



Professor Flavio Menezes
Queensland Competition Authority
GPO Box 2257
Brisbane QLD 4001

Queensland Rail's 2020 Draft Access Undertaking (DAU2)

17 October 2018

Dear Professor Menezes,

Aurizon Coal welcomes the opportunity to respond to Queensland Rail's (QR's) 2020 Draft Amending Undertaking (DAU2).

Aurizon's above rail operations which will be impacted by the decision on DAU2 can broadly be characterised as relating either to coal or non-coal freight transport. This submission relates to the transport of coal. As the vast majority of Aurizon's coal transported on QR's network travels from mines in the West Moreton system to the Port of Brisbane, this submission deals with the transport of coal on the West Moreton and Metropolitan systems. This submission is made by Aurizon Coal – the coal related part of Aurizon's above rail coal transport business. Aurizon Bulk – Aurizon's non-coal above rail business – has made a separate submission.

Prior to 1 February 2018, Aurizon Coal was the only access holder in the West Moreton Coal System. Since that time, access holdings and the relevant commercial obligations have transitioned to the South West Producers with Aurizon Coal as their Nominated Rail Operator. This change to end user held access rights has not diminished Aurizon Coal's significant investments and interests in the West Moreton Coal System.

Aurizon Coal notes the significant uncertainty surrounding QR's proposed DAU2 in light of:

- the expiry of the declaration of QR's Network in 2020;
- QR's proposal to the Queensland Competition Authority (QCA) that QR's Network become undeclared after 2020, and QCA's ongoing review in that regard; and
- uncertainty regarding the approval of New Hope's New Acland Stage 3 Project.

In the absence of a Final Decision on the 2020 Declaration Review and the unknowns associated with the Land Court's review of New Acland Stage 3 project, Aurizon Coal has limited this submission to outlining major issues and concerns with QR's proposed DAU2 and is generally in line with the QCA's topics for comment in the Stakeholder Notice dated 21 September 2018.

Productivity and efficiency variations

As noted in Aurizon Coal's submission on the 2020 Declaration Review, Aurizon Coal maintains that appropriate mechanisms are required to promote competition in up and downstream markets and provide the appropriate incentives to QR to provide fair and reasonable terms of access and pricing including obligations to maintain the network to an appropriate standard.

Aurizon Coal maintains that a significant enabler of competition in above rail markets is innovation such as increases to train payloads and other productivity improvements. To this end, clause 1.3 in the Standard Access Agreement (**SAA**) in Access Undertaking 1 (**AU1**) provides a requirement on QR to consider such variations 'in good faith'.

QR's proposed amendments to clause 1.3 remove the reference to 'in good faith' is opposed by Aurizon Coal. Aurizon Coal submits that there is little incentive for QR (as a monopoly infrastructure provider) to consider such productivity and efficiency variations, and the removal of the limited requirement to do so in good faith reduces confidence that QR would genuinely work with the supply chain to consider any variation. The proposed inclusion of a non-exhaustive list of matters which QR must consider does not overcome this. Aurizon Coal submits that QR would be required to consider such things (among other things) if it was undertaking a genuine consideration of such variations in good faith.

The need to consider productivity improvements is integral to ensuring sustainability and efficiency of the West Moreton Coal System for Aurizon Coal and its customers. This is particularly the case if New Acland Stage 3 is approved and / or there is increasing constraints on freight capacity through the metropolitan system as a result of increased passenger services, including as a result of such projects as Cross River Rail.

Aurizon Coal considers that QR should be obliged to work with the supply chain to identify potential productivity and efficiency improvements and investigate whether they represent a more cost effective and efficient mechanism for meeting or increasing supply chain demand. To the extent the joint investigations determine to a reasonable degree of certainty that a particular initiative is a more cost effective and efficient means of increasing or meeting demand, QR should be obligated to implement the initiative so that the productivity or efficiency improvements can be enjoyed by all supply chain participants. QR would have the opportunity to consider any operational or safety related implications of those proposed productivity or efficiency variations as part of the investigation process.

Operating Requirements Manual

Aurizon Coal is not supportive of the removal of the Operating Requirements Manual (**ORM**) from Schedule 5 of the Undertaking as QR has not substituted its removal with appropriate change management procedures.

