



# The 2013 Undertaking

Volume 1 The Access Undertaking and Schedules

Volume 2 The Standard User Funding Agreement

Volume 3 Other Standard Agreements

**Volume 1 of 3**

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## Contents

<b>Part 1 : Preamble</b>	<b>8</b>
1.1 Aurizon Network	8
1.2 Responsibilities	8
1.3 Access undertaking	8
1.4 Approval	8
1.5 Information	8
1.6 Negotiating Access	8
<b>Part 2 : Intent and Scope</b>	<b>9</b>
2.1 Duration	9
2.2 Intent	9
2.3 Scope	10
2.4 Electricity supply	10
<b>Part 3 : Ringfencing</b>	<b>12</b>
Section A – General Provisions	12
3.1 Preamble	12
3.2 General principles of non-discrimination	13
3.3 Aurizon Holdings to execute Deed in support of this Part 3	13
Section B – Aurizon Network’s Functional Responsibility	14
3.4 Function of Aurizon Network in the Aurizon Group	14
3.5 Obligation of Aurizon Network to perform core functions	14
3.6 Staffing of Aurizon Network	15
3.7 Accounting separation	16
Section C – Management of Aurizon Network	16
3.8 The Network Executive Team	16
3.9 Management separation from Related Operators	16
3.10 Independent management of Access Rights	17
Section D – Protected Information	18
3.11 Definition of Protected Information	18
3.12 Examples of Protected Information	19

3.13	Exclusion of Undertaking by voluntary agreement	19
3.14	Overarching commitment to information security	19
3.15	Disclosure of Protected Information to Marketing Division	20
3.16	Persons or business units with access to Protected Information	20
3.17	Process for authorised disclosure of Protected Information	23
3.18	Need for consent for disclosure of Protected Information to some Recipients	24
3.19	Protected Information Register	25
3.20	Mandatory Protected Information training and exit certificates	25
3.21	Secure premises	26
Section E – Complaints and Waiver		26
3.22	Complaint handling	26
3.23	Waiver by the QCA	27
<b>Part 4 : Negotiation Framework</b>		<b>28</b>
4.1	Overview	28
4.2	Initial enquiries	29
4.3	Access Application	29
4.4	Acknowledgement of Access Application	30
4.5	Indicative Access Proposal	31
4.6	Notification of intent	33
4.7	Multiple applications for the same Access	33
4.8	Train Operators	34
4.9	Negotiation process	34
4.9.1	Negotiation Period	34
4.9.2	Issues to be addressed during negotiation	36
4.10	Negotiation of End User Access Agreements and Train Operations Agreements	39
4.11	Cessation of negotiations	40
<b>Part 5 : Access Agreements</b>		<b>43</b>
5.1	Development of Access Agreements	43
5.2	Access Charges under Access Agreements	44
<b>Part 6 : Pricing principles</b>		<b>45</b>
6.1	Application of pricing principles	45
6.2	Price differentiation	45

6.2.1	Price differentiation right	45
6.2.2	Price differentiation from a Reference Tariff	45
6.2.3	Price differentiation where no Reference Tariff applies	47
6.2.4	Access Charges for Train Services that require an Expansion	47
6.2.5	Reference Tariff for new loading points and Private Infrastructure	49
6.2.6	Process for acceptance of new Reference Tariff	50
6.2.7	Access Charge review provisions	52
<b>6.3</b>	<b>Pricing limits</b>	<b>52</b>
6.3.1	Application of pricing limits	52
6.3.2	Setting price limits	52
6.3.3	Application of Maximum Allowable Revenue	53
<b>6.4</b>	<b>Pricing objectives</b>	<b>55</b>
6.4.1	Rail Infrastructure utilisation	55
6.4.2	Revenue adequacy	56
<b>6.5</b>	<b>Reference Tariffs</b>	<b>56</b>
6.5.1	Application of Reference Tariffs	56
6.5.2	Review of Reference Tariffs	56
6.5.3	Publishing updated schedule F	56
<b>6.6</b>	<b>Structure of non–Reference Tariff Access Charges</b>	<b>57</b>
<b>6.7</b>	<b>QCA Levy</b>	<b>57</b>
<b>6.8</b>	<b>Regulatory Asset Base</b>	<b>57</b>
<b>6.9</b>	<b>Commercial Terms</b>	<b>57</b>
<b>Part 7 : Available Capacity allocation and management</b>		<b>59</b>
<b>7.1</b>	<b>Application</b>	<b>59</b>
<b>7.2</b>	<b>General requirement for allocation</b>	<b>60</b>
<b>7.3</b>	<b>Renewals</b>	<b>60</b>
<b>7.4</b>	<b>Dealing with Access Rights</b>	<b>62</b>
7.4.1	Assignments	62
7.4.2	Transfers	62
<b>7.5</b>	<b>Mutually Exclusive Access Applications</b>	<b>63</b>
7.5.1	Notification and assistance	63
7.5.2	Capacity allocation for Mutually Exclusive Access Applications	64
<b>7.6</b>	<b>Network Management Principles</b>	<b>66</b>
7.6.1	Compliance with Network Management Principles	66
7.6.2	Nature of the System Rules	67
7.6.3	Making the initial System Rules for a Coal System	67
7.6.4	Amending the System Rules	67

<b>Part 8 : Network development and Expansions</b>	<b>70</b>
8.1 Overview	70
8.2 General principles	70
8.2.1 Rights and obligations to fund, construct or permit the creation of new Rail Infrastructure	70
8.2.2 Interdependent and sequential nature of Expansions	73
8.2.3 Determination of sufficient demand for an Expansion	73
8.2.4 Participation of Customers	74
8.3 Principles for Concept Studies	74
8.4 Principles for Pre-feasibility Studies	75
8.5 Principles for Feasibility Studies	77
8.6 User Funded Expansions	81
8.6.1 Funding an Expansion	81
8.6.2 Process where Users intend to fund an Expansion	82
8.6.3 Disputes about completion of SUFA schedules	82
8.6.4 Operation of a User Funded Expansion and Capital Indicator allocation	83
8.6.5 Capacity Shortfalls for User Funded Expansions	83
8.6.6 Inconsistency with a User Funding Agreement	83
8.7 Contracting for Capacity	83
8.7.1 Access Agreements conditional on an Expansion or Customer Specific Branch Line	83
8.7.2 Capacity Shortfalls	83
8.8 Coal supply chain coordination	85
8.8.1 Supply chain coordination	85
8.8.2 System Operating Assumptions	86
8.8.3 Capacity review	86
8.9 Network Development Plan	87
8.10 Acceptance of capital expenditure projects by Interested Participants	88
8.10.1 Purpose	88
8.10.2 Application	88
8.10.3 Identification of Interested Participants	89
8.10.4 Voting rights	90
8.10.5 Acceptance process	92
8.10.6 Information and materials relating to acceptance votes	94
8.10.7 Compliance	96
<b>Part 9 : Connecting Private Infrastructure</b>	<b>98</b>
9.1 Connecting Infrastructure	98

<b>Part 10 : Reporting</b>	<b>100</b>
10.1 Annual Reports	100
10.1.1 Annual financial report	100
10.1.2 Annual compliance report	100
10.1.3 Annual maintenance cost report	103
10.1.4 Annual maintenance cost report to the QCA	104
10.1.5 Annual operational data report	105
10.1.6 Annual Regulatory Asset Base roll-forward report	108
10.2 Breach reports to the QCA	109
10.3 Information requested by the QCA	110
10.3.1 Disclosure of Access Agreements	110
10.3.2 QCA requested information	110
10.4 Compliance	111
10.5 Certifications required from Aurizon Network's Executive Officer	111
10.6 Report auditing	112
10.7 Compliance audit requested by the QCA	112
10.8 Audit Process	113
<b>Part 11 : Dispute Resolution and Decision Making</b>	<b>115</b>
11.1 Dispute Resolution	115
11.1.1 Disputes	115
11.1.2 Chief executive resolution and mediation	116
11.1.3 Mediation	116
11.1.4 Expert Determination	117
11.1.5 Determination by the QCA	119
11.1.6 Procedure	119
11.2 QCA decision-making	120
<b>Part 12 : Definitions and Interpretation</b>	<b>122</b>
12.1 Definitions	122
12.2 Interpretation	162
12.3 Notices	165
12.4 Transitional	166

<b>Schedule A - Preliminary, Additional and Capacity Information</b>	<b>168</b>
<b>Schedule B - Access Application information requirements</b>	<b>171</b>
<b>Schedule C - Operating Plan Requirements</b>	<b>175</b>
<b>Schedule D - Ultimate Holding Company Deed</b>	<b>178</b>
<b>Schedule E - Regulatory Asset Base</b>	<b>183</b>
<b>Schedule F - Reference Tariff</b>	<b>202</b>
<b>Schedule G - Pricing for Blackwater Electric System</b>	<b>253</b>
<b>Schedule H - Network Management Principles</b>	<b>255</b>

## Part 1: Preamble

### **1.1 Aurizon Network**

Aurizon Network is a member of the Aurizon Group which operates as a leading integrated national transport provider.

### **1.2 Responsibilities**

Aurizon Network is responsible for providing, maintaining and managing the Rail Infrastructure and for providing and managing access to it.

### **1.3 Access undertaking**

This Undertaking governs the process by which Access will be negotiated and provided.

### **1.4 Approval**

Aurizon Network has developed this Undertaking in accordance with section 136 of the Act. This Undertaking has been approved by the QCA in accordance with the Act.

### **1.5 Information**

Information on obtaining Access is contained in this Undertaking. Further information can be found on the Website.

### **1.6 Negotiating Access**

To negotiate Access please email [access.services@aurizon.com.au](mailto:access.services@aurizon.com.au).



## Part 2: Intent and Scope

### 2.1 Duration

- (a) Subject to **clause 2.1(b)**, this Undertaking is effective from the Approval Date to the Terminating Date.
- (b) The Reference Tariffs, as approved in this Undertaking on the Approval Date, apply retrospectively and are effective from the Commencing Date.

### 2.2 Intent

The intent of this Undertaking is to:

- (a) facilitate the commercial negotiation of access agreements by Aurizon Network and Access Seekers;
- (b) apply the provisions of the Act through:
  - (i) the establishment of processes for Access negotiations and the utilisation of Capacity that are expeditious, efficient, timely, commercial and non-discriminatory;
  - (ii) the establishment of processes and principles to provide guidance in relation to the pricing, and the terms and conditions, of Access; and
  - (iii) the establishment of processes and principles for the planning and development of Expansions and the framework for the negotiation of terms for the funding of Pre-feasibility Studies, Feasibility Studies and Expansions.
- (c) provide an efficient, effective and binding Dispute resolution process;
- (d) provide that actions pursuant to this Undertaking are consistent with the objectives for rail under section 2(2)(d) of the TIA and that such actions and this Undertaking are also consistent with the objectives and provisions of the Act; and
- (e) achieve an appropriate balance between:
  - (i) the legitimate business interests of Aurizon Network;
  - (ii) the public interest, including the public interest in having competition in markets;
  - (iii) the interests of Access Seekers, including in being:
    - (A) treated in a fair, consistent and non-discriminatory manner; and
    - (B) provided Access on reasonable commercial terms;
  - (iv) cooperation between all elements of coal supply chains (in respect of which Access forms a part) to seek to maximise the performance of those supply chains; and

- (v) to the extent applicable, the pricing principles set out in section 168A of the Act.

### **2.3 Scope**

- (a) This Undertaking provides only for the negotiation and provision of Access and is not applicable to the negotiation or provision of services other than Access.
- (b) Access Holders are responsible for:
  - (i) the provision of any services other than Access, including Above Rail Services, required for the operation of Train Services; and
  - (ii) the necessary approvals from the owners of the land upon which the Rail Infrastructure is situated if it is not owned by Aurizon Network and Aurizon Network does not have an existing legal right to authorise Access Holders to access that land.
- (c) Nothing in this Undertaking can require Aurizon Network to act in a way that is inconsistent with its Passenger Priority Obligations or Preserved Train Path Obligations.
- (d) Nothing in this Undertaking can require Aurizon Network or any other party to an Access Agreement or a train operations agreement or a Train Operations Agreement, executed before the Approval Date, to vary that Access Agreement, train operations agreement or Train Operations Agreement or to act in a way that is inconsistent with the relevant Access Agreement, train operations agreement or Train Operations Agreement.
- (e) Nothing in this Undertaking affects the rights of Aurizon Network under the Act.
- (f) This Undertaking will not apply to the extent that it is inconsistent with an Access Agreement or a Train Operations Agreement.

### **2.4 Electricity supply**

- (a) Aurizon Network will supply electric energy to Access Holders and, where applicable, Train Operators wishing to acquire it for the purpose of running Train Services subject to:
  - (i) Aurizon Network having the legal ability to supply that electric energy; and
  - (ii) Aurizon Network agreeing to supply the electric energy on terms acceptable to it and which are reasonable having regard to the terms on which that electric energy could be supplied by alternative sources.

- (b) It is acknowledged that:
  - (i) the supply of electric energy by Aurizon Network is not a supply of Access Rights or otherwise governed by this Undertaking (except to the extent that any Reference Tariff includes EC); and
  - (ii) nothing in this **clause 2.4** prevents an Access Holder or, where applicable, a Train Operator acquiring electric energy for its Train Services from a third party, subject to:
    - (A) compliance with Aurizon Network's safety and technical requirements for the connection of that electric energy to the Rail Infrastructure; and
    - (B) the Access Holder or, where applicable, the Train Operator obtaining the prior written consent of Aurizon Network for connection of that third party's electric energy, which may not be unreasonably withheld.
- (c) **Schedule G** sets out the principles which will govern the arrangements for pricing of electric traction services in the Blackwater System, and recovery by Aurizon Network of electric system costs.

## Part 3: Ringfencing

### Section A – General Provisions

#### 3.1 Preamble

- (a) Aurizon Network is part of the Aurizon Group and a Subsidiary of Aurizon Holdings.
- (b) Being a Subsidiary of Aurizon Holdings, Aurizon Network's financial performance, capital expenditure program and business plan are, consistent with good corporate governance, subject to oversight by the board and senior management of Aurizon Holdings.
- (c) Aurizon Network provides a regulated access service, together with providing unregulated services in competitive markets.
- (d) Aurizon Holdings, amongst other matters, provides Above Rail Services through a Related Operator.
- (e) Within the Aurizon Group, there are functional groups that provide shared support services and core corporate functions to different functional areas and parts of the Aurizon Group that include both Related Operators and Aurizon Network.
- (f) Aurizon Network is required by the TIA to maintain an independent board of directors which supervises arm's-length dealings in respect of Access between Aurizon Network and any Related Operators.
- (g) The Act:
  - (i) requires Aurizon Network to negotiate in good faith with Access Seekers to reach an Access Agreement;
  - (ii) obliges Aurizon Network in such negotiations not to unfairly differentiate between Access Seekers in a way that materially adversely affects the ability of one or more Access Seekers to compete with other Access Seekers;
  - (iii) prohibits Aurizon Network from engaging in conduct for the purpose of preventing or hindering an Access Seeker's or Access Holder's Access; and
  - (iv) deems certain types of specified conduct where Aurizon Network provides Access to itself or a Related Operator to constitute conduct that prevents or hinders an Access Seeker's or Access Holder's Access.
- (h) The purpose of this **Part 3** is to aid Aurizon Network's compliance with the statutory obligations referred to above.

### 3.2 General principles of non-discrimination

- (a) Aurizon Network will not:
  - (i) engage in conduct for the purpose of preventing or hindering an Access Seeker's or Access Holder's Access;
  - (ii) unfairly differentiate between Access Seekers in a way that has a material adverse effect on the ability of one or more of the Access Seekers to compete with other Access Seekers; or
  - (iii) provide Access to a Related Operator on more favourable terms than the terms on which Aurizon Network provides Access to competitors of the Related Operator (having regard to all of the terms on, and circumstances in which, Access is provided including the Access Charges and differences in the Access Rights provided).
- (b) Aurizon Network will ensure that:
  - (i) all transactions between Aurizon Network and Related Operators in relation to Access are conducted on an arm's-length basis; and
  - (ii) all Access Seekers and Train Operators, irrespective of whether they are a Related Operator or a Third Party are provided with a consistent level of service with respect to Access and:
    - (A) in respect of Train Operators, are given an equal opportunity to operate Train Services in accordance with corresponding Access Rights; and
    - (B) in respect of Access Seekers, are given an equal opportunity to obtain Access Rights.
- (c) Aurizon Network will ensure that, subject to the express provisions of the Act and this Undertaking, all decisions made under this Undertaking are consistent between all Access Seekers, Access Holders and/or Train Operators in the same circumstances.
- (d) Aurizon Network will not engage in:
  - (i) anti-competitive cost shifting;
  - (ii) anti-competitive cross-subsidies; or
  - (iii) anti-competitive price or margin squeezing.

### 3.3 Aurizon Holdings to execute Deed in support of this Part 3

- (a) Aurizon Network will request that its Ultimate Holding Company provides a Ultimate Holding Company Support Deed (**Deed**) in the form set out in **schedule D**.

- (b) In the event that the Ultimate Holding Company fails to give or maintain in force a Deed in the form required by **clause 3.3(a)**, or fails to comply with the requirements of the Deed, this Undertaking will cease to authorise the disclosure of Protected Information to any person or entity outside Aurizon Network until:
  - (i) the Ultimate Holding Company provides a current deed of the type required by **clause 3.3(a)**; or
  - (ii) the Ultimate Holding Company rectifies its failure to comply with the Deed to the satisfaction of the QCA.

## Section B – Aurizon Network’s Functional Responsibility

### 3.4 Function of Aurizon Network in the Aurizon Group

- (a) The primary function of Aurizon Network is to provide and manage the Rail Infrastructure in a manner consistent with its role as a Rail Infrastructure Manager under the Rail Safety Act, and to provide and manage Access to the Rail Infrastructure.
- (b) The Core Access-related Functions performed by Aurizon Network are:
  - (i) negotiating Access Agreements and, where applicable, Train Operations Agreements for the Rail Infrastructure with Access Seekers and Train Operators, as applicable, and managing Access Agreements with Access Holders and Train Operations Agreements with Train Operators;
  - (ii) procuring appropriate levels of maintenance for and renewal of the Rail Infrastructure in a manner consistent with its role as a Rail Infrastructure Manager under the Rail Safety Act, to ensure that the Rail Infrastructure is provided to the standard required to meet Aurizon Network’s obligations to Access Holders and, where applicable, Train Operators, to the DTMR, and to its infrastructure lessors;
  - (iii) assessing, allocating and managing Capacity; and
  - (iv) providing scheduling and Train Control Services for Rail Infrastructure in accordance with the Network Management Principles.

### 3.5 Obligation of Aurizon Network to perform core functions

- (a) The Core Access-related Functions performed by Aurizon Network will not be transferred or delegated to, contracted out to, or otherwise undertaken, by a Related Operator.
- (b) Aurizon Network will not undertake the operation or marketing of Train Services on the Rail Infrastructure, unless for the purpose of

performing a Core Access-related Function or the provision of services in respect of Private Infrastructure.

- (c) Subject to **clause 3.5(b)**, and the restrictions on Aurizon Network employees undertaking certain activities in **clause 3.6**, nothing in this Undertaking:
  - (i) requires Aurizon Network to perform a function that is not a Core Access-related Function; or
  - (ii) prevents Aurizon Network from undertaking any function which is not a Core Access-related Function .
- (d) Notwithstanding **clause 3.5(a)**, Aurizon Network may contract with Related Operators for the provision of Train Control Services referred to in **clause 3.4(b)(iv)** to the extent that they comprise:
  - (i) Field Incident Management; or
  - (ii) Yard Control services at yards other than Major Yards.

