

7 September 2012

Mr John Hall
Chief Executive Officer
Queensland Competition Authority
Level 19, 12 Creek Street
GPO Box 2257
Brisbane QLD 4001

Dear Mr Hall

Re: QCA Draft Decision on the Standard Rail Connection Agreement (SRCA)

Thank you for the opportunity to respond to the Authority's Draft Decision on the SRCA.

BHP Billiton Mitsubishi Alliance (BMA) and BHP Billiton Mitsui (BMC) supports the QCA Draft Decision and recommends the QCA consider the QRC's additional amendments outlined in the QRC's submission to the QCA. The QRC's recommendations would further improve the workability of the proposed SRCA and better clarify all the responsibilities, obligations, risks and liabilities borne by each party in the SRCA.

The QRC submission addresses our concerns in detail. However, I would like to highlight the fundamental principles which must be addressed in the SRCA and which are of particular interest to BMA and BMC.

- The regulated infrastructure should include all QRNN infrastructure and/or access related functions required to enable an Access Seeker to haul coal from its mine origin to destination.
- The SRCA should require, at an Access Holder's option, QRNN to design, fund and construct all necessary rail connection infrastructure needed by the producer to run its train services under an Access Agreement.
- The SRCA should allow access to QRNN's train control management services and provide the option for Access Holders to integrate any private rail infrastructure into the Rockhampton Train Control Centre.
- The SRCA should contemplate the role QRNN might play in the provision of Rail Infrastructure Manager (RIM) services for private infrastructure (e.g. a rail spur to a mine loading facility) which has been built with the sole purpose of connecting a mine to the mainline (i.e. not for the purposes of building a railway business to sell access services to third party mines).
- Rail connection services provided under the SRCA must fall within QRNN's Access Undertaking and associated reference tariff charging framework to ensure efficient pricing of access services as well as fair, transparent and impartial treatment of all Access Seekers and Access Holders.
- There should be no scope for additional pricing of rail connection services outside the Access Undertaking to ensure QRNN cannot use its monopoly position to obtain above regulatory returns for the provision of a regulated service.

The above principles underpin recent experience in negotiations with QRNN on connections and expansions to the QRNN mainline. These negotiations have revealed significant commercial and structural complexities in the fragmentation of rail infrastructure within different definitions, namely multi-user versus customer specific and declared versus private rail infrastructure.

- The first and second Access Undertaking process defined declared infrastructure to cover all services required to enable an Access Seeker to haul coal from its mine origin to point of destination. QRNN treated all mine connections, spurs and balloon loops within the definition of the declared infrastructure and so funded and included such assets in the Regulatory Asset Base.
- In the 3rd Access Undertaking, QRNN has narrowed its interpretation of the scope of declared infrastructure to apply only to mainline infrastructure and specific rail infrastructure which connects the mainline to private infrastructure (defined by QRNN as any balloon loops or rail spurs). At the same time QRNN advised all Access Seekers it will not fund any rail connection infrastructure on the basis it is customer specific and so is not an obligation under the Access Undertaking.

Customer funding of a rail connection involves execution of three complex legal documents (namely a Rail Connection Agreement, Rail Infrastructure Construction Deed and Access Facilitation Deed) which then sit alongside the execution of an Access Agreement. The proliferation in legal and funding agreements required to access QRNN's network creates onerous and bureaucratic negotiation processes for producers and adds to the costs incurred by industry in developing or expanding mines in Central Queensland.

The development of a SRCA and the QCA's Draft Decision represents a positive step forward for industry. It will minimise the negotiation costs incurred by producers in order to utilise access rights they hold under an Access Agreement. We believe the SRCA would be further enhanced if its scope reflected the key principles identified above and is accompanied by all the legal agreements QRNN will require a producer to sign before access rights under an Access Agreement can be delivered.

If you have any queries or require more information, please contact Tanya Boyle on telephone [REDACTED] or mobile [REDACTED]

Yours sincerely

[REDACTED]
Neil Buckley
Outbound Supply Chain
Rail Ports and Infrastructure Department