Aurizon Coal understands that removing the ORM from the Undertaking allows for minor changes to the ORM to be implemented without a Draft Amending Access Undertaking. However, QR's proposal removes QCA oversight of a document that is integral to understanding pre-conditions of access (such as interface risk management) and also operational procedures (such as network control), changes to which can have significant impacts on Aurizon Coal as an above rail operator. The proposal to replace this oversight with a requirement to merely consult is not sufficient, particularly in light of Aurizon Coal's historical experience with QR consultations and unwillingness on QR's part to adequately consider and respond to feedback provided by supply chain participants.

Although QR is not competing in the above rail market, this is not the only factor that will drive QR to make changes to the ORM that will impact the above rail freight market. Specifically, as a passenger service provider, there may be changes required that are driven by benefits or needs of the passenger market which may impose increased costs or risk to the rail freight market. To the extent this is the case, it is integral that the impacts to above rail operators are considered and there is an ability to dispute through referral to the QCA or other relevant body if QR does not appropriately consider or take into account those impacts.

QR should not be allowed to make unilateral decisions which can have significant impacts on above rail operators and the supply chain. Should the ORM be removed from the Undertaking, more stringent change management procedures and clear rights for dispute are required to overcome this.

Train Planning Principles

Monthly Train Plan (MTP) Modification Consultation

The existing Train Planning Principles in Schedule F – Network Management Principles (**NMP**) in AU1 (which QR proposes to largely hold over into DAU2) require further clarity on their application. In particular, the drafting in clause 2.1(m) regarding Modifying a MTP is not sufficiently clear on when QR is required to obtain agreement from Access Holders with regard to variations to the MTP and Planned Possessions.

Under the current drafting, QR is required to obtain agreement for MTP variations where an Access Holder's scheduled Train Services are not going to be met and "*to the extent that the modification is not within the scope of that Access Holder's Train Service Entitlement and is not an Emergency Possession or an Urgent Possession.*" This drafting is illogical, as it is not clear how a modification itself could be either within or not within the scope of an Access Holder's Train Service Entitlements. Aurizon Coal submits that the drafting should be updated to reflect that an Access Holder must agree to the MTP variation where that variation would result in scheduled Train Services not being met.

New Category of Possessions – 'Ad Hoc Planned Possessions'

Aurizon Coal is not supportive of the inclusion of a new category of possessions called 'Ad Hoc Planned Possessions' and the associated changes in the NMP. Aurizon Coal's understanding is that such possessions would be scheduled in variation to the MTP with 3 months' notice to essentially allow QR to undertake ad hoc maintenance.

Aurizon Coal does not understand why QR would require such possessions given the existing processes allow for Planned Possessions (which are consistent with the equivalent 3 month notification requirement for variations to the MTP) along with Emergency and Urgent Possessions for unplanned maintenance requirements. It is unclear under what circumstances QR could require a possession which is simultaneously 'Planned' and 'Ad Hoc', the only logical reason being that QR wishes to claim capacity for maintenance which it cannot adequately justify 3 months' in advance due to poor maintenance planning processes.

Aurizon Coal is sufficiently concerned about the capacity implications of such possessions and the consequential increased variability of the MTP. Aurizon Coal disagrees that these changes do not change the intent of the NMP as asserted by QR in their Explanatory Document given the capacity implications of the proposal. The possession processes which exist under AU1 are sufficient to enable QR to execute its maintenance plan, and the inclusion of 'Ad Hoc Planned Possessions' would only enable QR to further reduce the rigour applied to its maintenance planning processes.

Interaction of West Moreton Coal System with passenger services

As noted in Aurizon Coal's submission on the 2020 Declaration Review, interaction of the coal carrying services with high volume and frequency passenger services also operating on the shared corridors in the West Moreton and Metropolitan networks introduces an element of complexity that is not present in the other QR networks. Government and political pressure and the interaction with bulk and freight services cannot be underestimated when considering the forward-looking decisions of network providers.

Aurizon Coal maintains that the QCA must have regard to these pressures in its consideration of QR's proposed DAU2 to ensure that the South West Producers and above rail operators on the network are afforded an appropriate level of regulatory certainty.

Conclusion

Given the current regulatory and demand uncertainties for QR, Aurizon Coal has limited the above submission to major concerns. Should there be further clarity, Aurizon Coal would be happy to elaborate on the above issues and provide further feedback.

Should you have any questions in relation to the submission please contact me via phone on (07) 3019 2223 or email at Louisa.Chung@aurizon.com.au.

Kind regards



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