

27 OCT 2011

DATE RECEIVED

John Hall  
Chief Executive Officer  
Queensland Competition Authority  
GPO Box 2257  
BRISBANE QLD 4001

Dear John,

**Submission to the QCA for Alternative Access Charge for the Northern Energy Corporation Coal Service Colton to Barney Point**

QR Network Pty Ltd (QR Network) has been negotiating with Northern Energy Corporation (NEC) and QR Limited (QR National Coal) to haul coal from Parana to the Barney Point Coal Terminal (BPCT), which forms part of the Central Queensland Coal Region (CQCR). This haul originates from the Colton coal mine located near Maryborough. NEC has approached Queensland Rail regarding below rail access between Colton and Parana.

QR Network has fully executed access agreements equivalent to the terminals nameplate capacity of 76 Mtpa at RG Tanna Coal Terminal and BPCT. QR National Coal has been offered train paths on a subject to availability basis, through the Daily Train Plan (DTP) for up to 0.5 Mtpa for ten years or on closure of BPCT, whichever is to occur earlier.

The offering of subject to available train paths would mean that QR National Coal will not be guaranteed access rights but rather make use of paths that have not been allocated, getting the lowest priority when it comes to scheduling services. However, they would obtain priority of train path requests from access holders seeking to operating adhoc train services (train orders which is associated with an access agreement which does not specify a train service entitlement for that origin to destination, or where the annual train service entitlement has been fully utilised).

The proposed train consist has a payload of 2,205 per net tonne with an axle load of 20 and length of 570 metres, which differs from the standard coal reference train in both the Blackwater and Moura systems. The train service will only travel on QR Network's CQCR between Parana and the BPCT (approximately 8 kilometres).

Based on the above, it is arguable that this haul should not be subject to the standard coal reference tariffs but rather an alternative access charge which sees them pay at least the minimum contribution to common cost of a new coal carrying train service that connected significant private infrastructure at the extrememity of the Moura system and conformed to the reference train description. Please find attached QR Network's submission to obtain the QCA's approval for an

alternative access charge for this particular haul.

As a principle, QR Network normally is not prepared to enter an access arrangement for coal carrying train services on a subject availability basis in the DTP. Though, as NEC recently executed conditional access rights to unload coal at the Wiggins Island Coal Export Terminal (WICET), QR Network is prepared to enter into access arrangements only on the basis that they are intermediate arrangements to assist in the early development of the Colton mine and reduce the ramp-up profile.

If you have any further questions in relation to this submission please contact Colin Keel on 07 3235 5889.

Regards,



PP Michael Carter  
Executive Vice President & CEO  
QR National Network Services

25 October 2011

# 1. Introduction

The purpose of this application is to obtain the Queensland Competition Authority's (QCA) approval for an access charge for a proposed coal carrying train service originating from Colton, approximately 15 kilometres North of the Maryborough township, and unloading at either the Barney Point or RG Tanna coal terminals. Refer to Figure 1.

Figure 1<sup>1</sup>



As the proposed service uses a small proportion of QR Network Pty Ltd's (QR Network) rail transport infrastructure in the Gladstone area the application of the nearest relevant reference tariff may not provide an appropriate balance of interests between the User of proposed service and Users of the existing Moura and Blackwater systems.

The Access Seeker has recently executed conditional access rights to unload coal from the Wiggins Island Coal Export Terminal (WICET). The proposed access charge does not apply to those access rights. QR Network has committed to a significant investment in rail infrastructure to support the WICET terminal development and the access charge relevant to the operation of coal carrying train services from the Colton mine to WICET will need to consider a broader number of economic issues such as the opportunity cost of the train path through the coal terminal.

QR Network is prepared to enter the access arrangements only on the basis that they are intermediate arrangements to assist in the early development of the Colton mine and reduce the ramp-up profile.

QR Network explicitly acknowledges its obligation to treat all access seekers in a non-discriminatory manner. In this regard, QR Network recognizes the perverse consequences of contracting with parties on the basis of subject to availability and

<sup>1</sup> Source: [http://www.dme.qld.gov.au/zone\\_files/coal\\_files\\_pdf/new\\_coal\\_min\\_adv\\_proj\\_2010\\_1.pdf](http://www.dme.qld.gov.au/zone_files/coal_files_pdf/new_coal_min_adv_proj_2010_1.pdf)

broader supply chain impacts which would arise if these parties could push supply through a coal terminal and displace contracted tonnages. Accordingly, QR Network has sought and obtained verification from the access seeker that it does not possess terminal rights which would materialize these concerns.