### **3.6 Staffing of Aurizon Network**

- (a) Aurizon Network will ensure that an employee engaged to work for Aurizon Network and whose duties primarily involve the performance of Core Access-related Functions, will:
  - (i) work primarily for Aurizon Network; and
  - (ii) not undertake any work at the direction of a Related Operator.
- (b) Nothing in **clause 3.6(a)** restricts or prevents:
  - (i) an employee from performing functions that are required to negotiate for or provide Access to a Related Operator in accordance with the terms of this Undertaking;
  - (ii) secondments of employees, subject to the requirements in this Undertaking on the handling of Protected Information;
  - (iii) an employee ceasing to work for Aurizon Network and commencing to work for a Related Operator, subject to the requirements in this Undertaking on the handling of Protected Information;
  - (iv) an employee undertaking any function or activity:
    - (A) required or compelled by any Law;
    - (B) required or compelled by any order of a court;
    - (C) required or compelled by notice validly issued by any Authority;
    - (D) necessary for the conduct of any legal proceedings, dispute resolution process or audit under this Undertaking, the Act or a Standard Agreement; or

- (E) in the course of responding to an emergency or natural disaster;
- (v) an employee undertaking work providing services that do not relate, whether directly or indirectly, to the provision of Below Rail Services; or
- (vi) an employee engaged in undertaking:
  - (A) asset construction, maintenance, renewal, or repair; or
  - (B) support services and/or corporate functions, from undertaking work for any Aurizon Group business unit or corporate functional area, subject to the requirements in this Undertaking on the handling of Protected Information.

### **3.7 Accounting separation**

Aurizon Network will develop, on an annual basis, the financial statements required by and in accordance with **Part 10**. The financial statements will be prepared for Aurizon Network's business in respect of the Below Rail Services regulated by this Undertaking and will not include information relating to any other business conducted by Aurizon Network.

## **Section C – Management of Aurizon Network**

### **3.8 The Network Executive Team**

- (a) Aurizon Network will be managed by a team comprising:
  - (i) a Aurizon Network's Executive Officer and his or her direct reports; and
  - (ii) any other person nominated by Aurizon Network's Executive Officer,

**(Network Executive Team).**
- (b) Aurizon Network will ensure that Related Operators do not participate in the process for the appointment of Aurizon Network's Executive Officer or in the appointment of any other person to the Network Executive Team.

### **3.9 Management separation from Related Operators**

- (a) Aurizon Network's Executive Officer or any other person appointed to the Network Executive Team:
  - (i) must not have direct management responsibility for a Related Operator;
  - (ii) may have direct management responsibility for an Aurizon Group business unit that is not a Related Operator; and



- (iii) must have an independent management reporting line that does not include any person with direct management responsibility for a Related Operator.
- (b) The Ultimate Holding Company Support Deed required by **clause 3.3** will provide that:
  - (i) Aurizon Network's Executive Officer be maintained at the same or greater level of seniority within the organisational structure of the Aurizon Group, as the position of the executive manager with direct management responsibility for a Related Operator; or
  - (ii) in the event there is more than one Related Operator, at the same or greater level of seniority within the organisational structure of the Aurizon Group as the position of the most senior executive manager with direct management responsibility for a Related Operator.
- (c) A person has direct management responsibility for a Related Operator when that person has the authority to make decisions about the day-to-day management and operation of a Related Operator, but does not include:
  - (i) a director (including a managing director) of Aurizon Holdings;
  - (ii) a director (including a managing director) of Aurizon Operations;
  - (iii) the Chief Executive Officer of the Aurizon Group; or
  - (iv) the Chief Financial Officer of the Aurizon Group.

### **3.10 Independent management of Access Rights**

- (a) Aurizon Network will not act on directions from a Related Operator in respect of the granting or exercise of Access Rights to or by:
  - (i) a Related Operator; or
  - (ii) a Third Party Access Seeker, Third Party Access Holder or Third Party Train Operator, otherwise than with the consent of the Third Party,

provided that nothing prevents the Related Operator providing a direction to Aurizon Network in relation to the exercise of the Related Operator's Access Rights in accordance with the terms of an Access Agreement between the Related Operator and Aurizon Network.

## Section D – Protected Information

### *Section D1 – General provisions*

#### **3.11 Definition of Protected Information**

Protected Information means any and all communications, documents and information (whether in writing or otherwise) disclosed to Aurizon Network by, or obtained by Aurizon Network from, a Third Party Access Seeker (or their Customer), Third Party Access Holder (or their Customer) or a Third Party Train Operator (**Discloser**):

- (a) as part of, or in preparation of, an Access Application or Indicative Access Proposal (including any related discussions or disclosures);
- (b) in the course of negotiations for Access or negotiations for entering into a Train Operations Agreement;
- (c) that has been obtained under, in accordance with, or in the performance of, an Access Agreement or Train Operations Agreement; or
- (d) in the course of negotiations for an Expansion or Customer Specific Branch Line,

and which:

- (e) if disclosed by Aurizon Network to a Related Operator, without the consent of the Discloser, might reasonably be expected to adversely affect the commercial interests of the Discloser; or
- (f) is designated by the Discloser as protected,

but does not include any such information that:

- (g) is in or comes into the public domain other than through a breach of confidence;
- (h) was independently developed by Aurizon Network other than in the course of providing Access to the Discloser, and which Aurizon Network can prove was in its possession at the time of disclosure or which was otherwise known to it other than through any breach of confidence;
- (i) is aggregated with other information in a way that de-identifies the information as the Discloser's information and where the disclosure of that aggregated information occurs in the ordinary course of business or so as to allow for compliance with legal, listing rule, business or other reporting requirements of the Aurizon Group; or
- (j) is disclosed by Aurizon Network to:
  - (i) an End User regarding the performance or terms of a Train Operator's Train Operations Agreement relevant to that End User; or

- (ii) a Train Operator in relation to a relevant End User Access Agreement and the Access Rights under that End User Access Agreement, to the extent that such a disclosure is:
  - (A) reasonably necessary for negotiation of the relevant End User Access Agreement or the relevant Train Operations Agreement;
  - (B) reasonably necessary for the performance of obligations or the exercise rights under either the End User Access Agreement or the Train Operations Agreement; or
  - (C) in connection with the safe operation of the Rail Infrastructure.

### **3.12 Examples of Protected Information**

Without limitation, where the requirements of **clause 3.11** are met, examples of Protected Information would include:

- (a) Access Applications and information provided in the context of an Access Application by an Access Seeker;
- (b) forecasts or predictions about the likely future requirements of an individual Access Seeker;
- (c) information exchanged in the management of an Access Agreement;
- (d) information about an Access Seeker's business strategy, pricing, or product development; and
- (e) information relating to an Access Seeker's or Access Holder's Rollingstock research and development.

### **3.13 Exclusion of Undertaking by voluntary agreement**

- (a) This **section D** applies to Protected Information disclosed to Aurizon Network by a Third Party Access Seeker or Third Party Access Holder unless Aurizon Network and the relevant Third Party voluntarily enter into a binding agreement which expressly excludes the operation of some or all of this **Part 3** in relation to the Protected Information.
- (b) If Aurizon Network and a Third Party Access Seeker or Third Party Access Holder enter into a confidentiality agreement or deed or an Access Agreement containing confidentiality obligations in relation to the negotiation or provision of Access Rights, that agreement or deed will prevail over the provisions of this **Part 3** to the extent of any inconsistency.

### **3.14 Overarching commitment to information security**

Aurizon Network undertakes:

- (a) to keep confidential and to not disclose Protected Information, unless in accordance with this Undertaking;

- (b) to use Protected Information only for the purpose for which it is disclosed to Aurizon Network, and only to the extent necessary for that purpose; and
- (c) not to use or disclose Protected Information for the purpose of a Related Operator obtaining an unfair commercial advantage.

#### *Section D2 - Control framework for Protected Information*

### **3.15 Disclosure of Protected Information to Marketing Division**

- (a) Aurizon Network must not disclose Protected Information (without the written consent of the relevant Third Party Access Seeker or Third Party Access Holder) to the Marketing Division.
- (b) Aurizon Network acknowledges and agrees that nothing in this Undertaking operates to permit a disclosure of Protected Information to the Marketing Division without the written consent of the relevant Third Party Access Seeker or Third Party Access Holder.

### **3.16 Persons or business units with access to Protected Information**

- (a) The following individuals or business units will have access to Protected Information collected by Aurizon Network without the need for compliance with **clause 3.17**:
  - (i) the Aurizon Holdings board of directors;
  - (ii) the Aurizon Operations board of directors;
  - (iii) the Aurizon Network board of directors;
  - (iv) the Chief Executive Officer of the Aurizon Group;
  - (v) the Chief Financial Officer of the Aurizon Group;
  - (vi) the Company Secretary of the Aurizon Group or any assistant Company Secretary;
  - (vii) the General Counsel of the Aurizon Group;
  - (viii) the Chief Internal Auditor of the Aurizon Group;
  - (ix) the Chief Information Officer of the Aurizon Group;
  - (x) the Network Executive Team;
  - (xi) the division(s) within Aurizon Network that are responsible for responding to Access Applications, negotiating and administering Access Agreements, capacity planning and network development;
  - (xii) the division(s) within Aurizon Network that are responsible for administering Aurizon Network's financial affairs; and
  - (xiii) any person providing executive support or clerical, or administrative assistance to the individuals or business units identified by **paragraphs (i) to (xii)**.

- (b) Subject to the limitations on disclosure to the Marketing Division in **clause 3.15**, disclosure of Protected Information by Aurizon Network to a Recipient is permitted without observance of the process in **clause 3.17** when the disclosure is:
- (i) required or compelled by any Law;
  - (ii) required or compelled by any order of a court;
  - (iii) required or compelled by notice validly issued by any Authority;
  - (iv) necessary for the conduct of any legal proceedings, dispute resolution process or audit under this Undertaking, the Act or a Standard Agreement;
  - (v) required under any stock exchange listing requirement or rule (including disclosure to any Aurizon Group company so as to allow compliance with any such listing requirement or rule);
  - (vi) necessary for the effective response to an emergency or natural disaster or for clearing an incident or emergency that is preventing the operation of Train Services on the Rail Infrastructure;
  - (vii) to an Aurizon Group banker or other financial institution, to the extent required for the purpose of raising funds or maintaining compliance with credit arrangements;
  - (viii) to the Safety Regulator;
  - (ix) to a person or business unit within Aurizon Network for the purpose of that person or business unit undertaking or performing any Core Access-related Function;
  - (x) to employees within Aurizon Network to the extent necessary for those employees to perform their duties;
  - (xi) to a Railway Manager but only to the extent required for the purpose of negotiating or providing Access, or for managing interfaces between the railways (including scheduling and other interface issues), provided that the Railway Manager has undertaken in a legally binding way to keep the Protected Information disclosed to it by Aurizon Network confidential;
  - (xii) to an infrastructure provider for infrastructure forming part of the supply chain for the purpose of facilitating the coordination of the capacity allocation process, provided that the infrastructure provider has undertaken, in an agreement on terms that are enforceable by the relevant Third Party Access Seeker, Third Party Access Holder or Train Operator and Aurizon Network, to keep the information disclosed to it

- by Aurizon Network confidential and to only use that information for the purpose for which it was disclosed;
- (xiii) to external legal, accounting, financial, engineering, environmental or other advisers, consultants or service providers to Aurizon Network, and:
    - (A) whose role in advising or providing services to Aurizon Network requires the disclosure to be made; and
    - (B) who are under an obligation of confidentiality to Aurizon Network;
  - (xiv) by Aurizon Network to a Customer of an Access Seeker for the purpose of making assessments of, and decisions on, matters required or contemplated by this Undertaking; and
  - (xv) authorised by the owner of the Protected Information providing its prior written approval to such disclosure or alternative use, with such approval not to be unreasonably withheld.
- (c) Subject to the restrictions in **clause 3.16(d)**, disclosure of Protected Information by Aurizon Network to a Recipient within the Aurizon Group is permitted without observance of the process in **clause 3.17** when the disclosure:
- (i) for the purpose of:
    - (A) Safeworking Procedures;
    - (B) Safety Standards;
    - (C) incident investigations;
    - (D) Aurizon Network obtaining project delivery, engineering or rail construction services, in relation to the procurement, construction or design of Rail Infrastructure;
    - (E) Aurizon Network obtaining Rail Infrastructure maintenance services, including asset maintenance planning service; or
    - (F) Aurizon Network obtaining advice on Rollingstock and Rollingstock interface issues;
  - (ii) to the real estate division within the Aurizon Group in relation to property issues;
  - (iii) for the purpose of normal corporate governance arrangements and management reporting, and consistent with good business practices, including the purposes of financial oversight, obtaining capital expenditure approvals and reporting requirements; or

- (iv) to Aurizon Group employees or contractors employed or engaged in internal audit, the provision of information services, safety-related services, environmental-related services or insurance management services, to the extent necessary for those employees or contractors to perform their duties.
- (d) Aurizon Network acknowledges and agrees that the right of disclosure permitted by **clause 3.16(c)**:
  - (i) does not operate to permit a disclosure of Protected Information to the Marketing Division, consistent with the limitations in **clause 3.15**;
  - (ii) only permits disclosure of the Protected Information to a Recipient when the Recipient has a legitimate business purpose for requiring access to the defined category of Protected Information, and access to the Protected Information is limited such that disclosure to the Recipient is only to the extent necessary for that purpose;
  - (iii) is subject to any Protected Information disclosed to a Recipient being clearly identified as such; and
  - (iv) is subject to the Recipient of the Protected Information being informed by Aurizon Network of the need to keep the Protected Information confidential and in particular, of the prohibition on disclosure of it to the Marketing Division.

### **3.17 Process for authorised disclosure of Protected Information**

Subject to the limitations on disclosure to the Marketing Division in **clause 3.15**, Aurizon Network's Executive Officer or the Compliance Officer of Aurizon Network may authorise persons, functional service areas or external advisors (**Recipients**) in addition to those identified in **clause 3.16**, to have access to defined categories of Protected Information, provided:

- (a) the Recipient has a legitimate business purpose for requiring access to the defined category of Protected Information, and access to the Protected Information is limited such that disclosure to the Recipient is only to the extent necessary for that purpose;
- (b) Protected Information is clearly identified as such;
- (c) the Recipient has signed a declaration signifying their awareness and understanding of the Aurizon Group's obligations regarding Protected Information;
- (d) the Recipient and the defined category of Protected Information to which they have access is recorded in the Protected Information Register;
- (e) if the Recipient is not within Aurizon Network, or within an Aurizon Group company to which the Ultimate Holding Company Support

Deed relates, that Aurizon Network enters into a legally enforceable agreement with the Recipient, on terms that are enforceable by the owner of the Protected Information and Aurizon Network, requiring the Recipient (and any of its employees) to keep the Protected Information confidential, and to only use it for the purpose for which it was disclosed; and

- (f) if the Recipient is not within Aurizon Network, a review date is recorded in Protected Information Register at which authorisation under this **clause 3.17** shall expire.

### **3.18 Need for consent for disclosure of Protected Information to some Recipients**

- (a) Aurizon Network may only disclose Protected Information to a Recipient employed by a Third Party that is advising or otherwise working for Aurizon Network and a Related Operator in relation to the same matter where:
  - (i) such disclosure is considered necessary by Aurizon Network; and
  - (ii) Aurizon Network first obtains the consent of the Discloser of the Protected Information.
- (b) If consent is sought under **clause 3.18(a)**:
  - (i) during the process of responding to an Access Application or negotiating an Access Agreement:
    - (A) where such consent has been sought during the Negotiation Period and the owner of the Protected Information fails to provide consent to Aurizon Network's request for consent within five Business Days of its receipt of Aurizon Network's written request (referred to as the **Consent Response Date**), then all relevant timeframes applicable to Aurizon Network under **Part 4** will be extended by the same number of days as the day on which consent is given exceeds the Consent Response Date;
    - (B) where such consent has been sought during the Negotiation Period and the owner of the Protected Information refuses its consent to the disclosure of that Protected Information, or fails to respond to Aurizon Network's request for consent within 20 Business Days of its receipt of Aurizon Network's written request, then Aurizon Network may give a Negotiation Cessation notice to the Access Seeker, in accordance with **clause 4.11**; or



- (ii) during the process of administering an Access Agreement or a Train Operations Agreement:
  - (A) such consent shall not be unreasonably withheld; and
  - (B) if the owner of the Protected Information fails to respond to Aurizon Network's request for consent within 20 Business Days of its receipt of Aurizon Network's written request, then consent shall be deemed to have been given.

### *Section D3 – Compliance monitoring and safeguards*

#### **3.19 Protected Information Register**

- (a) The Compliance Officer will be responsible for establishing and maintaining a Protected Information Register.
- (b) The Protected Information Register will contain:
  - (i) the identity of Recipients who have been approved pursuant to **clause 3.17** to have Access to Protected Information, and the defined category of Protected Information to which they have access;
  - (ii) a record of Recipients that have signed a declaration signifying their awareness and understanding of Aurizon Network's obligations regarding Protected Information in accordance with **clause 3.17(c)**; and
  - (iii) a record of the signing of an exit certificate by employees working within Aurizon Network that have transferred to work for another business unit within the Aurizon Group.
- (c) A Third Party Access Seeker, Third Party Access Holder or Third Party Train Operator may, upon request, view information in the register which relates to Protected Information that it has disclosed to Aurizon Network.
- (d) The QCA may, upon request, view the Protected Information Register.

#### **3.20 Mandatory Protected Information training and exit certificates**

- (a) Aurizon Network will ensure that all Aurizon Network or Aurizon Group employees, receiving, or having access to, in the course of performing their duties, Protected Information, are aware of the Aurizon Group's obligations relating to the management of Protected Information, and complete training for this purpose.
- (b) Where Aurizon Network employees that have had access to Protected Information leave Aurizon Network to work for another Aurizon Group business unit, including for temporary secondments, they will undergo a debriefing to remind them of Aurizon Network's

obligations relating to the management of Protected Information, and will be asked to sign an exit certificate (that includes an acknowledgement of having undergone such a debriefing process). A record of exit certificates signed will be included in the Protected Information Register.

### **3.21 Secure premises**

- (a) Aurizon Network will ensure that its major office premises have in place adequate security measure to ensure that employees working for a Related Operator are unable to access the Aurizon Network offices, unless:
  - (i) access to the Aurizon Network offices is authorised by an Aurizon Network employee; and
  - (ii) the employee of the Related Operator is accompanied by an Aurizon Network employee, to the extent reasonably practicable, while in the Aurizon Network offices.
- (b) **Clause 3.21(a)** does not require that Aurizon Network be located in a different building to a Related Operator.

## **Section E – Complaints and Waiver**

### **3.22 Complaint handling**

- (a) If a Third Party Access Seeker, Third Party Access Holder or Third Party Train Operator considers that Aurizon Network has breached one or more of its obligations under this **Part 3** they may lodge a written complaint with Aurizon Network.
- (b) Unless otherwise notified in writing by the Third Party Access Seeker, Third Party Access Holder or Third Party Train Operator, the written complaint and any accompanying information (whether documentary or otherwise) will be Protected Information.
- (c) Aurizon Network will advise the QCA, as soon as practicable, of any complaints it receives pursuant to **clause 3.22(a)**.
- (d) Aurizon Network will:
  - (i) investigate complaints received pursuant to **clause 3.22(a)**; and
  - (ii) advise the complainant and the QCA in writing of the outcome of that investigation and Aurizon Network's proposed response, if any, and use reasonable endeavours to do so within 20 Business Days after receiving such a complaint.
- (e) Where the complainant is not satisfied with the outcome of Aurizon Network's investigation, the complainant can apply to the QCA seeking an audit of the relevant subject of the complaint. The QCA

will consider such a request and determine whether to request Aurizon Network to conduct an audit in accordance with **clause 10.7**.

### **3.23 Waiver by the QCA**

Aurizon Network may apply in writing to the QCA for a waiver of some or all of its obligations under this **Part 3** on either a temporary or permanent basis.

