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4 May 2015

Dr Malcolm Roberts
Queensland Competition Authority
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Australia

Dear Dr Roberts

Aurizon Network – Draft Decision in relation to 2014 DAU

I am writing in relation to the QCA's draft decision in relation to the 2014 Draft Access Undertaking. Glencore has participated in both the development of the Queensland Resources Council submissions on the 2014 DAU and the submissions made on behalf of the users of the Wiggins Island Rail Project. Glencore confirms that it supports the submissions which have been made by each of those groups. We shall not be making lengthy submissions in our own right as we believe there is little to add to the submissions which have already been made. However, we should like to take this opportunity to express our views on some matters of particular interest to Glencore.

Reference Tariffs

We are supportive of the submissions made by the QRC on the lack of transparency in relation to Aurizon Network's proposed rebalancing of the various components of the Reference Tariffs. We are also supportive of the QCA's position that it would refuse to accept such rebalancing, based on the information which is currently available to us. We would hold to this position unless and until further supporting information and justification is provided by Aurizon Network. However, if such rebalancing was to be carried out transparently and with sufficient justification, we believe that some changes within the existing tariff structure may be appropriate.

Of particular concern would be the inclusion of AT5 charges within the scope of take or pay charges. We would of course be concerned to ensure that no train services which are presently utilised by diesel locomotives should be exposed to any take or pay charges in relation to electric infrastructure. This would be entirely unjustified. However, even where paths are currently contracted for the use of electric locomotives, we would be concerned that the imposition of take or pay charges in relation to electric infrastructure on those paths would effectively "lock in" the choice of electric traction, since it might then become uneconomic to utilise those paths with diesel traction locomotives. This would have an adverse impact upon competition in the above rail market in relation to those paths as it would in the future "lock out" operators using diesel traction when competing for above rail contracts in relation to those paths.

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Grouping of train services

We should like to take this opportunity to bring to your attention an issue which arises at ports such as Gladstone where there are multiple destinations within the same rail system (and hence within the same revenue cap). For example, at present, we hold train service entitlements both to RG Tanna and Gladstone Power Station. There is no offsetting between over-usage of train service entitlements to one of these destinations against under-usage in the other, despite the fact that both of these destinations are within the same rail system and regulated asset base. Therefore, we can be faced with paying additional ad hoc charges for over-use of rail paths to one of these destinations while having to pay take or pay charges in relation to the other destination. We understand that there are different physical constraints which apply to the number of trains which may be able to run to each destination. However, if we are in fact able to over-utilise the train service entitlements to one of these destinations, we see no reason why this should not offset under-utilisation in relation to the other destination. Given that the destinations are within the same rail system and the same revenue cap, to allow offsetting of usage between these two different destinations would not produce any adverse effect on Aurizon Network. On the basis of the present system there is a distortion which may favour producers which only rail to a single destination over those which may rail to multiple destinations within the same system, even though those destinations may be physically close to each other and hence involve the use of materially the same rail infrastructure. This arises from the user of paths to multiple destinations being forced to pay for effectively the same rail capacity twice. We do not consider that such a distortion is justified.

WIRP

As a user of the Wiggins Island Rail Project, we affirm the various submissions which have been made by the WIRP users. As the QCA would be aware, as a condition of Aurizon Network agreeing to proceed with WIRP, access conditions were imposed which compensated Aurizon Network for the additional risks which it stated arose as the result of WIRP. These access conditions also passed much of the risk associated with the WIRP to the WIRP users, for example through a 20 year commitment period, project cost adjustments and the imposition of an optimisation fee. The access conditions that were required by Aurizon Network were permitted under the current access undertaking and were approved by the QCA. We are very concerned by any suggestion that we might now be exposed to the imposition of new pricing principles, which might impose additional risks on the WIRP users, in addition to those risks already imposed on WIRP users by the QCA approved WIRP Deed. Such new pricing principles could not have been predicted at the time the WIRP Deeds were executed. We are also disappointed by the continuing period of enormous uncertainty as to what the tariffs for WIRP might eventually be and how they might be calculated, and even as to which rail system WIRP will be considered to belong. When entering into the WIRP Deed, we did not expect that WIRP pricing issues would take so long to resolve, nor that the basis of WIRP pricing would substantially deviate from the then applicable regulatory regime.

Connecting railways

The basis of the regulation of Central Queensland Coal Network is its declaration under the Queensland Competition Authority Act. New rail lines, such as connections to new coal basins, are not subject to declaration and are therefore not subject to the 2014 DAU. The logic behind this position is that such railways are subject to competitive pressures, since such a railway could be built by a party other than Aurizon Network. However, in relation to new rail lines which connect to the declared network, this logic may not hold true under the current access undertaking. This is an issue which we believe could be usefully addressed in the 2014 DAU.

It is obvious that trains which run on a rail network must be subject to train control, in order to maintain separation of the trains. In relation to any section of the rail network, there can be only be a single party

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with responsibility for train control. This presents difficulties for the developers of new rail lines which connect in to the declared network. The provisions in respect of connections to the network in the existing access undertaking appear to be based on the assumption that the rail line which is being connected into the network is a spur line. At the junction between a spur line and the main line there will be a signal. Train control can take place through a train on the spur line being halted at that signal until a path is ready on the main line. Although this solution may be appropriate for spur lines, it may not be practical for a new rail line to operate in this fashion due to the greater volume of traffic on the new rail line. If the approach to train control requires that trains halt at the junction between the two systems, this would be likely to require a number of holding roads to be available at the junction and introduce considerable inefficiency into the operation of the new rail line.

One solution for this predicament is for Aurizon Network to be tasked with train control across the two rail systems. However, Aurizon Network is not obliged to provide such train control (nor does it appear likely that this could be mandated by an access undertaking in relation to the currently declared system). Since only Aurizon Network is in a position to provide this solution, and it is under no obligation to do so, we are concerned that Aurizon Network's charges might exceed those which would be applied in a competitive market. This may have the effect of lessening the likelihood that any other party would build a rail line connecting with the Aurizon Network declared network (other than Aurizon Network itself).

On the assumption that Aurizon Network cannot be mandated to provide train control services for the new rail line (and that the operator of the new rail line obviously could not provide train control services for the existing network), we support the proposal which has been made by the QRC that Aurizon Network should at least have an obligation to ensure that train control between the existing rail network and the new rail line can be operated in an integrated fashion so that a train service can transit the two networks without having to stop, with the train control effectively functioning as if the two rail networks were under the control of a single train controller. Whilst it would be difficult to specify in advance how such arrangements should operate, we would consider it desirable that Aurizon Network should have the obligation to negotiate in relation to such matters with the potential builder of a new rail line and that, if unresolved, matters should be referred to the QCA for determination.

Yours sincerely



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