As a principle QR Network is not prepared to enter an access arrangement for coal carrying train services on a subject availability basis in the Daily Train Plan. However, due to the extensive use of adjoining infrastructure QR Network considers there is benefit in identifying any operational conflicts during this transition period.

QR Network is seeking relief from the following obligations in the 2010 QR Network Access Undertaking (2010AU) in relation to the access charge for the proposed train service:

- the requirement to develop a reference tariff for a new coal mine in accordance with clause 6.4.2(b);
- the requirement to determine the minimum contribution to common the service must make in accordance with Schedule F, Part B, clause 4.1.1(a)
- the requirement to apply an access charge which conforms to the tariff components listed in Schedule F, Part B, clause 4.3

In each of these requirements the 2010AU allows for QR Network to not comply subject to the QCA's approval of that non-compliance. QR Network has lodged this application in order to permit both the Access Seeker and QR Network to progress negotiations with a degree of commercial and regulatory certainty as to the likely outcome.

## **2. Form of Submission**

This document represents an application by QR Network to the QCA to obtain approval to not comply with selected clauses in the 2010AU where the undertaking permits QR Network to do so.

In this document the following references apply:

- all references to QR Network are to QR Network Pty Ltd as the operational group responsible for and lessor of the relevant declared service;
- all references to the 2010AU are to the 2010 QR Network Access Undertaking approved by the QCA on 1 October 2010; and
- all definitions have the meaning in Part 11 of the 2010AU.

This application has not been prepared in response to a dispute resolution proceeding initiated under the clause 10.1 of the 2010AU or a dispute notice issued pursuant to s.112 of the *Queensland Competition Authority Act 1997*.

QR Network has consulted with the prospective Customer on the preparation of this application and obtained their support for the proposed access charge. A letter of support from the Customer for the proposed access charge is provided at Attachment A.

As the application is made pursuant to the 2010AU the QCA decision making must be consistent with the requirements under clause 10.3. As a consequence the QCA is limited in its information gathering powers for the purpose of making a decision. For example, the QCA may not rely on s.185 of the QCA Act to compel information

from other service providers (port and rail) in forming its view on the reasonableness of QR Network's proposed access charge. This power may only be exercised where a formal arbitration process becomes an outcome from those independent negotiations.

Where the QCA considers information in relation to commercial terms between the proposed User and other service providers is relevant to its decision making it is reliant on those parties agreeing to provide that information at their will.

This application and the proposed access charge is limited to the description and characteristics of the proposed coal carrying train service, the 'Proposed Service' in section 3. QR Network reserves all rights with respect to the access charge applicable to train services which differ from the Proposed Service (i.e. different destination).

There are no matters in this application that QR Network claims confidentiality. While there is no prescribed requirement for the QCA to seek comments from interested parties to approve the proposed access charge QR Network understands the QCA may seek to do so as good regulatory practice. However, QR Network requests that should the QCA seek comment from interested parties it provide a short window for responses in order to progress the access negotiations.

### **3. Details of Proposed Coal Carrying Train Service**

QR Network has received an access application from Northern Energy Corporation (NEC) to haul up to 1.5 million tonnes per annum of coal from Parana to the Barney Point Coal Terminal (BPCT), which forms part of the Central Queensland Coal Network operated by QR Network, from 1 January 2012 for 10 years. This tonnage originates from the Colton coal mine located near Maryborough. NEC has approached Queensland Rail regarding below rail access between Colton and Parana.

The proposed train consist has a payload of 2,205nt with an axle load of 20 tonnes and length of approximately 570 metres, which differs from the standard coal reference train in both the Blackwater and Moura systems. An alternative train with a payload of 2570 tonnes and length of 670 metres may operate. The train service will only travel on QR Network's central Queensland Coal region (CQCR) between Parana and the BPCT or RGTCT (approx 8kms). The location of the origin relative to the CQCR is shown in Figure 1.