## Part 4: Negotiation Framework

### 4.1 Overview

- (a) The granting of Access will be underpinned by an Access Agreement that will be developed and finalised as part of the negotiation framework.
- (b) **Part 4** addresses the process by which an access seeker may apply for, negotiate and develop an Access Agreement. In particular, under **Part 4**:
  - (i) An access seeker may obtain Preliminary Information prior to submitting an application for Access from the Website or, if Capacity Information is required, by lodging a request with Aurizon Network (**clause 4.2**).
  - (ii) An Access Application for Access by an Access Seeker must be provided in the appropriate form and by submitting an Access Application the Access Seeker agrees to be bound by this Undertaking. Aurizon Network will provide notice of any incorrectly completed sections or missing information and may request additional evidence regarding the use of Access Rights and to assess Capacity Allocation (**clause 4.3**).
  - (iii) Aurizon Network will provide an Acknowledgement Notice and confirm preparation of an Indicative Access Proposal once additional information or a properly completed Access Application is received. In specified circumstances the negotiation process may be suspended (**clause 4.4**).
  - (iv) Aurizon Network will develop an appropriate Indicative Access Proposal (IAP) for the Access Rights sought. The Access Seeker may notify Aurizon Network regarding concerns about the IAP (**clause 4.5**).
  - (v) An Access Seeker must provide written notification to Aurizon Network if it intends to progress its Access Application, based on the arrangements within the IAP (**clause 4.6**).
  - (vi) Where multiple Access Applications for the same Access Rights are made, **clause 4.7** provides a mechanism for determining who shall be treated as the Access Seeker. In these circumstances, Aurizon Network may disclose certain information without breaching its confidentiality obligations (**clause 4.7**).
  - (vii) The Negotiation Period commences once the notification of intent to progress an Access Application is provided by the Access Seeker. Specific issues are to be addressed during

the Negotiation Period. Aurizon Network may provide Additional Information to the Access Seeker (**clause 4.9**).

- (viii) Aurizon Network may issue a Negotiation Cessation Notice to an Access Seeker in certain circumstances (**clause 4.11**).

## **4.2 Initial enquiries**

- (a) Prior to submitting an Access Application, a prospective access seeker may meet with Aurizon Network to discuss the Access Application process.
- (b) Aurizon Network will provide prospective access seekers with information regarding the Access Application process. All Preliminary Information will be displayed on the Website.
- (c) A prospective access seeker may lodge a request for Capacity Information with Aurizon Network and Aurizon Network will provide that Capacity Information within 10 Business Days after receiving that request.
- (d) Aurizon Network will use reasonable endeavours to keep the Preliminary Information current.

## **4.3 Access Application**

- (a) Requests for Access must be submitted to Aurizon Network in the form of an Access Application.
- (b) By submitting an Access Application the Access Seeker agrees to be bound by all the provisions of this Undertaking as they relate to Access Seekers. Where Aurizon Network, acting reasonably, considers that an Access Seeker has materially failed to comply with the provisions of this Undertaking, Aurizon Network may, without prejudice to any other rights it may have, cease negotiations for Access by written Negotiation Cessation Notice to the Access Seeker under **clause 4.11**.
- (c) Within 10 Business Days after receipt of an Access Application Aurizon Network may write to the person who lodged the Access Application:
  - (i) notifying them that the Access Application has not been properly completed, providing details of the missing information; and/or
  - (ii) requesting more evidence or information reasonably required about the requested Access, including evidence or information:
    - (A) regarding their ability to fully utilise the requested Access Rights (which may include information or evidence about any of the factors listed in **clause 4.11(c)**) and from other providers of infrastructure to be used as an entry or exit point to the Rail

Infrastructure such as operators of unloading facilities; and

- (B) required to assess Capacity allocation related issues and to prepare an IAP.
- (d) The person referred to in **clause 4.3(c)** must provide the revised Access Application or the requested information under **clause 4.3(c)** within 20 Business Days of Aurizon Network's notice or request, as applicable, or such other period as may be agreed. If the revised Access Application or required information is not provided to Aurizon Network within that time, Aurizon Network may provide the relevant person with a Negotiation Cessation Notice.

#### **4.4 Acknowledgement of Access Application**

- (a) Within 10 Business Days after receiving a properly completed Access Application or the further information requested under **clause 4.3(c)**, as applicable, Aurizon Network will give the relevant Access Seeker a written Acknowledgement Notice:
  - (i) acknowledging receipt of the Access Application; and
  - (ii) confirming that Aurizon Network will prepare an Indicative Access Proposal for the requested Access.
- (b) The date of the Acknowledgement Notice will be the date on which the Access Seeker's Access Application will be deemed to have been received for the purposes of this Undertaking.
- (c) If an Access Application is received by Aurizon Network which is, in whole or part, for Access Rights which cannot be provided in the absence of an Expansion or Customer Specific Branch Line, **clause 8.2 to 8.7** will apply and the negotiation process for Access can be suspended by Aurizon Network by written notice to the Access Seeker (before or after the provision of an Indicative Access Proposal) pending agreement on what Expansion or Customer Specific Branch Line is required and how that Expansion or Customer Specific Branch Line is to be funded. Notwithstanding the service of a written notice under this clause, Aurizon Network and the Access Seeker can agree to restart or continue negotiations for Access in parallel with any negotiations over funding of the required Expansion or Customer Specific Branch Line.
- (d) Where a Provisional Capacity Allocation (as defined under **clause 8.5(i)**) has been granted an Access Seeker, Aurizon Network may suspend negotiations with other Access Seekers for corresponding Access Rights pending the outcome of negotiations with the holder of the Provisional Capacity Allocation.
- (e) Subject to **clause 4.4(c)**, if an Access Application is received by Aurizon Network for Access Rights which do not commence until more than three years after the date on which the relevant Access

Application would be deemed to have been received by Aurizon Network under **clause 4.4(b)**, then Aurizon Network may reject the Access Application and the relevant Access Seeker must provide a new Access Application no more than three years from when the proposed Access Rights are to commence.

- (f) When Aurizon Network suspends the negotiation process in accordance with **clause 4.4(c)**, the Access Seeker must each six months thereafter write to Aurizon Network to:
  - (i) confirm, in writing, the Access Seeker's ongoing requirement for the Access Rights;
  - (ii) confirm, in writing, any material change to the information contained in their Access Application or provided in respect of the matters referred to in **clause 4.3(c)(ii)**; and
  - (iii) if requested by Aurizon Network, provide information or evidence of the Access Seeker's ability to fully utilise the requested Access Rights (including information or evidence about any of the factors listed in **clause 4.11(c)**) and from other providers of infrastructure to be used as an entry or exit point to the Rail Infrastructure such as operators of unloading facilities.
- (g) Where an Access Seeker fails to provide the confirmation and evidence required under **clause 4.4(f)** to the satisfaction of Aurizon Network Aurizon Network may issue a Negotiation Cessation Notice to the Access Seeker.

#### **4.5 Indicative Access Proposal**

- (a) Aurizon Network will review the information received and assess the Access Application to develop an Indicative Access Proposal (**IAP**) for the type of Access Rights being sought and having regard to the appropriate form of Access Agreement referred to in **clause 5.1(c)**.
- (b) The IAP will outline:
  - (i) the Rollingstock and Rollingstock configuration;
  - (ii) the relevant operating characteristics;
  - (iii) an Initial Capacity Assessment (which is subject to confirmation by a Capacity Analysis prepared in accordance with **clause 4.9.2(a)(v)**) together with, for coal carrying Train Services, Aurizon Network's assumptions regarding Rollingstock, section run times and loading and unloading times used in preparing that assessment, except to the extent that either the System Rules indicate, or Aurizon Network considers, such an assessment is not required;

- (iv) whether any other requests for Access exist that, if approved, would affect Aurizon Network's ability to grant the Access Rights sought by the Access Seeker;
  - (v) an initial estimate of the Access Charge applicable to the Train Service proposed; and
  - (vi) details of further information required from the Access Seeker in preparation for the negotiation stage.
- (c) The IAP contains indicative arrangements only and does not oblige Aurizon Network to provide Access.
  - (d) Aurizon Network will provide the IAP within 20 Business Days of the date of the Acknowledgement Notice. However, where, due to the complexity of the Access Application or other extenuating circumstances it is not reasonable to provide an IAP within that period. Aurizon Network may, by written notice to the Access Seeker (to be given as soon as practicable and in any case no later than 20 Business Days after the Acknowledgement Notice), extend the period for the giving of an IAP by up to a further 20 Business Days. This period may be further extended by agreement between Aurizon Network and the Access Seeker.
  - (e) The IAP expires 60 Business Days after the later of the date of its provision to the Access Seeker and the date of issue of a revised IAP (if any) under **clause 4.5(g)**.
  - (f) If the Access Seeker believes, acting reasonably, that the IAP has not been prepared in accordance with this Undertaking and would therefore not be an appropriate basis for continuing with the negotiation process under this Undertaking, the Access Seeker will notify Aurizon Network of its concerns in writing within 20 Business Days of being provided with the IAP, or such other timeframe as Aurizon Network and the Access Seeker agree.
  - (g) Aurizon Network will use reasonable endeavours to respond to the concerns of any Access Seeker notified under **clause 4.5(f)** including, where appropriate, by making revisions to the IAP:
    - (i) within 10 Business Days after being notified under **clause 4.5(f)**; or
    - (ii) if Aurizon Network considers that due to the complexity of the concerns or other extenuating circumstances it is not reasonable to provide a response within that 10 Business Day period, such reasonable period as Aurizon Network notifies the Access Seeker in writing within 5 Business Days after the Access Seeker's notice to Aurizon Network under **clause 4.5(f)**.



- (h) Aurizon Network has no obligation to produce an IAP for an Access Seeker that notifies Aurizon Network in writing that the Access Seeker no longer wishes to proceed with its Access Application.

#### **4.6 Notification of intent**

If an Access Seeker intends to progress its Access Application under the negotiation process set out in this Undertaking on the basis of the arrangements outlined in the IAP (as varied in accordance with **clause 4.5(g)**, if applicable), the Access Seeker must notify Aurizon Network of its intention in writing, prior to the expiry date of the IAP. Notification must be in the form set out in the IAP.

#### **4.7 Multiple applications for the same Access**

- (a) Where more than one party has submitted an Access Application for the same Access Rights and:
  - (i) one of the parties that has applied for Access is the Customer for that Access, this Undertaking and Aurizon Network will treat the Customer as the Access Seeker and Aurizon Network may negotiate solely with that Customer; or
  - (ii) the only parties that applied for Access are Railway Operators, this Undertaking and Aurizon Network will treat the Railway Operator nominated in writing by the Customer to Aurizon Network as the Access Seeker and Aurizon Network may negotiate solely with that Railway Operator.
- (b) In the event that the Customer fails to nominate the relevant Railway Operator under **clause 4.7(a)(ii)** within a reasonable time and providing the Access Seeker has already served a notice of intention under **clause 4.6**, Aurizon Network may by written notice to the Customer and the competing Railway Operators, suspend the negotiation process under this **Part 4** for each Access Seeker pending the provision of that notification.
- (c) Aurizon Network may:
  - (i) for the purpose of **clause 4.7(a)**, disclose to the Customer the fact of the Railway Operators' Access Application; and
  - (ii) for the purpose of **clause 4.7(b)**, disclose to the Customer and the relevant Railway Operators the fact of the multiple Access Applications and the reasons for the notice under **clause 4.7(b)**.

Such disclosures will not constitute a breach of the confidentiality obligations owed by Aurizon Network under **Part 3**.
- (d) Access Applications that constitute Mutually Exclusive Access Applications will be dealt with in accordance with **clause 7.5**.

## 4.8 Train Operators

- (a) A request by a prospective Train Operator for Aurizon Network to enter into a Train Operations Agreement must be provided in writing and:
  - (i) identify the relevant End User;
  - (ii) provide a copy of the notification from the End User nominating them as the “Train Operator”; and
  - (iii) contain the information required by an Access Application and any other information reasonably required by Aurizon Network to assess the request and complete the Train Operations Agreement.
- (b) A negotiation process will apply to the prospective Train Operator as specified in **clause 4.9**.
- (c) By submitting a request under **clause 4.8(a)** the prospective Train Operator agrees to be bound by all the provisions of this Undertaking as they relate to Train Operators. Where Aurizon Network, acting reasonably, considers that a prospective Train Operator has materially failed to comply with the provisions of this Undertaking, Aurizon Network may, without prejudice to any other rights it may have, cease negotiations for a Train Operations Agreement by written Negotiation Cessation Notice to the prospective Train Operator.

## 4.9 Negotiation process

### 4.9.1 *Negotiation Period*

- (a) A Negotiation Period in respect of:
  - (i) an Access Seeker’s Access commences on the date on which the Access Seeker provides a notification of intent to progress an Access Application in accordance with **clause 4.6**; or
  - (ii) a Train Operator’s Train Operations Agreement commences on the date that Train Operator has provided to Aurizon Network all of the relevant information referred to in **clause 4.8(a)**.
- (b) Once the Negotiation Period has commenced the Access Seeker or Train Operator, as applicable, and Aurizon Network will begin negotiations as soon as reasonably possible.
- (c) An Access Seeker’s Negotiation Period ceases on:
  - (i) the execution of an Access Agreement in respect of the Access sought by the Access Seeker;
  - (ii) Aurizon Network receiving written notification by the Access Seeker that it no longer wishes to proceed with its Access Application;

- (iii) Aurizon Network issuing a Negotiation Cessation Notice to the Access Seeker pursuant to **clause 4.11(a)**;
  - (iv) the date nine months after the commencement of the Negotiation Period unless:
    - (A) both parties agree to extend the Negotiation Period, in which case the Negotiation Period will continue until the expiry of the agreed extended period; or
    - (B) a Dispute arises between the parties in relation to obligations under the negotiation framework in this **Part 4**, in which case, the Negotiation Period will, subject to **clause 4.11(d)(ii)**, continue until the Dispute's resolution; or
  - (v) subject to **clause 4.9.1(d)**, Aurizon Network no longer being able to offer Access to the Access Seeker under the terms of the IAP, either because of:
    - (A) Available Capacity being reduced; or
    - (B) Infrastructure Enhancements subsequently committed to by Aurizon Network adversely impacting Aurizon Network's ability to develop Infrastructure Enhancements contemplated by the IAP.
- (d) Where **clause 4.9.1(c)(v)** applies, before cessation of the Negotiation Period taking effect, Aurizon Network and the Access Seeker will discuss the matter with a view to agreeing alternative means of providing Access Rights to the Access Seeker. If agreement is not reached within 20 Business Days, or such other period as may be agreed by Aurizon Network and the Access Seeker, the Negotiation Period ceases.
- (e) A Train Operator's Negotiation Period ceases on:
- (i) the execution of the Train Operations Agreement;
  - (ii) Aurizon Network receiving written notification by the Train Operator that it no longer wishes to negotiate or enter into the Train Operations Agreement;
  - (iii) Aurizon Network issuing a Negotiation Cessation Notice to the Train Operator pursuant to **clause 4.11**;
  - (iv) the expiration of nine months from the date that the Train Operator is nominated by the relevant End User, unless:
    - (A) both parties agree to extend the Negotiation Period, in which case the Negotiation Period will continue until the expiry of the agreed extended period; or

- (B) a Dispute arises between the parties in relation to obligations in this negotiation framework in this **Part 4**, in which case, the Negotiation Period will, subject to **clause 4.11**, continue until the Dispute's resolution;
- (v) the End User being given a Negotiation Cessation Notice in respect of its Access Application; or
- (vi) a notice is given by Aurizon Network under **clause 4.10(d)**.

#### **4.9.2 Issues to be addressed during negotiation**

- (a) During the Negotiation Period, Aurizon Network and the Access Seeker or Train Operator, as applicable, will negotiate and endeavour to agree on the elements comprising, for an Access Seeker, the relevant form of Access Agreement referred to in **clause 5.1(c)** for the type of Access Rights being sought or, for a Train Operator, the matters to be completed in the relevant Train Operations Agreement. In order to facilitate this process:
  - (i) an End User must (if it has not done so already) nominate its Train Operator by written notice to Aurizon Network;
  - (ii) Aurizon Network will provide to the Access Seeker Additional Information (together with any requested Capacity Information) relevant to the rail corridor applicable to the Access Seeker's Access Application and will use reasonable endeavours to ensure such information is the most current available to Aurizon Network and is provided within a reasonable timeframe;
  - (iii) an Operating Plan is to be prepared by the Access Seeker (other than End User) or the Train Operator, as applicable;
  - (iv) an Access Charge, determined in accordance with the pricing principles set out in **Part 6**, is to be provided by Aurizon Network including advice as to whether Aurizon Network has applied **clause 6.2.2(b)(i)** or **clause 6.2.3** in determining the Access Charge and if so:
    - (A) the factor associated with the Access Seeker's proposed Access that results in a different cost or risk to Aurizon Network;
    - (B) the impact that the factor has on the Access Charge; and
    - (C) how that impact on the Access Charge was determined;
  - (v) a Capacity Analysis and an investigation of operational impacts are to be undertaken by Aurizon Network and any Expansions necessary to accommodate Access by the

- Access Seeker are to be advised by Aurizon Network except to the extent that Aurizon Network considers that such matters are not required;
- (vi) the definition of the relevant Train Service Entitlement and, where applicable, advice of the initial timetable for the proposed Train Services is to be provided by Aurizon Network;
  - (vii) the Access Seeker (other than an End User) or the Train Operator, as applicable, is to demonstrate that the Rollingstock and Rollingstock Configurations for which the Access Rights are applicable are subject to certificates of compliance or a Compliance Statement (as that term is defined in the Standard Access Agreement (Operator), as applicable, with the Rollingstock Interface Standards; and
  - (viii) other terms and conditions comprising the Access Agreement are to be provided by Aurizon Network.
- (b) Without limiting the matters that an Access Seeker (other than an End User) or a Train Operator, as applicable, and Aurizon Network may address during the Negotiation Period, Aurizon Network (jointly with the Access Seeker or Train Operator) will, or will commence to, conduct an Interface Risk Assessment and prepare an IRMP during the Negotiation Period in accordance with the provisions set out in a Standard Access Agreement in respect of such matters:
- (i) if requested by the Access Seeker or Train Operator; and
  - (ii) it is reasonably necessary to do so prior to the Access Seeker or Train Operator and Aurizon Network executing an Access Agreement or Train Operations Agreement, as applicable.
- (c) It would be reasonably necessary to conduct an Interface Risk Assessment for the purposes of **clause 4.9.2(b)** where, for instance:
- (i) the relevant Access relates to the transportation of coal from a new mine or load out facility;
  - (ii) the Train Operator is seeking to operate new Rollingstock; or
  - (iii) the proposed mode of operation is “non-standard”.
- (d) During the Negotiation Period Aurizon Network may seek further evidence of the Access Seeker’s ability to fully utilise the requested Access Rights from the Access Seeker including evidence relating to the matters in **clause 4.11(c)** and from other providers of infrastructure to be used as an entry or exit point to the Rail Infrastructure such as operators of unloading facilities. The Access Seeker will provide the evidence requested within 20 Business Days of the request (or such other period as may be agreed with Aurizon

Network) and will facilitate the provision of such information from Third Parties, as applicable.

- (e) During the Negotiation Period, the Access Seeker may review and revise the information in its Access Application, provided that such revision does not substantially alter the nature of the Access Rights sought by the Access Seeker. If Aurizon Network, acting reasonably, forms the view that such revision does substantially alter the nature of the Access Rights sought by the Access Seeker, Aurizon Network will notify the Access Seeker in writing of Aurizon Network's view. If, within five Business Days of Aurizon Network giving that notice:
  - (i) the Access Seeker gives Aurizon Network a notice in writing that it wishes to continue negotiating on the original Access Application without the proposed revisions, the negotiation process under this Undertaking will continue; or
  - (ii) if the notice in **clause 4.9.2(e)(i)** is not given, the original Access Application and revised information will together be deemed to constitute a new (replacement) Access Application, will be deemed to have been submitted to Aurizon Network on the date five Business Days after Aurizon Network gave the notice under this **clause 4.9.2(e)** and the negotiation process recommences from that date with Aurizon Network to comply with **clause 4.5(a)**.
- (f) Aurizon Network will be entitled to levy an appropriate charge for the provision of further information commensurate with the cost of preparation and supply of the information.
- (g) In respect of the details required to be developed by the parties in accordance with **clause 4.9.2(a) and 4.9.2(b)**, the parties may agree, for example:
  - (i) to finalise certain aspects after the execution of the Access Agreement or the Train Operations Agreement, as applicable;
  - (ii) to make the commencement of Train Services under the Access Agreement or the Train Operations Agreement, as applicable, subject to the satisfaction of conditions (including, for example, the completion of schedules to the Access Agreement or the securing of access rights to an unloading facility or the securing of access to adjoining infrastructure); or
  - (iii) to include mechanisms in the Access Agreement or the Train Operations Agreement, as applicable, to address any subsequent cost or operating impacts arising in connection with the matters referred to in **clauses 4.9.2(g)(i) and (ii) and 4.9.2(b)**.

