

New Hope Group

A Division of NEW HOPE CORPORATION LIMITED



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Queensland Rail's 2012 Draft Access Undertaking New Hope Corporation submission

Thank-you for the opportunity to comment on the submissions made by stakeholders in regard to Queensland Rail's 2012 Draft Access Undertaking. New Hope has reviewed the draft submissions, a number of which reflect similar views to those of New Hope. Our key issues remain as follows:

- A transparent, repeatable methodology for the development of reference tariffs should be developed as soon as possible.
- The existing tariff structure (i.e. a 'per path' plus a 'per gtk' element) is appropriate and this structure should be retained in the reference tariffs to be proposed by QR in 2013.
- The process for allocating additional capacity should be clear and equitable. Given that stakeholders have proposed a number of mechanisms for addressing this issue, New Hope's views are set out in more detail below.
- The terms on which users may fund expansions of the network should be set out in more detail in the undertaking.
- The proposed provisions in regard to renewal rights require improvement and should extend to coal services operating under a negotiated access charge where there is no reference tariff.
- Certain rights should be provided under the undertaking and standard access agreements to recognise the interests of coal producers as customers, where Access Rights are held by an operator.

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- The provisions relating to the forced reduction (resumption) of access rights require refinement. New Hope believes that the interests of Access Holders and their customers must be protected, particularly in the case of short term reductions in demand, but that the ‘hoarding’ of train paths over an extended period should also be prevented so that paths not required can be made available for long term contracting. This is particularly important in regard to the Western System, given the challenges involved in creating new train paths to meet long term demand in this system.

New Hope’s rationale and detailed proposals in regard to these matters were set out in our submission of 13 July 2012 and need not be repeated.

However, due to the range of suggestions provided by stakeholders on the issue of capacity allocation, we do wish to provide further comments on this point.

Stakeholder submissions reflected the common theme that, while QR’s commercial interests are a relevant consideration in capacity allocation, adopting this as the primary basis for allocation is unlikely to be equitable. New Hope proposed that:

- the ability to allocate capacity based on QR’s commercial interests should be subject to certain limitations.
- where competing access applications both involve coal-carrying train services which would pay reference tariffs or tariffs derived from reference tariffs, the revenue arising from different origins/destinations should not be a differentiating factor (i.e. clause 2.7.2(iv)(A) and (B) should not apply). This is because the process of considering QR’s commercial interests should take place during the setting of reference tariffs. It is not appropriate to discriminate against a particular mine on the basis that the tariff proposed by QR and approved by the QCA is considered less attractive by QR than the approved tariff for another origin/destination.
- Where competing applications for coal-carrying services would both pay a reference tariff, the primary consideration for capacity allocation should be the extent to which each applicant is ready and able to use the paths sought (i.e. has the necessary production capacity, approvals and network exit capability).
- In the event that two Access Seekers are equally “ready and able”, would both pay tariffs based on reference tariffs, and are not materially differentiated based on contract term or credit risk, then the dates of the Access Applications may be considered relevant.

New Hope does not consider that the date of Access Applications should be a primary consideration in capacity allocation, as may occur in a formal queuing process. This form of approach inevitably leads to the submission of large numbers of Access Applications which represent claims on queue positions (which are, in effect, free options) rather than genuine demand for train paths.

We also do not consider that it is appropriate (as proposed in one submission) that receipt of an Access Application should trigger a process in which QR seeks further applications from other potential Access Seekers. While we would have no objection to such a process where there is spare capacity

beyond the needs of the initial Access Seeker (either existing or arising from the smallest efficient expansion), this is unlikely to be the case in the Western System, where achieving any increment of expansion is extremely challenging. The proposed process in these circumstances is likely to result in dispute and delay, as the various parties seek to secure the limited available capacity and as QR seeks to verify the 'ready and able' credentials of numerous access seekers. We would question the benefits of such a process as it seems highly unlikely to us that a party which is both a genuine access seeker and is "ready and able" (i.e. has production capacity, approvals and port capacity) would wait for an invitation before seeking Access Rights.

Thank-you for the opportunity to provide this further submission.

Yours Faithfully,
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