The total coal export nameplate capability of the port of Gladstone, which includes the RG Tanna Coal Terminal (RGTCT) and BPCT, is 76 million tonnes per annum. QR Network has fully executed Access Agreements equivalent to the export nameplate capacity of 76 million tonnes per annum. Therefore, NEC has been offered train paths on a subject to path availability basis, through the Daily Train Plan (DTP) for up to 0.5mtpa for 10 years or up to when BPCT shuts as a result of the Wiggins Island Coal Terminal project (which ever is earliest). The offering of subject to availability train paths would mean that NEC will not be guaranteed access rights but rather make use of paths that have not been allocated, getting the lowest priority when it comes to scheduling services. However, they would obtain priority of train path requests from Access Holders seeking to operate Adhoc Train Services (train order which are associated with an Access Agreement which does not specify a train

service entitlement for that origin to destination, or where the annual train service entitlement has been fully utilised).

Due to the degree of commitment to the provision of train paths associated with the service offering, the Access Seeker will not be required to commit to take-or-pay for any train services within the nominated 0.5 mtpa.

#### **4. The Negotiation Period and Horizontal Separation of the Queensland Narrow Gauge Rail Infrastructure.**

QR Network issued an Indicative Access Proposal (IAP) in response to an access application on 27 September 2010. The IAP included an indicative access charge based on the proposed origin to destination which aligned to the Moura Reference Tariff. The application of the Moura Reference Tariff is consistent with the obligations in the Schedule F of the 2008AU and the 2010AU that access charges for coal carrying train service must have the AT<sub>2-4</sub> structure.

The IAP was issued just after the horizontal separation of the North Coast Line (Queensland Rail) from the Central Queensland Coal Network (QR Network). As the North Coast Line did not satisfy the definition of private rail infrastructure there would be no requirement to identify the incremental costs for addition to the minimum contribution to common costs to derive a new Reference Tariff. Similarly, it would be economically irrational to include the relevant stand alone costs of the North Coast Line into the relevant Regulatory Asset Base.

Where the network is managed under single ownership the revenue from the access charge would have been allocated between the relevant coal system to be included in the Total Actual Revenue and the North Coast Line.

The indicative access charge is not binding and is intended to provide the access seeker an estimate of the price of access which is then subject to commercial negotiation.

Separation of the relevant infrastructure which is required to operate the proposed train service from origin to destination increases the complexity of the commercial negotiation process for the access seeker by requiring that party to negotiate access with two service providers. However, this does not restrict or constrain the rights of the infrastructure providers to review or prepare an alternate price for commercial negotiation as a consequence of the separation.

This separation is analogous to a change in ownership in the middle of a commercial negotiation where any or all preceding negotiations are non-binding on the new owners.

QR Network has developed the revised proposed access charge independently of other service providers. QR Network accepts that the authority may be minded to have regard to the access charge included in the original IAP in the consideration of total transport costs for the access seeker. However, the Network Interface Deed between Queensland Rail and QR Network extends only to the coordination of train operations and management of network connections. It does not provide for the collaboration or coordination of pricing between the two service providers. Such

conduct would raise material concerns regarding compliance with the *Trade Practices Act 1974* given QR Network's vertical integration in the above rail market.

To the extent that the Access Seeker has concerns regarding the proposed terms and conditions for the use of rail infrastructure owned and operated by Queensland Rail, there is a clear dispute resolution process within the Queensland Rail Access Undertaking (as required by the Transfer Notice) to resolve those matters.

In the event that the Authority seeks to review the combined Queensland Rail and QR Network charges in the absence of a dispute notice it is effectively reviewing the capacity of the Access Seeker to pay. Any review of capacity to pay would also require a broader review of the mine economics and all supply chain costs (including port charges). Given the material limitations of obtaining the relevant cost information to effectively undertake this review QR Network does not consider it to be in the interests of the Access Seeker, QR Network or the public for the QCA to consider the price for the use of supply chain infrastructure outside of the CQCR.

## **5. Requirements of the 2010AU**

This section outlines the relevant requirements of the 2010AU for the pricing of coal carrying train services utilising Rail Infrastructure in the CQCR and the consideration of the Proposed Service against those requirements.

### **5.1 New Reference Tariff**

Clause 6.4.2(b) of the 2010AU requires that, unless otherwise agreed by the QCA, where a new coal carrying train service utilises Rail Infrastructure in the CQCR the service will be incorporated into an existing reference tariff or a new reference tariff will apply.