#### 4.10 Negotiation of End User Access Agreements and Train Operations Agreements

- (a) Each:
  - (i) End User shall have the right to be present in any negotiation between Aurizon Network and a Train Operator for a Train Operations Agreement or the End User's Access Rights; and
  - (ii) End User shall have the right to require Aurizon Network to permit their Train Operator to be present at all negotiations between Aurizon Network and the End User for Access Rights proposed to be wholly or partially utilised by that Train Operator.
- (b) In negotiating an End User Access Agreement and for the purposes of this **Part 4**:
  - (i) Aurizon Network and an End User will seek to agree an assumed Operating Plan (which the End User may involve its Train Operator in the preparation of); and
  - (ii) if the End User does not provide required information regarding Rollingstock and Rollingstock Configurations for the End User's Train Services, Aurizon Network may assume:
    - (A) a Reference Train Service in respect of the Rollingstock and Rollingstock Configurations; and
    - (B) such other Above Rail operational matters as are reasonably necessary (having regard to any existing standard manner of conducting Above Rail Services on the relevant parts of the Rail Infrastructure).
- (c) If one or more Train Operations Agreements is negotiated between Aurizon Network and the relevant Train Operator(s), the Train Operations Agreement(s) must not (alone, or in aggregate if there is more than one) grant rights to utilise the Rail Infrastructure that exceed the corresponding Access Rights granted, or to be granted, to the relevant End User.
- (d) If, for whatever reason (except by reason of execution of the End User Access Agreement):
  - (i) negotiations in respect of the End User Access Agreement expire or are terminated; or
  - (ii) the End User ceases to be an Access Seeker in respect of the Access Rights that relate to the relevant Train Operations Agreement; or

- (iii) where the End User has already executed an End User Access Agreement, the End User ceases to be an Access Holder in respect of the Access Rights that relate to the relevant Train Operations Agreement,

then Aurizon Network will, by notice to the Train Operator, terminate its negotiations in respect of the corresponding Train Operations Agreement.

#### 4.11 Cessation of negotiations

- (a) At any time during a Negotiation Period, Aurizon Network may give a Negotiation Cessation Notice to an Access Seeker or a Train Operator, as applicable, if:
  - (i) the Access Seeker or Train Operator, as applicable, does not comply with the relevant obligations and processes contained in this Undertaking, and Aurizon Network considers on reasonable grounds that such non-compliance is material;
  - (ii) Aurizon Network is of the reasonable opinion that there is no reasonable likelihood that the Access Seeker or the Train Operator will comply with the terms and conditions of an Access Agreement or Train Operations Agreement, as applicable, in a material way;
  - (iii) Aurizon Network is of the reasonable opinion that the Access Seeker has no genuine intention of obtaining Access Rights or has no reasonable likelihood of utilising Access at the level sought;
  - (iv) subject to **clause 11.1.4(d)**, the Access Seeker or Train Operator, as applicable, does not comply with a determination of an expert pursuant to **clause 11.1.4**; or
  - (v) the Access Seeker or the Train Operator, as applicable, does not comply with a determination of the QCA pursuant to **clause 11.1.5** in relation to a Dispute.
- (b) Without limitation, it will be reasonable for Aurizon Network to form the opinion that the circumstances in **clause 4.11(a)(ii)** apply, if:
  - (i) the Access Seeker or the Train Operator, as applicable, is subject to an Insolvency Event; or
  - (ii) the Access Seeker or the Train Operator, as applicable, or a Related Party of the Access Seeker or Train Operator, is currently, or has in the previous two years been, in Material Default of:
    - (A) any Access Agreement or Train Operations Agreement, as applicable; or



- (B) any other agreement where its performance under that other agreement is relevant to its likely performance under any proposed Access Agreement or Train Operations Agreement, as applicable.
- (c) Without limiting the factors that may be considered when Aurizon Network is forming an opinion as to whether the circumstances in **clause 4.11(a)(iii)** apply, Aurizon Network will consider the following factors:
  - (i) whether the Access Seeker has secured, or is reasonably likely to secure, Supply Chain Rights;
  - (ii) whether the Access Seeker has secured, or is reasonably likely to secure, a rail haulage agreement for the operation of the Train Services the subject of the Access Application;
  - (iii) whether the Access Seeker or its Rail Operator has sufficient facilities (including Rollingstock, provisioning facilities, maintenance facilities and storage facilities) to enable it to run Train Services to fully utilise the Access Rights sought; and
  - (iv) where the Access Rights are sought to transport the output of a mine, whether the anticipated output of the mine is sufficient to support full utilisation of the Access Rights sought.
- (d) If an Access Seeker or Train Operator disputes that Aurizon Network was entitled to give it a Negotiation Cessation Notice and seeks to resolve the Dispute in accordance with **clause 11.1**, for the purposes of **clause 4.11(a)**, the Negotiation Cessation Notice will be deemed to have been issued only if and when the Dispute is resolved in Aurizon Network's favour. If the resolution of the Dispute identifies that Aurizon Network was not entitled to give the Negotiation Cessation Notice:
  - (i) Aurizon Network will recommence negotiations with that Access Seeker or Train Operator immediately; and
  - (ii) the time between the issuing of the wrongly issued Negotiation Cessation Notice and the date of the finding that Aurizon Network was not entitled to issue the Negotiation Cessation Notice will be added to the original period of negotiation for the purpose of determining the nine month period referred to in **clause 4.9.1(c)(iv)** or **4.9.1(e)(iv)**, as applicable.
- (e) Aurizon Network shall have the right, at its option, to recover its reasonable costs incurred in negotiations with the Access Seeker where it ceases negotiations in accordance with **clause 4.11(a)(iii)**.

By submitting an Access Application the Access Seeker agrees to pay Aurizon Network's costs as referred to in this **clause 4.11(e)** including costs incurred by Aurizon Network to Third Parties engaged in assessing the relevant Access Application and scoping for and preparation for the provision of the requested Access.

## Part 5: Access Agreements

### 5.1 Development of Access Agreements

- (a) The granting of Access will be underpinned by an Access Agreement that will be developed and finalised as part of the negotiation process.
- (b) The parties to the Access Agreement will be Aurizon Network and the Access Holder. The Access Holder need not be the Railway Operator for the relevant Train Services.
- (c) The terms of an Access Agreement will be those terms agreed by Aurizon Network and the Access Seeker. Where the terms cannot be agreed, an Access Seeker may require, and Aurizon Network must offer to provide, Access on terms of:
  - (i) for coal-carrying services, where the Access Holder is the Railway Operator, the Standard Access Agreement (Operator);
  - (ii) for coal-carrying services, where the Access Holder will not be the Railway Operator:
    - (A) the Standard Access Agreement (Access Holder);  
or
    - (B) the Standard Access Agreement (Alternate Form);  
or
  - (iii) for non-coal-carrying services, an Access Agreement consistent with the relevant Standard Access Agreement subject to the changes necessary to reflect the fact that the Access is for non coal-carrying services.
- (d) Where the terms of an Access Agreement cannot be agreed and the matter is referred for dispute resolution under **Part 11**, the dispute will be resolved by the QCA or an expert, as applicable, by completion of:
  - (i) where Access is required for coal-carrying services, the relevant form of Standard Access Agreement referred to in **clause 5.1(c)**;
  - (ii) where Access if required for non-coal-carrying services, an Access Agreement which is consistent with the relevant Standard Access Agreement, subject to the changes necessary to reflect the fact that the Access is for non coal-carrying services.
- (e) Once the Access Seeker has notified Aurizon Network in writing that it is satisfied with the terms and conditions of the Access Agreement provided to it, Aurizon Network will, as soon as reasonably practicable, provide the Access Agreement (or, where appropriate, an

amendment to an existing Access Agreement) in final form to the Access Seeker for execution.

- (f) The parties will use reasonable endeavours to duly execute the final Access Agreement as soon as practicable after its completion by Aurizon Network.
- (g) Aurizon Network will execute an Access Agreement with an Access Seeker up to two years prior to the commencement of Train Services under the Access Agreement or such longer period as may be agreed.
- (h) Where an Access Seeker is seeking Access Rights that are additional rights to, or a variation of, an existing Access Agreement, nothing in this Undertaking obliges Aurizon Network to agree to terms in respect of those Access Rights that are consistent with that existing Access Agreement.

## **5.2 Access Charges under Access Agreements**

- (a) An Access Holder's Train Service Entitlement may be comprised of various different types of Train Services described by reference to the characteristics set out in Part A, Schedule 2 of the Standard Access Agreement (Operator) (or an equivalent schedule under another applicable Standard Access Agreement). The Standard Access Agreements refer to each type of Train Service as a "Train Service Type".
- (b) In the circumstances described in **clause 5.2(a)**, the Access Charges may be calculated by reference to each type of Train Service.

## Part 6: Pricing principles

### 6.1 Application of pricing principles

- (a) Aurizon Network will apply the pricing principles set out in **clauses 6.2 to 6.4** in developing Access Charges.
- (b) To the extent of any of those pricing principles conflict, Aurizon Network will apply the pricing principles in the following order of precedence (from highest to lowest):
  - (i) **clause 6.2** (Price differentiation);
  - (ii) **clause 6.3** (Pricing limits);
  - (iii) **clause 6.4.1** (Rail Infrastructure utilisation); and
  - (iv) **clause 6.4.2** (Revenue adequacy).
- (c) In this **Part 6**, where Access Rights have been, or are to be granted, under an End User Access Agreement, the relevant End User and all of that End User's Train Operators will be treated as a single entity so that a reference to:
  - (i) an Access Seeker is a reference to the End User and its Train Operators collectively; and
  - (ii) an Access Holder is a reference to the End User and its Train Operators collectively.

### 6.2 Price differentiation

#### 6.2.1 *Price differentiation right*

- (a) Aurizon Network may only differentiate Access Charges between Access Seekers or between Access Seekers and Access Holders in accordance with this **clause 6.2**.
- (b) Aurizon Network will not be in breach of this **clause 6.2** by reason of the fact that in the case of an End User, the Access Charges payable may be split between that End User and its Train Operator(s).

#### 6.2.2 *Price differentiation from a Reference Tariff*

- (a) Where **clause 6.2.4** is relevant it will be applied to determine the relevant Reference Tariff before the application of this **clause 6.2.2**.
- (b) Subject to **clauses 6.2.2(c)** and **(d)**, where there is an applicable Reference Tariff, the Access Charge formulated by Aurizon Network for an Access Seeker will be consistent with that Reference Tariff unless:
  - (i) both of the following are satisfied:
    - (A) the characteristics of the relevant Train Service are different from the characteristics of the Reference

Train Service as set out in **clause 1.3** of **schedule F**; and

- (B) the cost or risk to Aurizon Network of providing Access for that Train Service differs from the cost or risk to Aurizon Network if that Train Service had the same characteristics as the Reference Train Service; or
- (ii) otherwise agreed with the QCA.
- (c) Where Aurizon Network has entered an agreement separate from the Access Agreement for Customer Specific Branch Line which provides for Aurizon Network to earn revenue that is in addition to the ongoing Access Charge (for example, an upfront contribution or Access Facilitation Charge), Aurizon Network may exclude the cost components separately funded through the additional revenue (for example, the value of any relevant Customer Specific Branch Line to the extent supported by the additional revenue) from the cost base (including the asset base) used to determine the ongoing Access Charge.
- (d) The rtp for a Train Service will be calculated in accordance with the following principles:
  - (i) rtp is deemed to equal one where:
    - (A) the maximum number of proposed Train Services at full utilisation exceeds the maximum number of Reference Train Services at full utilisation; and
    - (B) the scheduled section running times of the proposed Train Service are the same as the nominated section running times for the Reference Train Service;
  - (ii) rtp is deemed to equal the Capacity Multiplier for that Coal System where:
    - (A) **clause 6.2.2(d)(i)** does not apply; and
    - (B) the transit time of that Train Service will exceed the Nominated Separation Time over the Constrained Section in the relevant Coal System, as specified in **schedule F** and amended from time to time in the relevant System Operating Assumptions;

- (iii) where neither **clause 6.2.2(d)(i)** nor **(ii)** apply, the number of reference Train Paths used by the proposed Train Service will be determined as follows:

$$rtp = \max[(A/B), (B/A)]$$

where:

- A is the maximum number of Reference Train Services at full utilisation; and
- B is the maximum number of the proposed Train Services at full utilisation;
- (iv) the maximum number of Train Paths available for a Reference Train Service and for the proposed Train Service will be determined using a readily available simulation package; and
- (v) for the purpose of **clauses 4.5(b)(v)** and **4.9.2(a)(iv)** (as applicable), Aurizon Network will advise the Access Seeker how it has determined the value of rtp,

unless Aurizon Network and the QCA agree an alternative methodology, in which case rtp will be calculated in accordance with that alternative methodology.

### **6.2.3 Price differentiation where no Reference Tariff applies**

If there is no applicable Reference Tariff (for example, because the relevant Train Service is a non-coal carrying Train Service), the Access Charge formulated by Aurizon Network for an Access Seeker may vary from the Access Charges for other Access Seekers or Access Holders in respect of other Train Services also transporting passengers or also transporting the same commodity, in either case, in the same geographical area as that Access Seeker's proposed Train Services, on a unit rate basis to reflect, over time:

- (a) changes or differences in the cost or risk relevant to Aurizon Network providing Access;
- (b) Changes in Market Circumstances; or
- (c) limitations on Available Capacity in accordance with **clause 6.4.1(b)**.

### **6.2.4 Access Charges for Train Services that require an Expansion**

- (a) If:
- (i) an Access Seeker seeks Access Rights that require an Expansion;
- (ii) a Reference Tariff applies in respect of that Access Seeker's Train Services (**Existing Reference Tariff**); and
- (iii) the inclusion of the capital expenditure for that Expansion in the Regulatory Asset Base or the usage of those Access

Rights would result in the Existing Reference Tariff being increased,

then Aurizon Network may:

- (iv) seek the acceptance of:
  - (A) Customers, and Access Holders without Customers, where the Access Charges relevant to those person:
    - (1) are determined by reference to the Existing Reference Tariff; and
    - (2) would be affected by the proposed development of a variation to that Existing Reference Tariff,  
**(Affected Parties)**, through a vote in accordance with **clause 8.10**; or
  - (B) the QCA,  
of the cost allocation principles that Aurizon Network is proposing to apply to develop a variation of the Existing Reference Tariff to take account of the Access Seeker's Access Rights (including the Expansion and additional usage);<sup>1</sup> or
- (v) where that acceptance is not sought or obtained under **clause 6.2.4(a)(iv)**, submit to the QCA, under **clause 6.2.5**, a new Reference Tariff for a new Reference Train Service that will apply in relation to that Access Seeker in relation to those Access Rights.
- (b) For the purpose of **clause 6.2.4(a)(iv)(A)**, if Aurizon Network seeks, but fails to obtain, acceptance from Affected Parties, then Aurizon Network may still seek acceptance from the QCA under **clause 6.2.4(a)(iv)(B)**.
- (c) If Aurizon Network seeks and obtains the acceptance of Affected Parties as required by **clause 8.10** under **clause 6.2.4(a)(iv)** and submits a variation to an Existing Reference Tariff based on the accepted cost allocation principles, then the QCA must accept the cost allocation methodology for that Reference Tariff variation provided that it is consistent with the cost allocation principles accepted by the Affected Parties.
- (d) Where this **clause 6.2.4** applies in respect of an Access Seeker and the applicable Reference Tariff has not yet been determined, Aurizon

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<sup>1</sup> The acceptance sought is not an approval of a variation to the Existing Reference Tariff it is only an acceptance of the cost allocation principles that will be used in developing the variation of the Existing Reference Tariff. Any proposed variation of the Existing Reference Tariff would still need to the approval of the QCA.



Network may, but is not obliged to, enter into an Access Agreement with the Access Seeker on the basis of an indicative Access Charge subject to the Access Agreement including provisions which provide that after the applicable Reference Tariff is determined:

- (i) the Access Agreement will be amended to include an Access Charge based on that Reference Tariff; and
  - (ii) the Access Seeker and Aurizon Network will account to each other for any under or over recovery of Access Charges during the period when the indicative Access Charge was applied.
- (e) This **clause 6.2.4** and **clause 6.2.5** potentially interact with each other in relation to the setting of an Access Charge. To seek to facilitate the proper application of those clauses, where this **clause 6.2.4** and **clause 6.2.5** both apply in any particular circumstances, they must be applied concurrently.

#### **6.2.5 Reference Tariff for new loading points and Private Infrastructure**

Where new or additional coal carrying Train Services commence after the Commencing Date and those Train Services will utilise:

- (a) new or existing Private Infrastructure (with one or more loading points) connected to the Rail Infrastructure after the Commencing Date; or
- (b) Rail Infrastructure (including a Customer Specific Branch Line), for a new loading facility, established after the Commencing Date,

the Access Charge for those new or additional coal carrying Train Services will be determined based on:

- (c) where:
  - (i) the Distance Discount is zero; or
  - (ii) the Minimum Revenue Contribution is less than a relevant existing Reference Tariff,  
the relevant existing Reference Tariff except where a new Reference Tariff is being proposed under **clause 6.2.4(a)(v)**; or
- (d) where **clause 6.2.5(c)** does not apply, a new Reference Tariff which when converted to a \$/nt basis is the higher of:
  - (i) the Minimum Revenue Contribution; and
  - (ii) the relevant existing Reference Tariff less the Distance Discount (with the Distance Discount first being subtracted from the  $AT_3$  input of the Reference Tariff input (but not beyond the point where  $AT_3$  equals zero) with any remainder subtracted from the  $AT_4$  input of the Reference Tariff (but not beyond the point where  $AT_4$  equals zero)), converted to a \$/nt basis assuming a System Nominal Train Payload.

### 6.2.6 *Process for acceptance of new Reference Tariff*

- (a) Where Aurizon Network is negotiating Access Charges for Access Rights and a new Reference Tariff is to be applied under either **clause 6.2.4** or **6.2.5** in respect of those Access Charges, Aurizon Network will submit a proposed new Reference Tariff to the QCA.
  - (i) the proposed Reference Tariff must be consistent with **clause 6.2.5**, where **clause 6.2.5** applies; and
  - (ii) the QCA will:
    - (A) publish the proposed Reference Tariff;
    - (B) invite persons to make submissions on the proposed Reference Tariff to the QCA within a reasonable period of time specified by the QCA; and
    - (C) consider any submission it receives within that period of time.
- (b) The QCA may approve a proposed Reference Tariff for a new Reference Train Service only if the QCA:
  - (i) is satisfied that the proposed Reference Tariff is consistent with this Undertaking;
  - (ii) considers it appropriate to do so having regard to the matters listed in section 138(2) of the Act;
  - (iii) has complied with **clause 6.2.6(a)(ii)**; and
  - (iv) for a resubmitted proposed Reference Tariff, is satisfied that Aurizon Network has in all material respects addressed the matters referred to in the relevant notice by the QCA under **clause 6.2.6(f)**.
- (c) The QCA must consider a proposed Reference Tariff given to it by Aurizon Network and either approve or refuse to approve it within 40 Business Days after the date on which Aurizon Network submitted the proposed Reference Tariff to the QCA or such further period as the QCA and Aurizon Network may agree.
- (d) If the QCA approves the proposed Reference Tariff:
  - (i) it will apply from the earlier of:
    - (A) the date of the QCA's decision; and
    - (B) if Aurizon Network and the Access Seeker have entered into an Access Agreement under **clause 6.2.4(d)**, the date of that Access Agreement,except where the QCA specifies a later date in its decision, in which case the proposed Reference Tariff will apply from that date;

- (ii) the QCA will give Aurizon Network a notice in writing stating the reasons for its decision at the time of publishing its decision; and
- (iii) Aurizon Network must:
  - (A) publish a new version of **schedule F** which includes the new Reference Tariff; and
  - (B) advise Access Holders and Access Seekers, in respect of the Train Services to which the new Reference Tariff applies, that the new Reference Tariff has been approved.
- (e) If the QCA is considering refusing to approve the proposed Reference Tariff:
  - (i) it must give Aurizon Network a draft of its decision (including a statement of reasons including the way it considers the Reference Tariff should be adjusted);
  - (ii) Aurizon Network may, within 20 Business Days after being given that draft decision (or such longer period as agreed by the QCA), revise the proposed Reference Tariff and/or provide additional information supporting its view that the proposed Reference Tariff should be approved; and
  - (iii) the QCA must consider that revision and/or additional information when deciding whether to approve or refuse to approve the proposed Reference Tariff.
- (f) If the QCA refuses to approve the proposed Reference Tariff, the QCA must give Aurizon Network a notice of the QCA's decision (including a statement of both its reasons and the way in which it considers the proposed Reference Tariff should be amended).
- (g) If the QCA refuses to approve the proposed Reference Tariff, Aurizon Network may resubmit the proposed Reference Tariff with amendments and **clauses 6.2.6(a) to (f)** apply to that resubmitted Reference Tariff.
- (h) For the purposes of this **clause 6.2.6**:
  - (i) a proposed Reference Tariff submitted by Aurizon Network must include a new or reviewed System Allowable Revenue and System Forecast to the extent applicable to that proposed Reference Tariff; and
  - (ii) the QCA in approving a proposed Reference Tariff must also approve the new or reviewed System Allowable Revenue and System Forecast.

