

Our ref: MEX-13-784

Dr Malcolm Roberts
Chairman
Queensland Competition Authority
GPO Box 2257
Brisbane QLD 4001

Dear Dr Roberts 

The current QR Network (2008) June 2010 Access Undertaking (2008AU) that applies to Queensland Rail is set to expire on 31 December 2013. To ensure regulatory certainty for all stakeholders, Queensland Rail reluctantly proposes a further extension to the term of the 2008AU.

Queensland Rail has submitted a Draft Access Undertaking 1 (AU1) in February 2013 and to date is yet to receive a draft decision. As approval of Queensland Rail's AU1 remains to be finalised and the current undertaking is due to shortly conclude, there is little option other than to continue under the current terms of the 2008AU.

Queensland Rail is submitting this Draft Amending Access Undertaking to the Authority under section 142 of the *Queensland Competition Authority Act 1997 (Qld) (Act)*. In assessing Queensland Rail's Draft Access Undertaking 1 (AU1), it is acknowledged that a comprehensive review of all issues is required to be dealt with thoroughly by the QCA. The need to subject submissions to public comment has also exerted pressure on the expected timeframes for finalisation of AU1.

Queensland Rail proposes that under s2.3(d)(ii) Duration of Undertaking, the latest date of application should be 30 June 2014 or the approval date of Queensland Rail's AU1, whichever is earlier. This will provide consistency and regulatory certainty until such a time as the AU1 is approved.

As outlined in a previous submission, Queensland Rail intends to continue with its proposal that the transitional reference tariffs, being the current reference tariffs escalated by CPI, remain and continue to apply up until the approval of AU1. The adjustment charge provisions in AU1 will allow the reference tariff to be backdated to 1 July 2013 upon the approval of AU1. Queensland Rail notes that transitional tariffs have been applied in the both the 2005 and 2010 Access Undertakings and is also in practice with Aurizon Network.

I trust that this extension to 30 June 2014 will provide more than sufficient time for the Authority to release its decision on AU1.

Please find **attached** Queensland Rail's draft amending access undertaking in both clean and marked up versions.

If you have any questions please do not hesitate to contact Mr Robert Febo, Manager Business and Regulation Development, on (07) 3072 0013.

Yours sincerely



Glen Dawe
Chief Executive Officer

4 November 2013

Indicative Access Proposal provided by QR prior to the Commencing Date, will be dealt with in accordance with the provisions of this Undertaking.

- (d) This Undertaking:
- (i) will apply to QR Network until the earlier of the date on which the QCA approves QR Network's next access undertaking and 30 June 2011; and
 - (ii) if it applies in whole or in part to QR Passenger pursuant to a transfer notice in accordance with the IIARD Act, will apply to QR Passenger until 30 June 2014, or the date on which the access undertaking approved by the QCA to replace this Undertaking takes effect, whichever occurs first,
- (e) The Reference Tariffs for the 2009/10 Year apply retrospectively and are effective from and including 1 July 2009.

Deleted: 31

Deleted: December 20

Deleted: 13.

2.4 CONTRACTUAL ARRANGEMENTS

This Undertaking applies only to the negotiation of new Access Agreements or the negotiation of Access Rights in addition to those already the subject of an Access Agreement. Nothing in this Undertaking can require QR Network or any other party to an existing Access Agreement to vary a term or provision of that agreement.

2.5 TRANSITIONAL PROVISIONS

2.5.1 Access Applications submitted prior to 30 June 2006

- (a) For the purposes of this Clause 2.5, the terms "Access Seeker", "Access Application", "Indicative Access Proposal", "Reference Tariff" and "Negotiation Period" have the meanings given under Clause 10.1 of the 2001 Undertaking unless a contrary intention appears.
- (b) Where:
- (i) an Access Seeker has submitted an Access Application to QR and received an Indicative Access Proposal from QR prior to 30 June 2006;
 - (ii) the Negotiation Period in respect of that Access Application has commenced but has not ceased in accordance with Paragraph 4.5.1(c) of the 2001 Undertaking; and
 - (iii) the Access Seeker gives QR a written notice, within thirty (30) days of 30 June 2006, that the Access Seeker elects to continue negotiating Access under the 2001 Undertaking,
- the following will apply:
- (iv) the Access Seeker and QR Network will continue negotiations, in respect of the Access Rights sought, in accordance with the Non-Pricing Provisions, Parts 4 and 6 and Subclauses 7.4.1 and 7.5.1 of this Undertaking and any Reference Tariffs endorsed under that Part 6 and the Standard Access Agreements under this Undertaking;
 - (v) the Negotiation Period in respect of the relevant Access Application for the purposes of this Undertaking will be taken to commence when the