QR Network does not believe a new reference tariff for the Proposed Service is necessary or reasonable on the basis:

- the non-CQCR rail infrastructure to be utilised by the service is extensive and would represent a material price at stand-alone (or incremental if included in the tariff derivation) cost given the relevant volumes;
- identification of the 'Private Infrastructure Costs' would require an extensive and complex optimisation process based on the proposed volumes; and
- the service is being provided subject to train path availability in the DTP.

Accordingly, QR Network is seeking the QCA's agreement not to develop a reference tariff for the proposed service.

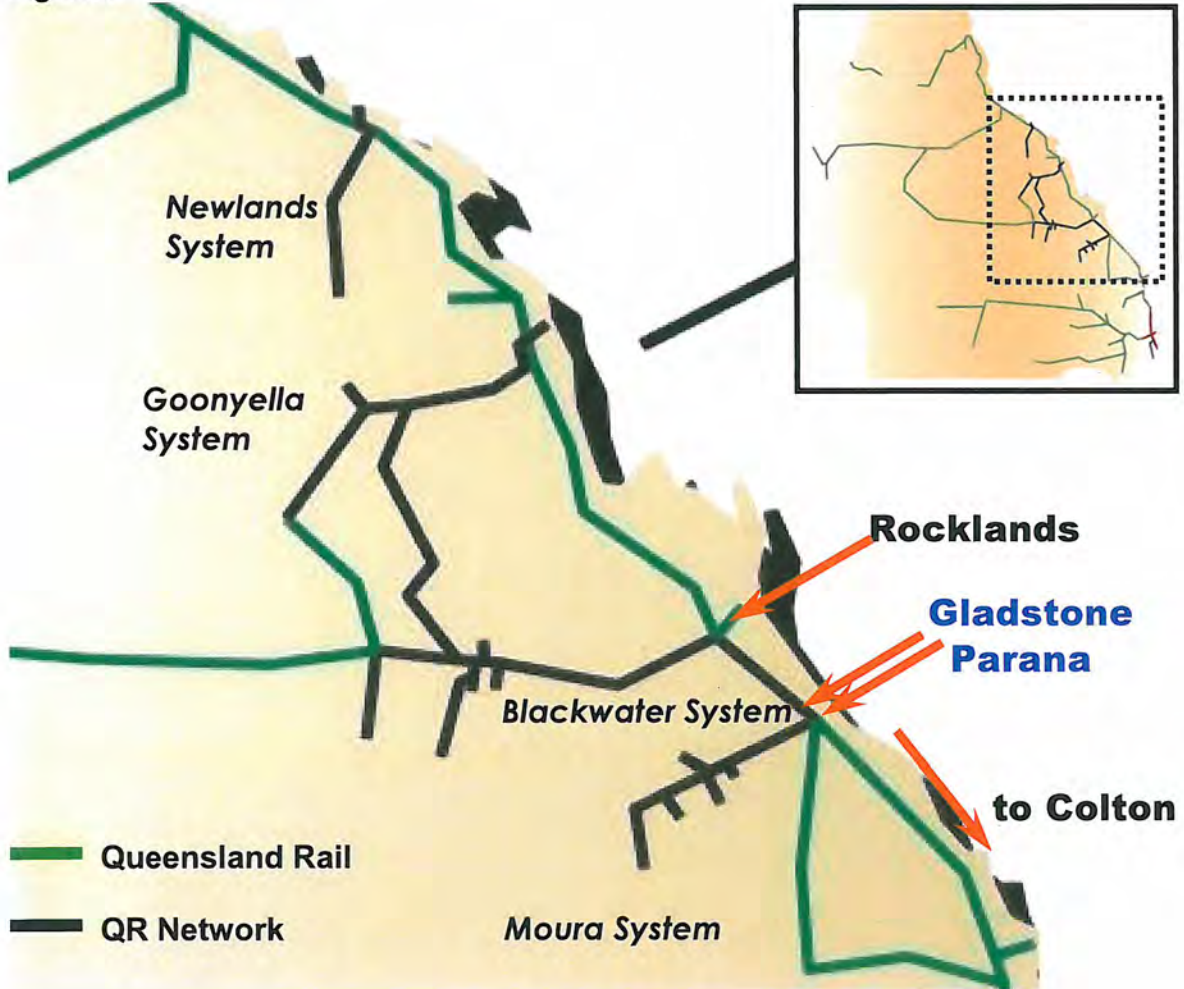
### **5.2 Minimum Contribution to Common Costs**

Clause 4.1.1(b) of Schedule F, Part B requires that coal carrying train services utilising Rail Infrastructure will make a minimum contribution to common costs being:

- the AT2 reference tariff component; and
- 50% of the AT3 reference tariff component for the relevant system.