### **6.2.7 Access Charge review provisions**

Without limitation to **clause 6.2.4(d)**, Aurizon Network or an Access Seeker may seek to agree review provisions in an Access Agreement that is being negotiated to enable the Access Charge to be adjusted from time to time in order for those Access Charges to be consistent with changes in:

- (a) (if a Reference Tariff applies to the Train Service) the applicable Reference Tariff (including any matters under **schedule F**); and
- (b) (if no Reference Tariff applies to the Train Service) the Access Charges agreed with other Access Seekers in respect of Train Services transporting the same commodity within the same geographical area as that Access Seeker's proposed Train Service.

A Standard Access Agreement will already contain review provisions in compliance with this **clause 6.2.7**.

## **6.3 Pricing limits**

### **6.3.1 Application of pricing limits**

- (a) Aurizon Network will, in setting the Access Charges for an Access Seeker's proposed Train Services, establish and observe upper and lower limits for the Access Charge(s):

- (i) for individual Train Services; and
- (ii) for combinations of Train Services comprised of the proposed Train Services and other Train Services to the extent that they use the same Rail Infrastructure as that which would be used by the proposed Train Services,

at levels:

- (iii) which ensure there is no Cross Subsidy between individual Train Services or combinations of Train Services (as applicable); and
- (iv) determined in accordance with **clause 6.3.2**.

- (b) Subject to the approval of the QCA, Aurizon Network may:

- (i) establish a new Reference Tariff; or
- (ii) vary an existing Reference Tariff in a way,

that is inconsistent with **clause 6.3.2(a)(ii)**, for the primary purpose of promoting efficient investment by either Aurizon Network or another person in the relevant transport supply chain.

### **6.3.2 Setting price limits**

- (a) In setting the Access Charges for an Access Seeker's proposed Train Services, Aurizon Network will do so such that, over the Evaluation Period, the Expected Access Revenue for any one of those Train Services and any combination of Train Services comprised of the proposed Train Services and other Train Services to the extent that

they use the same Rail Infrastructure as that which would be used by the proposed Train Services is:

- (i) no less than the level that will recover the expected Incremental Cost of providing Access for that Train Service or that combination of Train Services (as applicable); and
  - (ii) no more than the level that will recover the expected Stand Alone Cost of providing Access for that Train Service or that combination of Train Services (as applicable).
- (b) If Aurizon Network includes an Access Charge in an Access Agreement for an Access Seeker that does not comply with **clause 6.3.2(a)(i)**, then Aurizon Network will be deemed not to be in breach of **clause 6.3.2** provided that it complies with **clause 6.2** in subsequently setting an Access Charge for another Access Seeker for a Train Service that transports the same specified commodity in the same specified geographic area.

### 6.3.3 Application of Maximum Allowable Revenue

- (a) Without limitation to **clause 6.3.2(a)**, where it is necessary to calculate the price limit referred to in **clause 6.3.2(a)(ii)** for the purposes of setting or reviewing a Reference Tariff, the Stand Alone Cost for the Evaluation Period for the Train Services to which the Reference Tariff relates will be the Maximum Allowable Revenue.
- (b) The Maximum Allowable Revenue means the aggregate of the maximum amount of Expected Access Revenue attributable to a section of Rail Infrastructure for the relevant Train Services using that section of Rail Infrastructure over the Evaluation Period.
- (c) The Maximum Allowable Revenue will be measured such that the net present value of the cashflows associated with providing Access for the relevant Train Services over the Evaluation Period is zero. This measurement can be expressed as:

$$0 = -AV_0 + \sum_{t=1}^n \frac{(MAR_t - C_t - M_t - T_t)}{(1 + ROA)^t} + \frac{AV_n}{(1 + ROA)^n}$$

where:

$AV_0$  is the value of assets reasonably expected to be required for the Stand Alone provision of Access for the Train Services, assessed in accordance with **clause 6.3.3(e)**, at the commencement of the Evaluation Period;

$n$  is the number of years in the Evaluation Period;

$t$  is each year within the Evaluation Period from 1 to  $n$ ;

$MAR_t$  is the Maximum Allowable Revenue for the Train Services expressed as revenue that may be earned in each year of the Evaluation Period;

- $C_t$  is the capital expenditure for assets reasonably expected to be required for the Stand Alone provision of Access for the Train Services in each year of the Evaluation Period;
- $M_t$  is the Efficient Cost, including operating and maintenance costs, business and corporate overheads and QCA Levy, reasonably expected to be incurred for the Stand Alone provision of Access for the Train Services in each year of the Evaluation Period;
- ROA is the relevant rate of return commensurate with the commercial and regulatory risks involved in nominal post tax terms (with the cost of debt expressed on a before tax basis), as agreed by Aurizon Network and the QCA or, failing such agreement, as determined by the QCA;
- T is the tax expense assessed through the application of the statutory tax rate for corporations to the taxable income reasonably expected to be earned through the Stand Alone provision of Access for the Train Services in each year of the Evaluation Period, where such tax expense is reduced in each year by the application of the gamma factor, reflecting the market value of dividend imputation, as agreed by Aurizon Network and the QCA or, failing such agreement, as determined by the QCA; and
- $AV_n$  is the value of assets reasonably expected to be required for the Stand Alone provision of Access for the Train Services, assessed in accordance with **clause 6.3.3(e)**, at the end of the Evaluation Period.
- (d) For the purpose of determining the variables under **clause 6.3.3(b)**, the assumed traffic task resulting from the Train Services over the Evaluation Period is the forecast, as reasonably determined by Aurizon Network, for the traffic task resulting from the Train Services over the Evaluation Period (including making allowance for any changes in traffic task that are expected to result from the commencement of projects that impact significantly on the traffic task).
- (e) The value of assets used in **clause 6.3.3(b)** will be determined using:
- (i) if the value of assets is being calculated for the Coal Systems in aggregate, the aggregate value of the assets contained in the Regulatory Asset Base, as maintained in accordance with **schedule E**; or
  - (ii) in all other circumstances, the Depreciated Optimised Replacement Cost methodology.

## 6.4 Pricing objectives

### 6.4.1 Rail Infrastructure utilisation

- (a) Aurizon Network may establish different Access Charges for Train Services serving different markets or commodities to maximise the commercially viable use of Capacity while meeting, in aggregate, the Common Costs.
- (b) Subject to **clause 6.4.1(c)**, if the Available Capacity is potentially insufficient to satisfy the requests for Access Rights of all current and likely Access Seekers, then:
  - (i) Aurizon Network may determine the highest Access Charge for a Train Service that it is likely to achieve from the current or likely Access Seekers based on the characteristics of the relevant Reference Train Service for the applicable Coal System (including the terms of the relevant Standard Access Agreement) (**Maximum Access Charge**);
  - (ii) the Maximum Access Charge may be quoted to all Access Seekers in respect of the Available Capacity irrespective of:
    - (A) any Access Seeker's ability to contribute to the Common Costs; or
    - (B) the Access Charges payable in existing Access Agreements for similar Train Services; and
  - (iii) if Aurizon Network:
    - (A) has received Mutually Exclusive Access Applications;
    - (B) chooses to allocate Available Capacity to one of those Access Seekers for an Access Charge less than the Maximum Access Charge; and
    - (C) another of those Access Seekers is willing to pay an Access Charge equal to the Maximum Access Charge,

then when determining the Maximum Allowable Revenue in accordance with **clause 6.3.3** for Train Services using that constrained section of Rail Infrastructure, the Access Charge for the Access Seeker will be assumed to be the Maximum Access Charge. For the purpose of **clause 6.4.1(b)(iii)(B)**, Aurizon Network does not make a choice to allocate Available Capacity in a particular way where Aurizon Network's allocation is necessary for compliance with any Law (including any Passenger Priority Obligation or Preserved Train Path Obligation).

- (c) **Clause 6.4.1(b)** does not apply in respect of setting Access Charges in relation to Train Services for which a Reference Tariff applies.

#### **6.4.2 Revenue adequacy**

Aurizon Network is entitled to earn revenue from the provision of Access that is at least enough to:

- (a) fully recover all Efficient Costs; and
- (b) provide a rate of return on the value of assets commensurate with the regulatory and commercial risks involved.

### **6.5 Reference Tariffs**

#### **6.5.1 Application of Reference Tariffs**

- (a) A Reference Tariff is an acceptable means by which Aurizon Network provides Access Seekers with information about the matters listed in sections 101(2)(a) to (c) of the Act.
- (b) If Aurizon Network formulates an Access Charge for an Access Seeker's proposed Train Services based on a Reference Tariff, then Aurizon Network is taken to have complied with **clauses 6.2** and **6.3**.
- (c) Unless otherwise approved by the QCA, Aurizon Network must calculate the Access Charges for all coal carrying Train Services to which a Reference Tariff applies on a basis that comprises all of the following elements:
  - (i) an incremental maintenance component that is levied on a gtk basis – referred to as AT<sub>1</sub>;
  - (ii) an incremental capacity component that is levied on a Train Path basis – referred to as AT<sub>2</sub>;
  - (iii) a component that is levied on a ntk basis – referred to as AT<sub>3</sub>;
  - (iv) a component that is levied on a nt basis – referred to as AT<sub>4</sub>;
  - (v) an electric access tariff that is levied on an egtk basis (if appropriate) – referred to as AT<sub>5</sub>;
  - (vi) an electric energy charge that is levied on an egtk basis (if appropriate) – referred to as EC; and
  - (vii) the QCA Levy levied on a nt basis,and including any other amount that may be included in an Access Charge in accordance with this Undertaking.

#### **6.5.2 Review of Reference Tariffs**

**Schedule F** will specify the period for which a Reference Tariff is effective and how the Reference Tariff may be reviewed during that period.

#### **6.5.3 Publishing updated schedule F**

Where any matters in **clauses 7** to **11** of **schedule F** are amended or varied from time to time including where the QCA approves any revisions or other adjustments to System Allowable Revenues, System Forecasts or Reference



Tariffs in accordance with this Undertaking, Aurizon Network must publish a new version of those **clauses 7 to 11 of schedule F** which includes that amendment, variation, revision or adjustment.

## **6.6 Structure of non-Reference Tariff Access Charges**

Where there is no Reference Tariff applicable for a Train Service (for example, a passenger or non-coal freight Train Service), the structure of Access Charges for that Train Service will be negotiated with the relevant Access Seeker depending on their particular requirements and, without limiting Aurizon Network's and the relevant Access Seeker's discretion to agree a structure, may include any one or more of the following:

- (a) an initial upfront component as a condition to being granted Access Rights;
- (b) an ongoing periodic fixed component independent of the level of usage of the Rail Infrastructure; and
- (c) one or more ongoing variable components based on usage of the Rail Infrastructure.

## **6.7 QCA Levy**

Access Charges for any Train Service may include a QCA Levy component to be collected for the QCA by Aurizon Network. This component of Access Charges will, where applicable, be determined from year to year based on the QCA Levy levied by the QCA to Aurizon Network and allocated amongst Train Services in a manner approved by the QCA.

## **6.8 Regulatory Asset Base**

Aurizon Network will maintain the Regulatory Asset Base in accordance with **schedule E**.

## **6.9 Commercial Terms**

- (a) Subject to **clause 6.9(b)**, nothing in this Undertaking prevents Aurizon Network and an Access Seeker (or group of Access Seekers) agreeing Commercial Terms in relation to Access Rights that will require an Expansion or Customer Specific Branch Line.
- (b) Aurizon Network may not request or agree Commercial Terms that:
  - (i) restrict Access Seekers or their Customers from raising disputes with the QCA or disclosing proposed Commercial Terms or other contract terms to the QCA;
  - (ii) require Access Seekers, Access Holders or their Customers to disclose information that is confidential to one or more of them, to any other Access Seeker, Access Holder or their respective Customers, otherwise than as permitted by this Undertaking;

- (iii) restrict the right of an Access Seeker or their Customer from proposing or entering into User Funding for the relevant Expansion or Customer Specific Branch Line; or
  - (iv) contravene a provision of this Undertaking or the Act.
- (c) For the avoidance of doubt:
- (i) where an Access Seeker or Access Seekers do not wish to agree Commercial Terms proposed by Aurizon Network, the Access Seeker or Access Seekers, as applicable, may propose to enter into a User Funding Agreement for the funding of the Expansion in accordance with and subject to the provisions in **Part 8**; and
  - (ii) the terms of any agreed User Funding Agreement will not constitute a Commercial Term.

## Part 7: Available Capacity allocation and management

### 7.1 Application

- (a) This **Part 7** addresses the allocation and management of Capacity, including in circumstances where there is insufficient Available Capacity to satisfy all of the Access Applications submitted to Aurizon Network. In particular under its provisions:
- (i) Aurizon Network may refuse to grant Access Rights if the relevant Access Seeker has not demonstrated that it can fully utilise those Access Rights. **(Clause 7.2)**
  - (ii) Aurizon Network will be obliged to give priority to the granting of Access Rights to a Renewing Access Seeker in respect of a Renewal in certain circumstances. **(Clause 7.3)**
  - (iii) Standard Access Agreements will include provisions allowing an Access Holder to relinquish Access Rights for a Transfer. Aurizon Network has obligations in relation to the allocation of Capacity to facilitate a Transfer. **(Clause 7.4.2)**
  - (iv) Aurizon Network will notify Access Seekers if their Access Applications are Mutually Exclusive Access Applications and assist them to modify their Access Applications to seek to avoid them being Mutually Exclusive Access Applications. **(Clause 7.5.1)**
  - (v) Where Aurizon Network has received Mutually Exclusive Access Applications, Aurizon Network will prioritise the granting of Access Rights having regard to a series of specified criteria. **(Clause 7.5.2)**  
  
However, these provisions for Mutually Exclusive Access Applications do not apply where the allocation occurs under **Part 8**. **(Clause 7.5.2(a))**
  - (vi) Subject to the provisions of the relevant Access Agreement, scheduling and Train Control will be performed by Aurizon Network consistently with the Network Management Principles (including the System Rules). Aurizon Network has various rights and obligations in relation to amending System Rules. **(Clause 7.6)**
- (b) To the extent that there is any inconsistency between any of:
- (i) **clause 7.2** (General requirement for allocation);
  - (ii) **clause 7.3** (Renewals);
  - (iii) **clause 7.4.2** (Transfers); and

- (iv) **clause 7.5** (Mutually Exclusive Access Applications), those provisions will apply in that order of precedence (from highest to lowest) to determine which of them prevails to the extent of the inconsistency.
- (c) For the purposes of the Act, the treatment of Access Seekers differently as a result of, or in accordance with, **clause 7.3, 7.4.2 or 7.5.2** is permitted and to that extent does not offend the Act.
- (d) Nothing in **clauses 7.3, 7.4.2 or 7.5.2** obliges to Aurizon Network to grant Access Rights if there is insufficient Available Capacity to provide those Access Rights.

## 7.2 General requirement for allocation

Despite any other provision in this Undertaking, Aurizon Network may refuse to allocate Available Capacity in respect of an Access Application if the Access Seeker has not demonstrated to Aurizon Network's satisfaction (acting reasonably) that the Access Seeker can fully utilise the Access Rights requested, including holding:

- (a) rights to load and unload Train Services;
- (b) Supply Chain Rights;
- (c) a contract for rail haulage utilising the relevant Capacity;
- (d) sufficient facilities (including Rollingstock, provisioning facilities, maintenance facilities and storage facilities) to enable the Access Seeker to utilise the relevant Capacity;
- (e) where the relevant Capacity will be used to transport the output of a mine, sufficient anticipated output from the mine to support full utilisation of the relevant Capacity; and
- (f) if relevant, rights from other providers of infrastructure (for example, unloading facility operators and other Railway Managers) to use infrastructure necessary for the Access Seeker's Train Services to enter and exit the Rail Infrastructure.

## 7.3 Renewals

- (a) This **clause 7.3** sets out provisions that apply where all or any part of an Access Holder's existing Access Rights will expire and:
  - (i) that Access Holder (where the Access Holder has no Customer); or
  - (ii) the person nominated by the Access Holder's Customer in writing to Aurizon Network (and, for clarity, that Customer may nominate itself),

**(Renewing Access Seeker)** wishes to hold or to continue to hold (as applicable) equivalent Access Rights for a further term commencing

immediately after those existing Access Rights will expire (that is, a **Renewal**).

- (b) For clarity, where a Renewing Access Seeker chooses to Renew only part of their existing Access Rights, the balance of those Access Rights not Renewed will become Available Capacity on the expiry of those existing Access Rights.
- (c) Despite any provision in **Part 4**, Aurizon Network:
  - (i) is not obliged to negotiate the provision of Access that will use Capacity that will become Available Capacity on the expiry of an existing Access Right; and
  - (ii) must not enter into an Access Agreement in relation to such Capacity,  
with a person other than the relevant Renewing Access Seeker unless and until:
    - (iii) the end user (that is, the Access Holder, where the Access Holder has no Customer, or otherwise the relevant Access Holder's Customer) has notified Aurizon Network that the end user does not intend to seek a Renewal; or
    - (iv) the Renewing Access Seeker has not executed an Access Agreement for that Capacity with Aurizon Network under this **clause 7.3** at least 12 months prior to the expiry of the Access Rights.
- (d) Aurizon Network may refuse to negotiate, or to enter into, an Access Agreement with a Renewing Access Seeker for a Renewal more than three years prior to the expiry of the Access Rights.
- (e) If a Renewing Access Seeker is seeking a Renewal at least 12 months (but no more than 36 months or such earlier date as agreed by Aurizon Network) prior to the expiry of the relevant Access Rights, then:
  - (i) the term of an Access Agreement relating to the Renewal must be:
    - (A) for coal carrying Train Services, the lesser of 10 years and the remaining life of the relevant mine (as evidenced to Aurizon Network's satisfaction by the Renewal Access Seeker); or
    - (B) for other Train Services, the lesser of 10 years and the same length of time as the term of the relevant current Access Agreement; and
  - (ii) if:
    - (A) the Renewing Access Seeker's Access Application is not seeking a Renewal for; or

- (B) the Renewing Access Seeker does not agree to an Access Agreement for,
  - a term referred in **clause 7.3(e)(i)**, then the Renewing Access Seeker's Access Application will not be treated as an Access Application for a Renewal under this **clause 7.3**.
- (f) Nothing in this **clause 7.3** obliges Aurizon Network to:
  - (i) execute an Access Agreement for a Renewal; or
  - (ii) enter into an Access Agreement for a Renewal on the same terms as the relevant Access Holder's Access Agreement for the existing Access Rights.
- (g) For clarity, a Renewing Access Seeker must complete and submit an Access Application for Access Rights it is seeking to renew and, subject to this **Part 7**, the negotiation for those Access Rights will be conducted in accordance with **Part 4** including the Negotiation Cessation Notice provisions under **clause 4.11** and negotiations being based on any applicable Standard Access Agreement.

