced, authorised and required by Aurizon

(b) Network to perform their role which will include responsibility for:

- (i) management of the governance framework through systems and practices reasonably required to ensure Aurizon Network complies with its obligations in this Undertaking; and

(ii) notifying Aurizon Network's Executive Officer;

(A) as soon as possible of any material breach of the Undertaking by Aurizon Network and advising of any remedial action proposed or taken by Aurizon Network in respect of the breach; and

(B) in respect of other breaches and the remedial action proposed or taken by Aurizon Network in respect of those breaches, on a monthly basis;

~~(#)~~(iii) taking all steps necessary to ensure that Aurizon Network is able to meet its obligations under clauses 10.1 and 10.3 and Part 3.

~~10.6~~

## ~~10.7~~10.6 Certifications required from Aurizon Network's Executive Officer

- (a) All certifications provided by Aurizon Network's Executive Officer in accordance with the requirements of this Undertaking, including the requirements for the provision of certifications of accuracy required in respect of financial statements and cost reports under this **Part 10**, are provided subject to **clause 10.6(b)**.
- (b) If in providing a certification required by this Undertaking Aurizon Network's Executive Officer relies on information or professional or expert advice, given or prepared by:

- (i) an employee of, contractor to, or secondee working in the business of, Aurizon Network whom Aurizon Network's Executive Officer believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
- (ii) a professional adviser or expert in relation to matters that Aurizon Network's Executive Officer believes on reasonable grounds to be within the person's professional or expert competence;
- (iii) another director or officer of Aurizon Network in relation to matters within the director's or officer's authority; or
- (iv) a committee of directors on which Aurizon Network's Executive Officer did not serve in relation to matters within the committee's authority; and
  - (A) the reliance was made:
    - (1) in good faith; and
    - (2) after making an independent assessment of the information or advice, having regard to Aurizon Network's Executive Officer's knowledge of Aurizon Network and the complexity of the structure and operations of Aurizon Network; and
  - (B) the reasonableness of Aurizon Network's Executive Officer's reliance on the information or advice arises in legal proceedings or an arbitration to determine whether Aurizon Network's Executive Officer has performed with due care and diligence in providing the certification,

Aurizon Network's Executive Officer's reliance on the information or advice is taken to be reasonable unless the contrary is proved.

(c) Upon request by the QCA, Aurizon Network will provide to the QCA any expert or professional advice relied upon by Aurizon Network's Executive Officer in providing a certification required by this Undertaking.

#### **10.810.7 Report auditing**

- (a) An audit of Aurizon Network's compliance with all or a part of its reporting obligations under this **Part 10** will be conducted ~~if required in writing by the QCA:~~
  - (i) ~~no more than once each year~~ annually and as otherwise required in writing by the QCA; and
  - (ii) subject to this **clause 10.7**, in accordance with **clause 10.109**.
- (b) The Auditor will compile an audit report identifying:
  - (i) whether Aurizon Network has complied in all material respects with its reporting obligations under this **Part 10** and, if not, details as to the relevant non-compliance; and
  - (ii) the process adopted for the conduct of the audit.
- (c) If the QCA requires an audit of Aurizon Network's compliance with all or a part of its obligations under this **Part 10** in relation to a relevant report, then the date by which that report must be provided to the QCA or published will be extended by 20 Business Days.

#### **10.910.8 Compliance audit requested by the QCA**

- (a) Despite any other provisions of this Undertaking that require the conduct of an audit, the QCA may request Aurizon Network in writing to, and in such circumstances Aurizon Network must engage an auditor to undertake an audit, in accordance with **clause 10.10**, in relation to whether any specific

conduct or decisions of Aurizon Network comply with this Undertaking.

(b) The audit will be conducted in accordance with **clause 10.10**.

~~(b)~~(c) The Auditor will compile an audit report identifying:

- (i) whether Aurizon Network has complied in all material respects with its obligations which were the subject of the requested audit and if not, details as to the relevant non-compliance; and
- (ii) the process adopted for the conduct of the audit.

(d) To the extent approved by the QCA, costs incurred by Aurizon Network in complying with this **clause 10.8** will be incorporated in the Adjusted Allowable Revenue in accordance with **clause 3.3** of **schedule F**.

## **10.9 Conflicts audit**

(a) An audit of:

- (i) Aurizon Network's compliance with its obligations under Part 3; and
- (ii) any one or more of the following (to the extent that the QCA specifically requests that the Auditor consider such matters);
  - (A) Aurizon Network engaging in cost shifting between regulated and nonregulated activities;
  - (B) Aurizon Network engaging in margin squeezing (with special reference to non-reference train services);
  - (C) Aurizon Network refusing to provide access to associated facilities or discrimination between Related Operators and Third Party Railway Operators in respect of such access;
  - (D) discrimination between Related Operators and Third Party Railway Operators in decisions regarding live run variations from train plans;
  - (E) Aurizon Network's compliance with Capacity allocation under this Undertaking;
  - (F) Aurizon Network's compliance with the negotiation framework in this Undertaking;
  - (G) Aurizon Network's compliance with the Expansion obligations in this Undertaking;
  - (H) conduct of Aurizon Network in respect of which the QCA has received a complaint from an Access Seeker, Access Holder or Customer, or a breach report in relation to this Undertaking; or
  - (I) other issues for which the QCA reasonably believes that an audit is necessary;

will be conducted annually and as otherwise requested by the QCA (under either **clause 3.23** or **clause 10.7**) in accordance with **clause 10.10**.