The Proposed Service utilises QR Network's Rail Infrastructure between Parana and Gladstone (approximately 8kms) only as shown in Figure 2. As this infrastructure is common use between the Blackwater and Moura systems it is not clear which system should be used to estimate the minimum contribution to common costs.

Figure 2



Due to the small, but critical sections of infrastructure to be utilised by the Proposed Service the minimum contribution to common cost requirements do not provide an appropriate price signal for the use of this infrastructure. As the service imposes no additional direct costs (other than the incremental maintenance costs) to either the Blackwater or the Moura system the resultant minimum contribution to common cost requirement for the relevant coal system yields the following net tonne equivalent access charges (Table 1) relative to the 2009-10 average system charges.

Table 1

Access Charge \$/nt	Parana to Gladstone	System Average
Moura	0.57	3.14
Blackwater	1.74	4.50

QR Network is seeking to apply a reference tariff which does not conform to the minimum contribution to common cost requirements for an individual coal system.



### **5.3 Tariff Structure**

Clause 4.3 of Schedule F, Part B requires that coal carrying train services utilising Rail Infrastructure in the CQCR must conform to the AT<sub>2-4</sub> tariff structure for non-electrified services.

The use of a complex multipart tariff for the Proposed Service does not send any relevant price signal to incentivise behaviours. By excluding the AT<sub>3</sub> and AT<sub>4</sub> components from the access charge the service is not exposed to the consequence of under loading of wagons. However, given the likely cycle times and difficulty in obtaining paths in the DTP, QR Network considers the Customer is sufficiently incentivised to maximise use of train paths made available to it.

The disproportionate use of Rail Infrastructure relative to existing coal carrying train services means that it is not necessary for the tariff structure to include a distance taper profile. The access charges payable for the use of the non-CQCR infrastructure is a matter for the relevant service providers whose commercial discretion will be influenced by other economic and commercial drivers.

QR Network is not seeking to apply an Access Charge which conforms to the AT<sub>1-4</sub> tariff structure.

### **5.4 Pricing Limits**

Clause 6.2.3(a) of the 2010AU prescribes the price limits that will apply with respect to a Train Service or any combination of Train Services. Specifically, the limits require that the Access Charge will not:

- fall below the level required to meet the Incremental Costs; and
- exceed the level that will recover the stand alone costs.

#### Increment Cost

As the Proposed Service will operate on a subject to train path availability basis the service does not impose any capital expenditure requirements for the CQCR and the incremental costs are limited to the AT<sub>1</sub> component. Selecting the Blackwater AT<sub>1</sub> this would yield an access charge equivalent to \$0.01 per net tonne.

However, as the Proposed Service utilises critical infrastructure in the Gladstone area the incremental costs would grossly underestimate the opportunity costs and risks to other Customers using the common infrastructure.

The Proposed Service reduces the scheduling flexibility for existing Customers in the Moura and Blackwater systems in that in the event a scheduled Train Service cannot operate they will not have the capacity to reschedule the service to another available Train Path in the DTP (and therefore are deemed to have cancelled the service).

In addition, Moura and Blackwater Customers would receive no compensation by way of contribution to the Total Actual Revenue associated with consequential delays (i.e. unloading delays) and incidents within the Gladstone area.

Accordingly, it is not appropriate for the Proposed Service to pay an access charge equivalent to its incremental costs.

### Stand-Alone Cost

A reasonable proxy for the stand alone cost for the Proposed Service is the current Blackwater or Moura system prices. Applying the relevant system price to the service yields an access charge equivalent to \$2.01 and \$3.37 per net tonne respectively (in 2011/2012 dollar terms).

As the service operates over a very short distance and is an inferior service offering relative to Access Rights for other coal carrying train services it is not appropriate to levy an access charge which is applicable to a train service entitlement within the Intermediate Train Plan.

