

Friday, 23 September 2016

Professor Roy Green
Chair
Queensland Competition Authority
PO Box 2257
Brisbane Queensland 4001

Dear Professor Green

Pacific National Response to the QCA's August 2016 Draft Decision on Aurizon Network's Amended 2014 Draft Access Undertaking

Introduction

Pacific National welcomes the opportunity to respond to the Queensland Competition Authority (QCA) on the QCA's August 2016 Draft Decision on Aurizon Network's Amended 2014 Draft Access Undertaking (the August Draft Decision).

Pacific National is seeking that the QCA be aware that future submissions relating to Aurizon Network and the UT4 regulatory process will now be made by Pacific National rather than Asciano. This change follows the sale of Asciano in August 2016 which has resulted in Pacific National becoming a stand-alone company with new owners. Submissions made before this ownership change should be treated as being joint submissions from Pacific National and Asciano.

Pacific National (as Asciano) has made numerous submissions to UT4 regulatory consultation processes. Pacific National seeks that these previous submissions be taken into account by the QCA when considering its decision on UT4.

This submission contains no confidential information. This submission may be considered a public document.

Pacific National Position on the QCA's August Draft Decision

As previously submitted, Pacific National is concerned at the number and scope of changes in Aurizon Network's Amended 2014 Draft Access Undertaking; however Pacific National recognises that in the August Draft Decision the QCA has made a draft decision to approve Aurizon Network's Amended 2014 Draft Access Undertaking.

Pacific National strongly supports the need for regulatory certainty in relation to Aurizon Network and consequently supports a timely final approval of Aurizon Network's Amended 2014 Draft Access Undertaking and its orderly implementation.

However, Pacific National continues to have concerns with the August Draft Decision position on some of the Aurizon Network Amended 2014 Draft Access Undertaking drafting changes. These concerns include:

- Aurizon Network drafting changes to 3.1.3 c) and 3.1.3 h) – Pacific National believes that these Aurizon Network drafting changes reduce the protections on confidential information that third party users provide to Aurizon Network;
- Aurizon Network drafting changes to 7.4.2 b) i) C), 7.4.2 h) and Schedule G 8.3 a) i) – Pacific National believes that that these Aurizon Network drafting changes may impact on the number and type of capacity transfers undertaken. Pacific National notes that the August Draft Decision (page 19) notes that in future undertakings the QCA will further review and streamline the transfer arrangements as better

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information becomes available. Pacific National supports the further review of transfer processes in UT5 based on transfers undertaken under UT4;

- Aurizon Network drafting changes to Schedule E 1.1 e) and 1.2 c) iii) – Pacific National believes that these Aurizon Network drafting changes may have the potential to inflate the value of the asset base. Pacific National notes that the August Draft Decision (page 20) notes that these issues may be considered in UT5. Pacific National supports a review of these matters in UT5;
- Aurizon Network drafting changes to Schedule G 2 d), 2 e), 2 j), 2 k) – Pacific National believes that these Aurizon Network drafting changes, which delete these clauses relating to the Capacity Assessment Report, should be reversed until the Capacity Assessment Report is developed. Pacific National notes that the August Draft Decision (page 20) notes that these issues may be considered in UT5. Pacific National supports a review of these matters in UT5; and
- Aurizon Network drafting changes to the definition of Consequential Loss in various documents – Pacific National believes that there was no justification for Aurizon Network to amend the definition given the late stage of the UT4 regulatory process.

Pacific National expects to further address the concerns outlined above in the UT5 regulatory process which is expected to commence with Aurizon Network's submission of a draft access undertaking late in 2016.

Conclusion

Pacific National strongly supports the need for regulatory certainty in relation to Aurizon Network and consequently supports a timely final approval of Aurizon Network's Amended 2014 Draft Access Undertaking and its orderly implementation. However, Pacific National continues to have concerns with some of the Aurizon Network Amended 2014 Draft Access Undertaking drafting changes and will address these concerns in the UT5 regulatory process.

Pacific National is not seeking to further delay the implementation of UT4 but believes that it is important that its concerns with the revised Aurizon Network drafting changes are raised. These concerns will be further addressed in Pacific National's submissions on UT5.

If you wish to discuss this submission further please contact me on 02 8484 8056 or Ying Yeung on 07 3002 3726.

Stuart Ronan
Manager Access and Regulation