## **7.4 Dealing with Access Rights**

### **7.4.1 Assignments**

An Access Holder may only assign, novate or otherwise transfer the Access Holder's interest in an Access Agreement to a third party in accordance with the terms of that Access Agreement.

### **7.4.2 Transfers**

- (a) If an Access Holder intends to undertake a Transfer, then despite any other provision in this Undertaking:
  - (i) subject to **clause 7.4.2(a)(ii)**, Aurizon Network will negotiate exclusively with the Transferee in relation to the grant of the Transferred Access Rights and, if applicable, Ancillary Access Rights;
  - (ii) that exclusivity of negotiation does not:
    - (A) apply to any other Access Rights, if any, sought by the Access Seeker (for example, Access Rights that require an Expansion or Customer Specific Branch Line); or
    - (B) affect Aurizon Network's negotiations with another Access Seeker where Aurizon Network and that other Access Seeker are already in the process of negotiating an Access Agreement and that other Access Seeker has demonstrated to Aurizon Network's reasonable satisfaction that the Access Seeker can fully utilise the proposed transferred Access Rights having regard to the matters listed in

**clause 4.11(c)** and in particular, that it holds Supply Chain Rights in respect of its requested Access Rights;

- (iii) nothing in this **clause 7.4.2(a)** obliges Aurizon Network to execute an Access Agreement with the Transferee; and
- (iv) where:
  - (A) an Access Application by a Transferee for Transferred Access Rights and Ancillary Access Rights;
  - (B) an Access Seeker referred to in **clause 7.4.2(a)(ii)(B)** exists; and
  - (C) the Access Applications are Mutually Exclusive Access Applications,

**clause 7.5** will apply to those Access Applications and will not otherwise apply to that Transferee's Access Application in respect of any other Access Seekers.

- (b) A Transferee must complete and submit an Access Application for the Transferred Access Rights and, if applicable, Ancillary Access Rights and subject to this **Part 7** (which shall prevail to the extent of any inconsistency), the negotiation for those Transferred Access Rights and, if applicable, Ancillary Access Rights will be conducted in accordance with **Part 4**.
- (c) This **clause 7.4.2** ceases to apply in respect of a Transfer if the Access Holder for that Transfer fails to comply with the provisions of the Access Holder's Access Agreement relevant to that Transfer. Aurizon Network may:
  - (i) require provisions in an Access Agreement with a Transferee making that Access Agreement subject to; or
  - (ii) delay execution of an Access Agreement with the Transferee until,  
  
the Access Holder's full and proper compliance with the provisions of the Access Holder's Access Agreement relevant to that Transfer. For example, Aurizon Network may include provisions providing for the termination of the Transferee's Access Agreement where the Access Holder does not fully comply.
- (d) For clarity, a change in the nomination of a Train Operator by an End User does not constitute a Transfer.

## **7.5 Mutually Exclusive Access Applications**

### **7.5.1 Notification and assistance**

- (a) Aurizon Network will use reasonable endeavours to identify Access Applications that are or have become Mutually Exclusive Access

Applications and will notify an Access Seeker as soon as practical after Aurizon Network identifies that the Access Seeker's Access Application is or has become a Mutually Exclusive Access Application.

- (b) Aurizon Network will, if requested, provide reasonable assistance to an Access Seeker to identify whether its Access Application can be modified so that it is not a Mutually Exclusive Access Application.

#### **7.5.2 Capacity allocation for Mutually Exclusive Access Applications**

- (a) This **clause 7.5.2** does not apply where the allocation of Capacity to Access Seekers occurs under **Part 8** and does not affect the operation of **Part 8**.
- (b) If Aurizon Network has received Mutually Exclusive Access Applications for Available Capacity, then Aurizon Network will enter into negotiations for Access Agreements (including any agreements to allow Access Rights to be exercised or created – for example, a Connection Agreement) for the Available Capacity for those Access Applications that meet the following criteria prior to considering any of the other Access Applications:
  - (i) the Access Application is for coal carrying Train Service;
  - (ii) the Access Seeker has satisfied Aurizon Network (acting reasonably) that the Access Seeker will be able to use the Access Rights at the level sought giving consideration to the factors in **clause 4.11(c)**;
  - (iii) the grant of the Access Rights is not subject to any Expansion, Customer Specific Branch Line or other works or expenditure by Aurizon Network relating to the Rail Infrastructure;
  - (iv) the Access Rights requested could be used without adversely affecting the ability of existing Access Holders to use their Access Rights;
  - (v) the Access Agreement's proposed term is at least 10 years; and
  - (vi) where the grant of Access Rights requires Existing Capacity that will become Available Capacity, Aurizon Network is satisfied (acting reasonably) that the Access Seeker will be able to use that Existing Capacity on the date when it becomes Available Capacity.
- (c) Subject to **clauses 7.5.2(d)** and **(e)**:
  - (i) if:
    - (A) Aurizon Network has received Mutually Exclusive Access Applications for Available Capacity; and



- (B) after applying **clause 7.5.2(b)** there are remaining Mutually Exclusive Access Applications and remaining Available Capacity; or
  - (ii) if none of the relevant Mutually Exclusive Access Applications satisfy the criteria under **clause 7.5.2(b)**,  
then Aurizon Network will enter into negotiations for Access Agreements (including any agreements to allow Access Rights to be exercised or created – for example, Rail Connection Agreement) with those Access Seekers whose applied for Access Rights best meet Aurizon Network’s legitimate business interests.
- (d) Without limiting the matters Aurizon Network may consider under **clause 7.5.2(c)**:
- (i) Aurizon Network will consider the following objectives:
    - (A) to ensure Aurizon Network’s revenue adequacy (as described in **clause 6.4.2**);
    - (B) to allocate Capacity to its highest marginal value;
    - (C) to promote efficient investment in and use of the Rail Infrastructure having regard to:
      - (1) the expected duration of the facility or business whose inputs or outputs will be transported on the Rail Infrastructure (for example, the mine production life);
      - (2) the quality and saleability of the product proposed to be transported on the Rail Infrastructure;
      - (3) the capital efficiency of rail infrastructure and the density of network utilisation;
      - (4) the contribution of the Access Rights sought to the long-term demand for Access; and
      - (5) the current and future competitiveness of the relevant supply chain; and
  - (ii) unless Aurizon Network decides otherwise, Aurizon Network may treat a proposed Access Agreement for a coal carrying Train Service as being more favourable to Aurizon Network’s legitimate business interests than a proposed Access Agreement for a non-coal carrying Train Service, except to the extent that the allocation of Available Capacity to that coal carrying Train Service would constitute a breach by Aurizon Network of its obligations under any Law – for

example, under Aurizon Network's Preserved Train Path Obligations.

(e) In making a decision under **clause 7.5.2(c)**, Aurizon Network must have no regard to whether an Access Seeker is a Related Operator.

(f) If:

(i) in Aurizon Network's opinion it is not practical to determine, as between two or more Access Seekers with Mutually Exclusive Access Applications, which of those Access Seekers to enter into an Access Agreement with under **clause 7.5.2(c)**; and

(ii) Aurizon Network and each of those Access Seekers have negotiated the terms of an Access Agreement (including all agreements to allow Access Rights to be exercised or created – for example, a User Funding Agreement or Rail Connection Agreement) which the parties are willing to execute,

then Aurizon Network may elect to prioritise the execution of Access Agreements with those Access Seekers in date order – that date being determined for each Access Seeker as the later of:

(iii) the date on which that Access Seeker was issued an Acknowledgement Notice for its Access Application, under **clause 4.4**; and

(iv) where the relevant Access Rights sought are to commence more than three years after the date that the Access Application was submitted to Aurizon Network, the date three years prior to the date when that Access Seeker's requested Access Rights are proposed to commence.

(g) Where Aurizon Network has allocated Available Capacity under this **clause 7.5.2** and none of the remaining Access Seekers can be granted the Access Rights sought as there is insufficient Available Capacity to do so, then negotiations with those remaining Access Seekers are suspended and **clause 4.4(c)** will apply.

## **7.6 Network Management Principles**

### **7.6.1 Compliance with Network Management Principles**

(a) An Access Agreement will include obligations for the Access Holder and Aurizon Network to comply with the Network Management Principles.

(b) Any dispute between an Access Holder and Aurizon Network in relation to compliance with the Network Management Principles will be dealt with in accordance with the dispute resolution process set out in the relevant Access Agreement.

### **7.6.2 Nature of the System Rules**

- (a) The System Rules specify in greater detail the way in which Aurizon Network will plan, schedule and control the operation of Train Services on a single or combination of Coal Systems in accordance with the Network Management Principles.
- (b) The System Rules will be published on the Website.

### **7.6.3 Making the initial System Rules for a Coal System**

- (a) Where System Rules do not already exist for a Coal System and Aurizon Network wishes to develop the initial System Rules for that Coal System, it will consult with Access Holders, Railway Operators and Access Seekers whose Train Services will be affected by the System Rules, and any affected Infrastructure Service Providers, in relation to the introduction of the System Rules.
- (b) After consulting under **clause 7.6.3(a)**, if Aurizon Network decides to make initial System Rules for that Coal System, then it will:
  - (i) prepare the proposed System Rules (**Draft System Rules**) having regard to the equitable operation of the System Rules across Access Holders and Access Seekers (should they become Access Holders) and their Customers and the terms of Access Agreements;
  - (ii) in preparing the Draft System Rules, seek to ensure that they do not conflict with the Network Management Principles or any provision of this Undertaking; and
  - (iii) submit the Draft System Rules to the QCA for approval.
- (c) Where Aurizon Network has submitted Draft System Rules to the QCA, the QCA must consider the Draft System Rules and notify Aurizon Network that it either approves or refuses to approve the Draft System Rules.
- (d) If the QCA refuses to approve the Draft System Rules, then:
  - (i) the QCA will set out its reasons for doing so in any notice to Aurizon Network of that decision; and
  - (ii) Aurizon Network may choose to resubmit the Draft System Rules either amended, or with additional information, to address the matters in QCA's reasons without having to further consult under **clause 7.6.3(a)**.

### **7.6.4 Amending the System Rules**

- (a) In amending the System Rules, Aurizon Network must:
  - (i) notify:
    - (A) Access Holders and Access Seekers whose Train Services will be affected by the amendments and

their Customers (but only to the extent that the Access Holder or Access Seeker has given Aurizon Network those Customer contact details) (**Affected Persons**);

- (B) affected infrastructure providers for infrastructure forming part of the relevant supply chain (including, for example, the unloading facility operator that is the destination of Train Services operating in the relevant Coal System);
- (C) affected Infrastructure Service Providers;
- (D) affected Railway Operators; and
- (E) the QCA,

of Aurizon Network's intention to amend the System Rules and provide a copy of the proposed amendments (**Proposed Amendments**) to those persons;

- (ii) consult with the persons notified under **clause 7.6.4(a)(i)(A)** to **(D)**;
- (iii) have regard to the equitable operation of the System Rules across Access Holders and Access Seekers (should they become Access Holders) and the Customers of the Access Holders and Access Seekers (should they become Access Holders) and the terms of Access Agreements; and
- (iv) seek to ensure that the amendments do not conflict with the Network Management Principles or any provision of this Undertaking.

- (b) If an Affected Person considers that the Proposed Amendments:
  - (i) would not, as a whole, operate equitably amongst Access Holders and Access Seekers (should they become Access Holders) and the Customers of the Access Holders and Access Seekers (should they become Access Holders); or
  - (ii) are materially inconsistent with the terms of an Access Agreement,

then the Affected Person may provide a written submission to Aurizon Network, within 20 Business Days after being given a notice under **clause 7.6.4(a)(i)**, identifying why the Proposed Amendments would have any of the effects referred to in **paragraphs (i)** or **(ii)** and Aurizon Network will consider each submission provided to it under this **clause 7.6.4(b)**.

- (c) After considering each submission under **clause 7.6.4(b)**, Aurizon Network will notify the submitters whether it intends to vary the Proposed Amendments. If Aurizon Network varies the Proposed

Amendments, then Aurizon Network will notify the persons referred to in **clause 7.6.4(a)** of the variation and the reasons for the variation.

- (d) If, within 15 Business Days after Aurizon Network has given the notices required under **clause 7.6.4(c)**, an Affected Person considers that the Proposed Amendments (including any variations) would have any of the effects referred to in **clause 7.6.4(b)(i)** or **(ii)**, then that Affected Person may refer the matter to dispute resolution under **clause 11.1**.
- (e) For the purposes of this **clause 7.6**:
  - (i) the amending of System Rules includes replacing or removing System Rules; and
  - (ii) Proposed Amendments includes a proposed replacement of System Rules or a proposal to remove System Rules.

## Part 8: Network development and Expansions

### 8.1 Overview

This **Part 8** sets out various provisions relating to the creation of new Rail Infrastructure and supply chain coordination – in particular:

- (a) **clause 8.2** sets out general principles regarding limitations on Aurizon Network's rights and obligations to fund, construct or permit the creation of new Rail Infrastructure;
- (b) **clause 8.3** sets out principles in relation to Aurizon Network's undertaking of Concept Studies;
- (c) **clauses 8.4 and 8.5** set out principles in relation to the way in which Pre-feasibility Studies and Feasibility Studies are to be funded;
- (d) **clause 8.6** describes how Users may fund all or part of an Expansion;
- (e) **clause 8.7** sets out provisions in relation to Capacity Shortfalls and Access Agreements being conditional on Expansions or Customer Specific Branch Lines;
- (f) **clause 8.8** confirms that Aurizon Network will participate in supply chain coordination including processes in relation to the review of System Operating Assumptions;
- (g) **clause 8.9** describes Aurizon Network's obligations in relation to its proposed Network Development Plan; and
- (h) **clause 8.10** sets out a voting process that Aurizon Network may apply in relation to certain matters concerning capital expenditure projects.

### 8.2 General principles

#### 8.2.1 *Rights and obligations to fund, construct or permit the creation of new Rail Infrastructure*

- (a) Subject to **clauses 8.2.1(b) and 8.2.1(c)**, nothing in this Undertaking:
  - (i) obliges Aurizon Network to fund, construct or permit an extension, enhancement, expansion, augmentation, duplication or replacement of all or part of the Rail Infrastructure, or to agree to do so; or
  - (ii) prevents Aurizon Network from agreeing (in its absolute discretion) to fund, construct or permit an extension, enhancement, expansion, augmentation, duplication or replacement of all or part of the Rail Infrastructure, or any part thereof.

- (b) Aurizon Network is obliged to fund, construct or permit an extension, enhancement, expansion, augmentation, duplication or replacement of all or part of the Rail Infrastructure only to the extent that:
  - (i) it is an Expansion;
  - (ii) Aurizon Network is satisfied (acting reasonably) that:
    - (A) the Expansion is technically and economically feasible and consistent with the safe and reliable operation of the Rail Infrastructure;
    - (B) Aurizon Network's legitimate business interests are protected; and
    - (C) if Aurizon Network is not the owner of the relevant Rail Infrastructure, the legitimate business interests of the owner are protected;
  - (iii) in relation to the funding of the cost of an Expansion, it agrees (at its election) to do so;
  - (iv) all construction, funding and other agreements relevant to the Expansion have been executed and are (or have become) unconditional; and
  - (v) unless:
    - (A) otherwise agreed by Aurizon Network; or
    - (B) the relevant Expansion is to be funded using SUFA, the Expansion (whether or not funded in whole or part by a person other than Aurizon Network) is or will be owned and operated by Aurizon Network.
- (c) For clarity, notwithstanding any other provision of this **Part 8**, to the extent that funding is required for Asset Replacement Expenditure, Aurizon Network will be responsible for the provision of that funding
- (d) Aurizon Network is not obliged to fund, construct or permit a Customer Specific Branch Line (subject to its obligations in relation to Connecting Infrastructure). However, nothing in this Undertaking prevents Aurizon Network from doing so at its discretion.
- (e) Aurizon Network's obligations in respect of Connecting Infrastructure are set out in **Part 9**.
- (f) Where Aurizon Network's legitimate business interests are relevant to a matter under this **Part 8**, without limiting the matters that may be considered:
  - (i) the following objectives will be considered:
    - (A) ensuring that Aurizon Network's revenue adequacy requirements are met (as described in **clause 6.4.2**);

- (B) the allocation of Capacity is made to its highest marginal value; and
- (C) the promoting of efficient investment in and use of the Rail Infrastructure having regard to:
  - (1) the expected duration of the facility or business whose inputs or outputs will be transported on the Rail Infrastructure (for example, the mine production life);
  - (2) the quality and saleability of the product proposed to be transported on the Rail Infrastructure;
  - (3) the capital efficiency of rail infrastructure and the density of network utilisation;
  - (4) the contribution of the relevant Access Rights sought to the long-term demand for Access; and
  - (5) the current and future competitiveness of the relevant supply chain; and
- (ii) Aurizon Network may treat a proposed Access Agreement for a coal carrying Train Service as being more favourable to Aurizon Network's legitimate business interests than a proposed Access Agreement for a non-coal carrying Train Service, except to the extent that the allocation of Available Capacity to that coal carrying Train Service would constitute a breach by Aurizon Network of its obligations under any Law.
- (g) Aurizon Network will not unnecessarily and unreasonably delay any Expansion that it is obliged to construct in accordance with this Undertaking provided that after any relevant agreement with any Access Seeker, Access Holder, Customer or User Funder (as applicable) including any relevant User Funding Agreement is executed for that Expansion then Aurizon Network's obligations in relation to any delay are solely governed by that agreement.
- (h) Nothing in this **Part 8**:
  - (i) prevents or otherwise restricts Aurizon Network and an Access Seeker (or its Customer) (in each party's absolute discretion) from entering into arrangements relating to or in connection with funding, constructing or permitting an Expansion or Customer Specific Branch Line necessary to provide additional Capacity required to grant Access Rights requested by that Access Seeker; or



- (ii) affects Aurizon Network's rights to fund and construct Expansions or Customer Specific Branch Lines and otherwise invest in the Rail Infrastructure.
- (i) To the extent that this Undertaking is inconsistent with a User Funding Agreement, Connection Agreement or a Studies Funding Agreement for a Pre-feasibility Study or a Feasibility Study, the User Funding Agreement, Connection Agreement or Studies Funding Agreement (as applicable) will prevail to the extent of that inconsistency (but only as between Aurizon Network and the other parties to those agreements, any relevant Access Seeker (if its Customer is one of those parties) and any relevant Customer (if its Access Seeker is one of those parties)).
- (j) Subject to the requirements of this **Part 8**, the person responsible for the investigation and design of any Expansion or Customer Specific Branch Line that is necessary in order to provide any Access Rights requested by an Access Seeker must be Aurizon Network.

### **8.2.2 Interdependent and sequential nature of Expansions**

The following principles relate to the interdependent and sequential nature of Expansions:

- (a) for any Coal System there may be multiple Expansions that incrementally build on each other in sequence to increase the Capacity of that Coal System;
- (b) as the Expansions are sequential, Expansions later in the sequence will assume the satisfactory completion of, and delivery of outcomes for Expansions earlier in the sequence;
- (c) to the extent that events or circumstances affect an Expansion in the sequence (for example, by it being delayed, not progressing or not delivering the expected outcomes), then Expansions later in the sequence may also be affected and will need to be reviewed to take into account the affect of those events or circumstances;
- (d) similarly, to the extent that any Coal Systems overlap, Expansions on one Coal System may affect Expansions on another Coal System; and
- (e) the Capacity expected to be created by an Expansion later in a sequence of Expansions cannot be unconditionally allocated until the outcome of the Expansions earlier in the sequence is known.

### **8.2.3 Determination of sufficient demand for an Expansion**

Aurizon Network will, from time to time, determine whether there is, or is likely to be, sufficient demand for an Expansion. Where Aurizon Network makes such a determination, it will do so using whatever means and information it considers appropriate in the circumstances including:

- (a) the Access Applications it has received;

- (b) its own market intelligence;
- (c) any Expression of Interest process conducted by Aurizon Network;
- (d) liaison and consultation with participants in coal supply chains and Supply Chain Groups; and
- (e) analysis or advice from its expert advisors.