(b) In considering Aurizon Network's compliance with its obligations under Part 3, the Auditor may take into account Aurizon Network's compliance with any relevant internal procedures.

(c) The Auditor will compile an audit report identifying whether QR Network has complied in all material respects with its obligations under Part 3 and, if not, details as to the relevant non-compliance.

## **10.10 Audit Process**

An audit required under **clauses 3.23, 10.7**~~**10.7**~~, ~~**10.8**~~, **10.9** or **clause 6.2** of **schedule E** must be conducted in accordance with the following process:

- (a) ~~Aurizon Network~~ the QCA will appoint, and may replace from time to time, an Auditor who will be available to conduct audits required in accordance with this Undertaking. The appointment will be made in the first year of the Term;
- (b) the Auditor must:
- ~~(i) not be an employee~~ independent of Aurizon Network ~~or and all other another~~ Aurizon
  - (i) Parties;
  - (ii) be appropriately qualified and experienced;
  - (iii) be subject to professional standards of ethics and independence; ~~and~~
  - ~~(iv) be approved by the QCA. Once approved, the approval will be effective for the Term, subject to the QCA having a right to require the appointment of a replacement Auditor where the previously approved Auditor:~~
    - ~~(A) has been found to have been negligent in the performance of an audit in relation to this Undertaking;~~
    - ~~(B) engaged in professional misconduct in respect of an audit in relation to this Undertaking; or~~
    - ~~(C) to have a conflict of interest not known at the time of the Auditor's original appointment;~~
- (c) the costs of the Auditor will be initially paid for by the QCA and recovered by the QCA through the QCA Levy;
- ~~(e)~~ (d) the Auditor will have a duty of care to the QCA in the provision of the audit ~~and, in the event of a conflict between the Auditor's obligations to Aurizon Network and its duty of care to the QCA, the Auditor's duty of care to the QCA will take precedence;~~
- ~~(d)~~ (e) the Auditor for a financial matter may be different from the Auditor for another matter;
- ~~(e)~~ (f) prior to commencing ~~the~~ an audit the Auditor must agree an audit plan with Aurizon Network, document that audit plan, and obtain the QCA's approval of the audit plan;
- ~~(f)~~ (g) the audit plan will:
- (i) consist of a proposed work program for the execution of the audit, including audit costs (which shall be payable by Aurizon Network);
  - ~~(ii) where necessary, contain any procedural controls necessary to ensure the independence of the auditor;~~
  - ~~(iii)~~ (ii) provide for the establishment of an audit liaison group, comprising the Auditor, Aurizon Network and the QCA, during the course of the audit, to provide a forum for the resolution of any audit issues that arise; and
  - ~~(iv)~~ (iii) include a process for consultation with the QCA during the audit to ensure that the audit addresses the matters and standards required by the QCA for the particular audit being conducted. The QCA may consult with Access Holders and Access Seekers over the matters and standards to be addressed in, and required of, the audit;
- ~~(g)~~ (h) Aurizon Network will provide:
- (i) any relevant information the Auditor reasonably requires for the

purpose of conducting the audit, within a nominated timeframe that is determined by the Auditor to be reasonable after consultation with Aurizon Network; and

- (ii) if an audit is required of the financial statements referred to in **clause 10.1.1**, access to Aurizon Network's financial records and information systems necessary for the purpose of conducting the audit;

~~(h)~~(i) the Auditor may be required to enter into a confidentiality deed with Aurizon Network in relation to any information provided by Aurizon Network, to the effect that it must keep the information confidential and only use that information for the purpose of conducting the audit and completing the audit report, provided however that the Auditor will be entitled to provide all information obtained as a result of the audit to the QCA;

~~(i)~~(j) the Auditor will provide to Aurizon Network and the QCA a copy of:

- (i) the audit report; and
- (ii) any letter or report from the Auditor accompanying the audit report which explains the audit findings in greater detail,

both of which the QCA may, if it considers it appropriate to do so, publish to parties thought appropriate by the QCA having regard to the scope of the audit and its findings; and

~~(j)~~(k) Aurizon Network must use reasonable endeavours to implement any recommendations made by the Aauditor in the audit report or any other letters or reports provided undertaking **clause 10.9(a)(i)** (except to the extent the non-implementation is approved by the QCA) as soon as reasonably practicable after the documents are provided by the Auditor.