Accordingly, it is not reasonable to apply an access charge equivalent to its stand alone costs.

## **6. Proposed Access Charge**

The previous section has demonstrated that it is necessary to determine an access charge within the pricing limits. However, any such decision involves a degree of subjectivity and finding an appropriate balance between efficiency and equity.

QR Network has developed the proposed Access Charge by applying objective criteria in relation to the minimum contribution to common costs a new coal carrying train service would be required to make if it connected significant private infrastructure at the extremity of the Moura system and conformed to the reference train description.

On the basis of a 570 metre length train and pay load of 2,205 net tonne and utilising 8 kilometres of the Moura system a new coal carrying train service would be required to pay an access charge (excluding incremental maintenance costs and net of private infrastructure costs) equivalent to \$1.09 per net tonne.

QR Network notes that this access charge also lies between the minimum contribution to common cost requirements for this service on both the Moura and Blackwater systems as shown in Table 1.

On this basis the proposed access charge payable for the Proposed Train Service is a two part tariff based on:

- AT<sub>1</sub> for the Moura System; and
- A train path charge of \$1,201 per train path (equivalent to \$1.09 per net tonne)

To ensure the access charge for the Proposed Service retains a correlation with price movements in the Blackwater or Moura Reference Tariffs the access charge will be subject to review provisions which will require the train path component of access charge to be the higher of 2.08 times the Moura AT<sub>2</sub> Reference Tariff or 0.62 times the Blackwater AT<sub>2</sub> Reference Tariff.

## **7. System Forecasts and Revenue Cap**

As the Proposed Service operates on a subject to path availability QR Network does not propose to include volume forecasts for these services in the System Forecasts for the derivation of Reference Tariffs.

In regard to the recognition of the AT<sub>2</sub> access revenue in the Total Actual Revenue, QR Network proposes to allocate this revenue between the Moura and Blackwater systems on the basis of relative underutilisation within the relevant system. It should be noted that the Access Revenue expected to be recovered from the Proposed Service on an annual basis is not material.

## **8. Conclusion**

The proposed coal carrying train service from Colton to the unloading pointy at either the RG Tanna or Barney Point coal terminals utilises a small proportion of the CQCR infrastructure. This service is not consistent with the typical Access Rights for coal carrying train services for which the pricing requirements in Part 6 and Schedule F of the 2010AU have been established.

The relevant clauses in the 2010AU include the provision for the QCA to approve an access charge which does not conform to these pricing requirements. In considering an appropriate access charge for this service QR Network has had regard to:

the commercial uncertainty as to the availability of train paths for the operation of the proposed service; the relatively short distance involved; and  
the opportunity costs and risks this service represents to existing users of the Moura and Blackwater systems.

The proposed access charge provides an appropriate balance of interests between the Access Seeker, QR Network and the public interest. It is also consistent with promoting efficient utilisation of rail infrastructure.

The methodology used to derive the access charge is objective and relevant to Reference Tariffs in the Moura and Blackwater systems. The proposed access charge will also be periodically reviewed on a predefined basis with reference to variations to the reference train path charge in the Moura and Blackwater systems to ensure ongoing alignment.

The proposed access charge has the support of the Access Seeker and its Customer. The timely consideration of the proposed access charge will provide commercial and regulatory certainty to relevant stakeholders to proceed with the commercial negotiation of the Access Rights.

## Attachment A



28 March 2011

Mark Bourdaniotis  
Group Manager Access  
QR Network Pty Ltd  
Level 5, 192 Ann Street  
Brisbane Q 4000

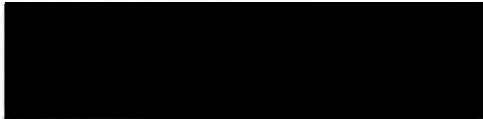
Dear Mark

In prior discussions with Northern Energy Corporation (NEC) about the need for a submission to the QCA to determine a fair access charge for the short distance NEC's proposed train operators in the Central Queensland Coal network.

NEC supports this proposal and looks forward to further discussions.

I can also advise that NEC has no claims for confidentiality in relation to the content of the submission.

Yours sincerely,



**Mark Turner**  
Chief Operating Officer  
Northern Energy Corporation Limited

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