#### **8.2.4 Participation of Customers**

- (a) Without limitation to **clauses 8.4 to 8.6**, if a Customer wishes to fund the cost of:
  - (i) a Pre-feasibility Study, as a Pre-feasibility Funder under **clause 8.4**;
  - (ii) a Feasibility Study, as a Feasibility Funder under **clause 8.5**;  
or
  - (iii) an Expansion, as a User under **clause 8.6**,

then, in addition to satisfying any other requirements for doing so, the Customer must give a notice to Aurizon Network that it wishes to do so and agrees to be bound by the provisions of this Undertaking in relation to such matters.

- (b) Where Aurizon Network does not receive a notice from a Customer under **clause 8.2.4(a)** in respect of a proposed Pre-feasibility Study, Feasibility Study or Expansion (as applicable), then Aurizon Network may refuse to negotiate agreements in relation to such matters with that Customer or to otherwise treat that Customer as a proposed Pre-feasibility Funder, Feasibility Funder or Funding User.
- (c) Where Aurizon Network considers, acting reasonably, that a Customer has materially failed to comply with any provision of this Undertaking relating to the funding of the cost of a Pre-feasibility Study, Feasibility Study or an Expansion (as applicable), then Aurizon Network may, without prejudice to any other rights it may have, do either or both of the following:
  - (i) give a written Negotiation Cessation Notice to the Customer or its Access Seeker (as applicable) under **clause 4.11**; and
  - (ii) cease any other relevant negotiations with that Customer in relation to the funding of the cost of the Pre-feasibility Study, Feasibility Study or an Expansion (as applicable) by giving written notice to that Customer.

### **8.3 Principles for Concept Studies**

- (a) Aurizon Network will undertake Concept Studies (whether in connection with the Network Development Plan or otherwise) where Aurizon Network considers it appropriate to do so.

- (b) Where Aurizon Network decides to undertake a Concept Study, then it will not require Access Seekers, Access Holders or their Customers to fund that Concept Study.

#### **8.4 Principles for Pre-feasibility Studies**

- (a) If Aurizon Network determines that there is, or is likely to be, sufficient demand for an Expansion, Aurizon Network will undertake scoping, planning, an evaluation of alternatives or other preliminary studies or assessments for that Expansion (**Pre-feasibility Study**), subject to:
  - (i) Aurizon Network choosing, at its discretion, to fund the Pre-feasibility Study itself; or
  - (ii) the relevant Access Seekers (or, if applicable Conditional Access Holders) or their Customers (if any) agreeing with Aurizon Network to fund the Pre-feasibility Study and the relevant Studies Funding Agreements becoming unconditional.

A Pre-feasibility Study does not include a Concept Study.

- (b) The Access Seekers (or, as applicable, Customers) to be given an opportunity to fund a Pre-feasibility Study under **clause 8.4(a)(ii)** for an Expansion, as proposed Pre-feasibility Funders, will be:
  - (i) where Aurizon Network knows that a Capacity Shortfall exists and the proposed Expansion could create Capacity that would reduce or remove the Capacity Shortfall, Access Seekers with Capacity Shortfall Access Applications to which that Capacity Shortfall relates (or, as applicable, their Customers); and
  - (ii) those Access Seekers (or, as applicable, their Customers) whom Aurizon Network decides, acting reasonably, are likely to fully utilise the Access Rights they have requested having regard, without limitation, to the following factors:
    - (A) whether the relevant Access Seeker has secured or is reasonably likely to secure the rights, (for example, unloading facility capacity rights or the right to unload at a power station), required to unload at its destination or to exit the network;
    - (B) whether the relevant Access Seeker has secured, or is reasonably likely to secure, a rail haulage agreement for the operation of the Train Services the subject of its Access Application;
    - (C) whether the relevant Access Seeker or its Rail Operator has sufficient facilities (including, without limitation, Rollingstock, provisioning facilities, maintenance facilities and storage facilities) to

enable it to run Train Services to fully utilise the Access Rights sought; and

- (D) where the Access Rights are sought to transport the output of a mine, whether the anticipated output of the mine is sufficient to support full utilisation of the Access Rights sought.
- (c) For the purpose of **clause 8.4(a)(ii)**, unless otherwise agreed by Aurizon Network and relevant proposed Pre-feasibility Funder, a Studies Funding Agreement for a Pre-feasibility Study will be in the form of the Standard Studies Funding Agreement (Pre-feasibility).
- (d) Without limitation to the matters that may be negotiated in connection with any Studies Funding Agreements for a Pre-feasibility Study, Aurizon Network will consult with the relevant proposed Pre-feasibility Funders, as part of negotiations, in relation to the scope of the Pre-feasibility Study.
- (e) If Aurizon Network and the relevant proposed Pre-feasibility Funders do not reach agreement on:
- (i) the scope of the Pre-feasibility Study; or
  - (ii) the completion of schedules in a Studies Funding Agreement in the form of the Standard Studies Funding Agreement (Pre-feasibility),
- then any of those persons may refer the matter to an expert as a dispute for resolution under **clause 11.1.4**.
- (f) The determination of a dispute under **clauses 8.4(e)(i)** or **(ii)** will be binding on all proposed Pre-feasibility Funders. Aurizon Network does not breach this Undertaking in doing anything necessary to comply with that determination.
- (g) Where **clause 8.4(e)** applies, **clause 11.1.4** will be applied in respect of a proposed Pre-feasibility Funder who is a Customer as though a reference to:
- (i) an Access Seeker includes a reference to that Customer; and
  - (ii) a Related Party for a Customer includes the Access Seeker for that Customer.
- (h) If the Pre-feasibility Study for an Expansion is funded under a Studies Funding Agreement (**Pre-feasibility SFA**), then:
- (i) as a condition of any Studies Funding Agreements for a Feasibility Study (**Feasibility SFA**) in relation to that Expansion, the relevant Feasibility Funders will be required to include in the funding provided to Aurizon Network under their Feasibility SFAs amounts that in aggregate equal the

amount to be repaid or reimbursed by Aurizon Network under **clause 8.4(h)(ii)**; and

- (ii) after those Feasibility SFAs become unconditional, Aurizon Network will, in accordance with each relevant Pre-feasibility SFA, repay or reimburse (as applicable) the funding provided by the Pre-feasibility Funder under that Pre-feasibility SFA.
- (i) The capital expenditure for an Expansion includes the cost of a Pre-feasibility Study relating to that Expansion. However, any amounts that are not repaid or reimbursed (as applicable) under **clause 8.4(h)** will not be treated as capital expenditure and will not be included in the Regulatory Asset Base.
- (j) Aurizon Network is not obliged to construct, fund or permit an Expansion or, to undertake a Feasibility Study, merely because Aurizon Network undertakes or funds any Pre-feasibility Study relating to that Expansion.

## **8.5 Principles for Feasibility Studies**

- (a) If Aurizon Network determines that there is, or is likely to be, sufficient demand for an Expansion in respect of which Aurizon Network has undertaken a Pre-Feasibility Study, then Aurizon Network will undertake the detailed scoping, design and definition of the preferred scheme selected in the relevant Pre-feasibility Study for that Expansion, including planning and preparation for procurement and construction, (**Feasibility Study**) subject to:
  - (i) Aurizon Network choosing, at its discretion, to fund the Feasibility Study itself; or
  - (ii) the relevant Access Seekers (or their Customers, if any) agreeing with Aurizon Network to fund the Feasibility Study.
- (b) The Access Seekers (or, as applicable, Customers) to be given an opportunity to fund a Feasibility Study under **clause 8.5(a)(ii)** for an Expansion, as proposed Feasibility Funders, will be:
  - (i) firstly, where Aurizon Network knows that a Capacity Shortfall exists and the proposed Expansion could create Capacity that would reduce or remove the Capacity Shortfall, Access Seekers with Capacity Shortfall Access Applications to which that Capacity Shortfall relates (or, as applicable, their Customers); and

- (ii) secondly, those Access Seekers (or, as applicable, their Customers) whom Aurizon Network decides, acting reasonably, are best able to utilise Capacity expected to be created by the Expansion having regard to the factors in **clauses 8.4(b)(ii)(A) to (D)** provided that if:
  - (A) Aurizon Network considers (acting reasonably) that it is not reasonably practical to determine as between particular Access Seekers which is better able to utilise that Capacity; and
  - (B) insufficient Capacity is expected to be created by the Expansion for all the relevant Access Seekers, then Aurizon Network may decide (acting reasonably), as between those particular Access Seekers (or, as applicable, their Customers) which will be given an opportunity to fund the Feasibility Study based on which is best able to meet Aurizon Network's legitimate business interests including having regard to the matters referred to in **clause 8.2.1(f)**.
- (c) For the purpose of **clause 8.5(a)(ii)** and subject to **clause 8.4(h)(i)**, unless otherwise agreed by Aurizon Network and the relevant proposed Feasibility Funder a Studies Funding Agreement for a Feasibility Study will be in the form of the Standard Studies Funding Agreement (Feasibility).
- (d) Without limitation to the matters that may be negotiated in connection with Studies Funding Agreements for a Feasibility Study, Aurizon Network will consult with the relevant proposed Feasibility Funders, as part of the negotiation of the relevant Studies Funding Agreements, in relation to the scope of the Feasibility Study.
- (e) If Aurizon Network and the relevant proposed Feasibility Funders do not reach agreement on:
  - (i) the scope of the Feasibility Study; or
  - (ii) the completion of schedules in the Studies Funding Agreements in the form of the Standard Studies Funding Agreement (Feasibility),
 then any of those persons may refer the matter to an expert as a dispute for resolution under **clause 11.1.4**.
- (f) If an Access Seeker or a Customer considers Aurizon Network has failed to comply with **clause 8.5(b)**, that Access Seeker or Customer may refer the matter to an expert as a dispute for resolution under **clause 11.1.4**.
- (g) The determination of a dispute under **clauses 8.5(e)(i) or (ii) or clause 8.5(f)** will be binding on all proposed Feasibility Funders, including if that determination results in a proposed Feasibility Funder

ceasing to be a proposed Feasibility Funder. Aurizon Network does not breach this Undertaking in doing anything necessary to comply with that determination.

- (h) Where **clauses 8.5(e) or 8.5(f)** apply, **clause 11.1.4** will be applied in respect of a Customer who is a party to the dispute as though a reference to:
  - (i) an Access Seeker includes a reference to that Customer; and
  - (ii) a Related Party for a Customer includes the Access Seeker for that Customer.
- (i) Within 20 Business Days after the Studies Funding Agreements for a Feasibility Study become unconditional, Aurizon Network will:
  - (i) issue an IAP (or if one has previously been provided, a revised IAP) to the relevant Access Seekers who are, or whose Customers are, funding the Feasibility Study; and
  - (ii) subject to **clauses 8.5(j) and (k)**, grant those Access Seekers a provisional allocation of their proportion of the Capacity that will be created by the Expansion (**Provisional Capacity Allocation**).

For clarity, where Aurizon Network has chosen to fund a Feasibility Study, Aurizon Network may issue an IAP or a revised IAP (as applicable) to any relevant Access Seekers.

- (j) If an Access Seeker intends to progress its Access Application under the negotiation process set out in this Undertaking on the basis of the arrangements outlined in an IAP or revised IAP issued under **clause 8.5(i)(i)**, that Access Seeker must notify Aurizon Network of that intention in writing within 20 Business Days after Aurizon Network gives a relevant notice under **clause 8.6.1(b)(i)**.
- (k) All or part of a Provisional Capacity Allocation may be withdrawn by Aurizon Network if Aurizon Network decides, acting reasonably, that it is appropriate to do so including where:
  - (i) the relevant Access Seeker is unlikely to be able to fully utilise the relevant Access Rights having regard to the matters in **clauses 8.4(b)(ii)(A) to (D)** including where there has been any material change, or material delay in satisfying, in any of those matters;
  - (ii) the relevant mine or port (including an expansion of a mine or port) is not proceeding or progressing so that it is reasonably likely that the relevant Access Seeker will not be able to use the relevant Access Rights;
  - (iii) the relevant Studies Funding Agreement for the Feasibility Study is terminated or Aurizon Network is not paid any

amount due and payable by the relevant Feasibility Funder under that Studies Funding Agreement; or

- (iv) Aurizon Network and the relevant Access Seeker (or, as applicable, its Customer) do not execute an agreement in relation to the funding and/or construction of the Expansion within six months (or such longer period as agreed by Aurizon Network) after the Feasibility Study is completed (provided that to the extent that the Access Seeker, or its Customer, is a party to a dispute under **clause 8.5(e)** or **(f)** then the time from when that dispute is notified for the purpose of **clause 11.1.4** to the determination of that dispute by the expert is excluded from that period).

For clarity, subject to the terms of the relevant Studies Funding Agreements, where a Provisional Capacity Allocation is withdrawn under this **clause 8.5(k)**, Aurizon Network may take whatever action it considers appropriate in the circumstances including (at its discretion), reallocation of that Provisional Capacity Allocation to another person, ceasing to further consider that Expansion or reprioritising the sequence of Expansions in favour of other Expansions.

- (l) If the Feasibility Study for an Expansion is funded under a Studies Funding Agreement (**Feasibility SFA**), then:
  - (i) where there will be a User Funding Agreement for that Expansion, as a condition of that User Funding Agreement the relevant Funding Users will be required to include in the funding provided to Aurizon Network under their User Funding Agreement amounts that in aggregate equal the amount to be repaid or reimbursed by Aurizon Network under **clause 8.5(l)(ii)**; and
  - (ii) where:
    - (A) the agreements with Access Seekers (or their Customers) for the funding and construction of that Expansion have been executed and have become unconditional; and
    - (B) a Feasibility Funder is a party to those agreements and will use Access Rights granted as a result of the Capacity to be created by that Expansion,  
  
Aurizon Network will, in accordance with the relevant Feasibility SFA for that Feasibility Funder, repay or reimburse (as applicable) the funding provided by the Feasibility Funder under that Feasibility SFA.
- (m) The capital expenditure for an Expansion includes the cost of Feasibility Studies relating to that Expansion. However, any amounts



that are not repaid or reimbursed (as applicable) under **clause 8.5(l)** will not be treated as capital expenditure and will not be included in the Regulatory Asset Base.

- (n) Aurizon Network is not obliged to construct, fund or permit an Expansion merely because Aurizon Network undertakes or funds any Feasibility Study relating to that Expansion.

## **8.6 User Funded Expansions**

### **8.6.1 Funding an Expansion**

- (a) Subject to this **clause 8.6**, Users may fund the cost of an Expansion that is necessary to create additional Capacity so that Access Rights may be granted to Access Seekers but only if Aurizon Network either:
  - (i) is not willing to do so; or
  - (ii) is only willing to do so subject to Commercial Terms that are unacceptable to the Users.

- (b) Aurizon Network will notify, where an Expansion is subject to a Feasibility Study that:
  - (i) has been funded under Studies Funding Agreements, the Feasibility Funders within 60 Business Days after those Studies Funding Agreements become unconditional; or
  - (ii) has not been funded under Studies Funding Agreements, all relevant Access Seekers at the time Aurizon Network considers it appropriate to do so (acting reasonably),

of whether Aurizon Network may be willing to fund the Expansion. For clarity, a notice under this **clause 8.6.1(b)** does not need to provide the terms on which Aurizon Network is willing to fund the Expansion (for example, in the form of draft agreements).

- (c) If Aurizon Network has not given a notice under **clause 8.6.1(b)**, then (for the purpose of Users commencing the processes under **clause 8.6.2(a)**) Aurizon Network is taken to not be willing to fund the Expansion, subject to any subsequent notification given under **clause 8.6.1(f)**.
- (d) If Aurizon Network has given a notice under **clause 8.6.1(b)**, then Aurizon Network and the relevant Users will negotiate in good faith the proposed terms on which Aurizon Network will be willing to fund the Expansion.
- (e) Nothing in this **clause 8.6** prevents Aurizon Network negotiating a User Funding Agreement for all or part of an Expansion in parallel to negotiations in relation to the terms on which it would be willing to fund the cost of all or part of the same Expansion.

- (f) **Clause 8.6.1(b)** does not prevent Aurizon Network from subsequently notifying relevant parties of whether Aurizon Network is willing to fund the Expansion or the terms on which it is willing to do so.

#### **8.6.2 Process where Users intend to fund an Expansion**

- (a) If Users intend to fund the cost of an Expansion under **clause 8.6.1(a)**:
  - (i) the proposed Funding Users must each give written notice to Aurizon Network of their intention to fund the cost of the Expansion;
  - (ii) after receiving such written notices, Aurizon Network and the proposed Funding Users will negotiate in good faith a User Funding Agreement;
  - (iii) upon agreement being reached in those negotiations as to the terms of the User Funding Agreement:
    - (A) Aurizon Network will issue the proposed User Funding Agreement to the proposed Funding Users and other relevant parties (for example, the State – if applicable), as applicable; and
    - (B) subject to the proposed Funding Users and other relevant parties (for example, the State, if applicable) first executing that User Funding Agreement, Aurizon Network will execute the User Funding Agreement; and
  - (iv) the User Funding Agreement must be in the form of the Standard User Funding Agreement unless otherwise agreed by Aurizon Network and the proposed Funding Users.
- (b) Nothing in this **clause 8.6** obliges Aurizon Network to procure a party (including an Aurizon Party) to enter into a User Funding Agreement.

#### **8.6.3 Disputes about completion of SUFA schedules**

- (a) If Aurizon Network and any User do not reach agreement on the completion of schedules to a User Funding Agreement that is in the form of the Standard User Funding Agreement, then any of those persons may refer the matter to dispute resolution under **clause 11.1**.
- (b) The determination of a dispute under **clause 8.6.3(a)** will be binding on all proposed Funding Users. Aurizon Network does not breach this Undertaking in doing anything necessary to comply with that determination.
- (c) Where **clause 8.6.3(a)** applies, **clause 11.1** will be applied in respect of a User who is a Customer as though a reference to:
  - (i) an Access Seeker includes a reference to that Customer; and

- (ii) a Related Party for a Customer includes the Access Seeker for that Customer.

#### **8.6.4 Operation of a User Funded Expansion and Capital Indicator allocation**

- (a) A User Funded Expansion will be owned or leased, and operated, by Aurizon Network in accordance with the provisions of the relevant User Funding Agreement and must constitute part of the Rail Infrastructure.
- (b) Subject to approval by the QCA, where a User Funded Expansion occurs, Aurizon Network will nominate the proportion (if any) of the relevant approved Capital Indicator to reflect the expected capital expenditure in relation to the User Funding Agreement(s) for that User Funded Expansion.

#### **8.6.5 Capacity Shortfalls for User Funded Expansions**

Any Capacity and Capacity Shortfall issues as between Aurizon Network and the Funding Users (including all relevant Access Seekers or Access Holders) in relation to a User Funded Expansion will be dealt with in accordance with the terms of the relevant User Funding Agreement.

#### **8.6.6 Inconsistency with a User Funding Agreement**

To the extent of any inconsistency, the terms of an executed User Funding Agreement prevail over the terms of this Undertaking as between Aurizon Network and the Funding Users (including any Access Seeker or Access Holder for which a Funding User is Customer in relation to the User Funded Expansion).

### **8.7 Contracting for Capacity**

#### **8.7.1 Access Agreements conditional on an Expansion or Customer Specific Branch Line**

If Access Rights sought by an Access Seeker require an Expansion or Customer Specific Branch Line, then Aurizon Network must only enter into an Access Agreement with that Access Seeker if that Access Agreement:

- (a) is subject to a condition precedent that requires the relevant Expansion or Customer Specific Branch Line to have been completed and commissioned; and
- (b) includes terms and conditions so that the Access Rights relevant to the Expansion or Customer Specific Branch Line are limited to the available Capacity for the Expansion or Customer Specific Branch Line.

#### **8.7.2 Capacity Shortfalls**

- (a) If Aurizon Network grants Access Rights (**Conditional Access Rights**) to Access Seekers (**Conditional Access Holders**) that are conditional on an Expansion being completed and commissioned, then Aurizon Network will, no more than six months following commissioning of the Expansion and subject to **clause 8.7.2(b)**,

undertake an assessment of the change in Capacity arising as a result of that Expansion (**Capacity Change**) after the Expansion is commissioned by calculating the Capacity Change as:

- (i) the Existing Capacity at the time; less
- (ii) the Existing Capacity of the system in the absence of the Expansion,

using consistent System Operating Assumptions.

