

Friday, 15 September 2017

Mr Charles Millstead
Chief Executive Officer
Queensland Competition Authority
Level 27
145 Ann Street
Brisbane Qld 4000

Submitted via QCA Internet Portal

Dear Mr Millstead

Pacific National Submission Regarding the QCA Draft Decision on the Aurizon Network 2017 Standard User Funding Agreement Draft Amending Access Undertaking

Introduction

Pacific National welcomes the opportunity to make this submission on the Queensland Competition Authority (QCA) Draft Decision on Aurizon Network's 2017 Standard User Funding Agreement (SUFA) Draft Amending Access Undertaking (DAAU).

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

Pacific National Comments on the SUFA Draft Decision

Pacific National generally supports the QCA's positions as outlined in the Draft Decision.

As outlined in Pacific National's previous submission on the SUFA DAAU Pacific National's primary concern with the SUFA DAAU is whether Aurizon Network provides a capacity warranty under each SUFA transaction. Pacific National believes that Aurizon Network is in the best position to manage the delivery of capacity and consequently Aurizon Network should be obliged to deliver any capacity agreed through a SUFA process and be held accountable to correct the capacity shortfall.

The QCA's Draft Decision (pages 29 - 30) has sought that the SUFA document package imposes contractual obligations on Aurizon Network to provide the relevant capacity and provides for remedies if these obligations are not met. These obligations and remedies would be via the SUFA contractual frameworks.

Pacific National believes that the QCA Final Decision should clarify that while capacity shortfall impacting parties to SUFA contracts may be remedied via SUFA contractual frameworks any impacts on parties not a party to the SUFA contracts would be addressed via the Access Undertaking.

Pacific National believes that it is important to ensure that protections are extended to existing access holders that may potentially be negatively impacted by a SUFA expansion in the case where the existing access holder is not a party to the SUFA expansion or benefitting from the SUFA expansion.

Pacific National would generally support this Draft Decision position on ensuring Aurizon Network provide the relevant capacity (and provide remedies if capacity is not provided) if QCA can confirm that any negative impacts on parties not a party to the SUFA contracts would be addressed via the Access Undertaking.

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Pacific National Comments on the Interaction of this SUFA Regulatory Process with the Broader Regulatory Process

Pacific National has concerns that while the current SUFA DAAU and Draft Decision are within the UT4 regulatory framework the UT5 regulatory process is underway and expected to be finalised in the first half of 2018. Consequently a further SUFA DAAU may be required to take account of the UT5 Final Decision. Pacific National supports a position where, if possible, finalisation of the current SUFA DAAU is aligned with the finalisation of UT5 such that a further SUFA DAAU would not be required following the finalisation of UT5.

More broadly Pacific National continues to have concerns with the way in which the SUFA process will work within the vertically integrated Aurizon structure. Pacific National remains concerned that the SUFA package may provide a potential means for Aurizon's businesses to work around regulatory controls (such as ring fencing and cost allocation controls) when dealing with customers and potential customers. Pacific National recognises that these issues should be addressed via the broader regulatory instruments (such as the QCA Act and the Access Undertaking) rather than the SUFA documentation. Nevertheless Pacific National seeks that the QCA monitor any agreements negotiated within the SUFA framework to ensure these agreements are consistent with the ring fencing and non-discrimination provisions of relevant regulatory instruments.

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

Yours Faithfully



Stuart Ronan
Manager Access and Regulation
Pacific National