- (b) Aurizon Network may defer an assessment for the purposes of **clause 8.7.2(a)** until such time as Aurizon Network reasonably considers that the relevant Expansion is fully operational and the demand conditions are such that a reasonable assessment can be undertaken.
- (c) If Aurizon Network's assessment under **clause 8.7.2(a)** indicates that there is a Capacity Shortfall in relation to Conditional Access Holders, then:
  - (i) the Conditional Access Rights of each Conditional Access Holder are reduced in accordance with its Access Agreement; and
  - (ii) subject to **clause 8.7.2(d)**, where those Conditional Access Rights are reduced, each Conditional Access Holder will be taken to have lodged an Access Application with Aurizon Network for Access Rights equivalent to that reduction if they notify Aurizon Network within 20 Business Days after the reduction occurs that they wish to seek Access Rights equal to that reduction (unless their Access Agreement provides to the contrary).
- (d) For the purpose of a Conditional Access Holder's Access Application under **clause 8.7.2(c)**:
  - (i) the Access Application is taken to be on the same terms as the previous Access Application made by that Conditional Access Holder for those Conditional Access Rights but only to the extent that its Conditional Access Rights have been reduced in accordance with its Access Agreement as a result of the Capacity Shortfall;
  - (ii) Aurizon Network and the Conditional Access Holder are taken to have complied with **clauses 4.2 to 4.4(b)**; and
  - (iii) **clause 4.4(c)** applies to the Access Application.
- (e) Aurizon Network is only obliged to comply with this **clause 8.7** to the extent that such compliance:
  - (i) is consistent with Aurizon Network's commercial objectives; and

- (ii) does not (and Aurizon Network is not compelled to do anything that would) inhibit, restrict, fetter or adversely affect Aurizon Network's ability:
  - (A) to exercise any discretion, power, function or right; or
  - (B) to comply with any obligation or to do anything, in accordance with this Undertaking or an Access Agreement.
- (f) Subject to any agreement with the relevant Conditional Access Holders, where an Expansion (**Shortfall Expansion**) is required as a result of a Capacity Shortfall arising in respect of an earlier Expansion (**Earlier Expansion**) and that Shortfall Expansion is technically and economically feasible:
  - (i) if the Earlier Expansion was funded by Aurizon Network, Aurizon Network will bear the cost of the Shortfall Expansion;
  - (ii) if the Earlier Expansion was partly funded by Aurizon Network:
    - (A) Aurizon Network will bear the proportion of the cost of the Shortfall Expansion that represents the proportion of the Earlier Expansion that was funded by Aurizon Network; and
    - (B) the Conditional Access Holder(s) who (or whose Customers) directly or indirectly provided funding in respect of the Earlier Expansion will bear the remainder of the cost of the Shortfall Expansion if they require it; or
  - (iii) if the Earlier Expansion was not funded (in whole or part) by Aurizon Network, a Conditional Access Holder will bear the cost of the Shortfall Expansion if they require it.

## **8.8 Coal supply chain coordination**

### **8.8.1 Supply chain coordination**

- (a) Aurizon Network will use reasonable endeavours to participate:
  - (i) in a Supply Chain Group in relation to:
    - (A) the coordination and effective performance of a relevant coal supply chain; and
    - (B) if applicable, the development of a Supply Chain Master Plan; and
  - (ii) in discussions with other service providers and participants in the coal supply chain, on request, with a view to the

coordination of maintenance activities in the relevant supply chain.

- (b) Aurizon Network will not be obliged to make any binding commitment or to take any action as a result of its participation and discussions referred to in **clause 8.8.1(a)**.

### **8.8.2 System Operating Assumptions**

- (a) In reviewing the System Operating Assumptions for a Coal System, Aurizon Network will:
  - (i) notify the applicable Supply Chain Group (if any) of the relevant System Operating Assumptions and the time in which to make submissions;
  - (ii) consider any submissions from the Supply Chain Group in respect of the proposed System Operating Assumptions or whether any variation of the System Operating Assumptions is required (as applicable); and
  - (iii) respond to any such submissions as soon as reasonably practicable including whether and, if so, how Aurizon Network has varied the proposed or existing System Operating Assumptions (as applicable) in response to those submissions.
- (b) Without limitation to **clause 8.8.2(a)**, Aurizon Network will use reasonable endeavours to review the System Operating Assumptions for a Coal System as soon as practical after Aurizon Network becomes aware that any permanent change has occurred, or will occur, to that Coal System that materially adversely affects the System Operating Assumptions.
- (c) Nothing in this **clause 8.8.2** obliges Aurizon Network to vary the System Operating Assumptions.
- (d) Aurizon Network will use reasonable endeavours to keep its most current System Operating Assumptions available on the Website (including with the redaction of any information that is confidential or which, if so published, would give rise to a breach by Aurizon Network of a confidentiality obligation).

### **8.8.3 Capacity review**

- (a) Aurizon Network may undertake a review of Capacity for a Coal System in conjunction with the development or review of the Network Development Plan.
- (b) Aurizon Network will undertake a Capacity review for a Coal System if the System Operating Assumptions are varied as a result of a review under **clause 8.8.2(b)** or are otherwise varied in a way that materially decreases the Existing Capacity in that Coal System.

- (c) If a Capacity review reveals that there is a deficit in the Capacity for a Coal System at a particular point in time (**Deficit**), then Aurizon Network will have regard to that Deficit prior to executing an Access Agreement that would increase the size of that Deficit and prior to constructing any relevant Expansion for that Coal System.

## 8.9 Network Development Plan

- (a) Aurizon Network will develop a Network Development Plan and use reasonable endeavours to keep its most current Network Development Plan available on the Website.
- (b) The Network Development Plan will identify possible options for increasing Capacity and may include possible options for otherwise developing or improving a Coal System's performance.
- (c) Aurizon Network will review and update the Network Development Plan annually or more frequently as it considers necessary, including if circumstances change in a way that Aurizon Network expects will materially adversely affect the Network Development Plan.
- (d) In developing or reviewing the Network Development Plan, Aurizon Network:
  - (i) will from time to time, inform and otherwise consult with, and consider submissions from, Access Holders, Access Seekers and other interested parties identified by Aurizon Network in relation to the proposed Network Development Plan; and
  - (ii) will have regard to:
    - (A) forecast changes in demand for Queensland coal exports;
    - (B) any Expression of Interest submissions;
    - (C) any relevant Access Applications;
    - (D) any relevant port terminal developments;
    - (E) any previous or current studies undertaken by Aurizon Network;
    - (F) any supply chain master plan;
    - (G) relevant System Operating Assumptions, System Rules and maintenance plans; and
    - (H) other developments or circumstances which in Aurizon Network's opinion are relevant to the Network Development Plan.
- (e) Neither anything in this **clause 8.9** nor the development, review or notification of a Network Development Plan gives rise to any commitment, representation or obligation in relation to funding,

constructing, permitting or otherwise implementing any aspect of the Network Development Plan.

## **8.10 Acceptance of capital expenditure projects by Interested Participants**

### **8.10.1 Purpose**

- (a) This **clause 8.10** sets out a voting process for relevant Access Holders, Customers and Access Seekers to accept any one or more of:
  - (i) the prudence of scope of a capital expenditure project;
  - (ii) the prudence of standard of works of a capital expenditure project; and
  - (iii) the cost allocation principles for a proposed Reference Tariff variation under **clause 6.2.4(a)(iv)(A)**.
- (b) The voting process is an alternative to seeking acceptance of those matters by the QCA under **clauses 3 or 4 of schedule E** (as applicable). However, an unsuccessful vote does not prevent Aurizon Network from seeking the QCA's acceptance on the same matter or a future vote.
- (c) A capital expenditure project referred to in relation to this **clause 8.10** includes all projects of any kind that involve capital expenditure including capital expenditure projects required for safety reasons or for Expansions.

### **8.10.2 Application**

- (a) This **clause 8.10** applies where Aurizon Network seeks acceptance of:
  - (i) the scope or standard (as applicable) of a capital expenditure project;
  - (ii) a change to the scope or standard (as applicable) of a capital expenditure project where:
    - (A) Aurizon Network previously obtained the acceptance of Interested Participants for that scope or standard (as applicable); and
    - (B) that change is a material change; or
  - (iii) the cost allocation principles for the purposes of developing a proposed Reference Tariff variation under **clause 6.2.4(a)(iv)(A)**,  
**(Voting Proposal)** by a vote of Interested Participants under this **clause 8.10**.
- (b) Aurizon Network must notify the QCA of the outcome of a vote under this **clause 8.10**.



- (c) Nothing in this **clause 8.10**:
  - (i) obliges Aurizon Network to seek acceptance of the scope or standard of a capital expenditure project, or the development of a Reference Tariff variation, under this **clause 8.10**; or
  - (ii) prevents Aurizon Network from seeking the QCA's acceptance of any or all of the scope or standard of a capital expenditure project, or the development of a Reference Tariff variation, even if a vote seeking the acceptance of the same under this **clause 8.10** has been unsuccessful or if Aurizon Network has sought a vote on, for example, scope but not on standard.
- (d) Aurizon Network does not have an obligation to construct or fund a capital expenditure project as a result of seeking or obtaining any acceptance of the scope or standard of a capital expenditure project, or the development of a Reference Tariff variation, under this **clause 8.10**.
- (e) This **clause 8.10** must be read in conjunction with **clauses 2.2(g)** and **(h)** of **schedule E** (as though those provisions were part of this **clause 8.10**) to the extent that those provisions refer to this **clause 8.10**.

### **8.10.3 Identification of Interested Participants**

- (a) For a vote called by Aurizon Network regarding the acceptance of the scope or standard of that capital expenditure project, the persons eligible to participate in that vote (referred to as **Interested Participants** in respect of that vote) are Customers, and Access Holders and Access Seekers without Customers, where the Access Charges (or likely Access Charges) relevant to the person:
  - (i) are (or will be) determined by reference to a Reference Tariff; and
  - (ii) would be affected by including the amount of capital expenditure for a capital expenditure project into the Regulatory Asset Base.
- (b) For a vote called by Aurizon Network regarding the acceptance of the development of a Reference Tariff variation, the persons eligible to participate in that vote (referred to as **Interested Participants** in respect of that vote) are the relevant Affected Parties (referred to under **clause 6.2.4(a)(iv)(A)**).
- (c) Despite **clauses 8.10.3(a)** and **(b)**:
  - (i) Aurizon Network will not identify any person as an Interested Participant if that would result in any 'double counting' of votes – for example, where two Access Seekers are competing to provide rail haulage services to a prospective

Customer only that Access Seeker nominated by the prospective Customer will be eligible to vote; and

- (ii) if:
  - (A) a person has not been invited to participate as an Interested Participant; and
  - (B) that person believes that it is entitled to participate,then:
  - (C) that person may request to be allowed to participate by notifying Aurizon Network including setting out reasons why it should be allowed to do so; and
  - (D) Aurizon Network will use its reasonable endeavours to accommodate that request if it is appropriate to do so.

#### **8.10.4 Voting rights**

- (a) In this **clause 8.10.4, Affected Train Path** means a Train Path where the applicable Reference Tariff for a Train Service using that Train Path would be affected by:
  - (i) where the Voting Proposal relates to the scope or standard of works for a capital expenditure project, including the amount of capital expenditure for the relevant capital expenditure project into the Regulatory Asset Base; or
  - (ii) where the Voting Proposal relates to the cost allocation principles for proposed Reference Tariff variation, the proposed Reference Tariff variation.
- (b) Each Interested Participant's vote will be weighted by multiplying its vote by the number of Affected Train Paths for that Interested Participant as determined by Aurizon Network based on the relevant Access Rights (whether under an Access Agreement or the subject of an Access Application) in accordance with the principles under **clause 8.10.4(c)**.
- (c) Aurizon Network must determine Affected Train Paths for the purpose of **clause 8.10.4(b)** in a manner consistent with the following principles:
  - (i) where the Access Agreement in relation to that Interested Participant:
    - (A) will be in force at the time that is five years after acceptance is sought under this **clause 8.10**; or
    - (B) is subject to a legally binding commitment (even if conditional on the completion of an Expansion or Customer Specific Branch Line or other conditions

which are Aurizon Network's responsibility to satisfy or can be waived by Aurizon Network),

the Affected Train Paths must be determined based on the Access Rights specified in that Access Agreement for a 12 month period starting five years after the first day of the month in which acceptance is sought under this **clause 8.10**;

(ii) where:

(A) the Access Agreement is due to expire within five years after acceptance is sought under this **clause 8.10**; and

(B) Aurizon Network reasonably expects that a Renewal will occur in relation to the relevant Access Rights under that Access Agreement,

the Affected Train Paths must be determined based on the Access Rights specified in that Access Agreement for the last period of 12 months of that Access Agreement;

(iii) to the extent that the Interested Participant is (or is also) an Access Seeker or an Access Seeker's Customer:

(A) where the Available Capacity, plus the Capacity expected to be created by the capital expenditure project, that may potentially be used for Affected Train Paths (**Total Available Capacity**) is less than that needed by Aurizon Network to provide all of the Access Rights sought by Access Seekers (who, or whose Customers, are Interested Participants) for Affected Train Paths (**Requested Capacity**), the Affected Train Paths must be calculated as the Access Seeker's proportion of the Total Available Capacity calculated on a pro rated basis by reference the Access Seeker's proportion of the Requested Capacity; or

(B) where the Total Available Capacity is greater than the Requested Capacity, the Affected Train Paths sought by the Access Seeker,

in either case, for a 12 month period starting five years after the first day of the month in which acceptance is sought under this **clause 8.10**; and

(iv) if more than one of **clauses 8.10.4(c)(i) to (iii)** apply in respect of an Interested Participant, then the Affected Train Paths calculated under those clauses will be aggregated for that Interested Participant.

### 8.10.5 Acceptance process

- (a) If Aurizon Network seeks a vote from Interested Participants on a Voting Proposal, then Aurizon Network will:
  - (i) identify the Interested Participants and notify each identified Interested Participant of the vote; and
  - (ii) make available information relevant to the Voting Proposal and the voting process to those Interested Participants.
- (b) A notice under **clause 8.10.5(a)(i)** must specify the period within which the vote will occur being at least six weeks after the notice is given (**Voting Period**).
- (c) During the Voting Period:
  - (i) Aurizon Network will use reasonable endeavours to provide information, forums and engage in discussions with Interested Participants in relation to the relevant Voting Proposal if it chooses to do so or if reasonably requested by any Interested Participants; and
  - (ii) Interested Participants are to notify Aurizon Network of whether they accept or do not accept the Voting Proposal by voting 'yes' or 'no'.
- (d) If an Interested Participant votes 'no' on the basis of any of the following:
  - (i) where the vote relates to the scope of a capital expenditure project, the capital expenditure project:
    - (A) is not technically and/or economically feasible or is inconsistent with the safe and reliable operation of the Rail Infrastructure;
    - (B) would materially adversely affect the Interested Participant's access rights, providing evidence of how those rights would be affected; or
    - (C) is inefficient, including having regard to the System Operating Assumptions referred to by Aurizon Network;
  - (ii) where the vote relates to the standard of works of a capital expenditure project, the standard of works:
    - (A) is unreasonable based on the project's scope;
    - (B) is inconsistent with relevant standards, including:
      - (1) the standard of existing or adjacent Rail Infrastructure (except to the extent that the project's scope requires a higher standard); and

- (2) relevant Australian standards or Codes of Practice; or
- (C) does not reflect an appropriate balance between capital and operating expenditure; or
- (iii) where the vote relates to the cost allocation principles for a proposed Reference Tariff variation:
  - (A) the proposed cost allocation principles do not satisfy the pricing principles in section 168A of the Act;
  - (B) a proposed Reference Tariff variation based on the cost allocation principles would adversely impact on that Interested Participant's ability to compete in a relevant market; or
  - (C) the Interested Participant should not contribute towards the cost of the capital expenditure project now or at any time in the future,

then that 'no' vote must be accompanied by detailed reasons in relation to those matters. For clarity, **clauses 8.10.5(d)(i) to (iii)** do not prevent a 'no' vote from being made on a different basis – although, any such vote must still be accompanied by detailed reasons.

- (e) If an Interested Participant does not respond within the Voting Period or does not respond in a way that is a clear 'yes' or 'no' vote, then the Interested Participant is deemed to have accepted the relevant Voting Proposal – that is, voted 'yes'.
- (f) If an Interested Participant responds with a 'no' vote, but:
  - (i) that vote does not comply with **clause 8.10.5(d)**; or
  - (ii) the reasons provided with that vote cannot reasonably be regarded as appropriate grounds for, or as relevant to, such a vote,

then Aurizon Network may exclude that Interested Participant's vote.
- (g) The Interested Participants will be deemed to have accepted the relevant Voting Proposal if Interested Participants for at least 60% of the aggregated Affected Train Paths for all Interested Participants (other than those excluded under **clause 8.10.5(f)**) have, or are deemed to have, voted 'yes'.
- (h) Aurizon Network will notify each of those Interested Participants of the results of the vote within five Business Days after Aurizon Network has determined those results.

#### **8.10.6 Information and materials relating to acceptance votes**

- (a) Aurizon Network will make available information, when it considers it relevant or necessary to do so, to participants in the coal supply chains relating to Coal Systems (as well as the QCA, Queensland Rail Limited and the DTMR) relating to proposed capital expenditure projects relevant to Coal Systems.
- (b) If a capital expenditure project, the scope of which is being voted on by Interested Participants under **clause 8.10.5**, is a General Expansion Capital Expenditure project, then Aurizon Network will use reasonable endeavours to cooperate with a consultant jointly appointed by, and at the cost of, those Interested Participants for a peer review of Aurizon Network's capacity planning inputs and processes and capacity model outputs in respect of the capital expenditure project. Aurizon Network will run a range of scenarios in that model, as requested by that consultant (acting reasonably). Aurizon Network's obligations under this **clause 8.10.6(b)** do not include any obligation to provide the consultant with access to the capacity analysis model, confidential information or any other information or thing in respect of which Aurizon Network has any intellectual property<sup>2</sup>.
- (c) Aurizon Network will make available to Interested Participants information on the capital expansion project, or the development of a Reference Tariff variation, where those Interested Participants have been asked to vote on the scope or standard (as applicable) of that capital expenditure project, or the development of that Reference Tariff variation, including a working paper the requirements for which are referred to in **clauses 8.10.6(d) to (f)** (as applicable). For clarity, a working paper may relate to more than one capital expenditure project.
- (d) A working paper relating to a capital expenditure project's proposed scope as developed in the Feasibility Study will set out the following information in relation to that capital expenditure project:
  - (i) information on the following:
    - (A) the reason for the project including relevant capacity planning information;
    - (B) the project's scope and general standard of works;
    - (C) the additional capacity expected to be delivered by the project;
    - (D) the project's preliminary cost;

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<sup>2</sup> Intellectual property includes any intellectual and industrial property rights conferred or recognised by any law anywhere throughout the world, including rights in relation to copyright, trade marks, trade secrets and patent rights (including the right to apply for registration of any such rights) and know-how that is confidential.

- (E) the potential impact of project construction on Existing Capacity;
  - (F) the relevant System Operating Assumptions;
  - (G) the aggregated contracted Train Paths for Train Services on the relevant Rail Infrastructure; and
  - (H) rationale for the choice of scope for the project with reference to the Pre-feasibility Study and the Network Development Plan (where relevant); and
- (ii) where the project's scope has materially varied since a vote of Interested Participants accepting the scope:
- (A) the scope variations and the reasons for them; and
  - (B) the relevant changes in the working paper compared to the working paper made available to Interested Participants for the previous vote.
- (e) A working paper relating to a capital expenditure project's standard will set out the information referred to in **clause 8.10.6(d)(i)** plus information in relation to that capital expenditure project:
- (i) demonstrating that the proposed standard is reasonable based on the project's scope;
  - (ii) regarding its consistency with:
    - (A) the standard of existing or adjacent infrastructure with similar usage levels, or its modern engineering equivalent;
    - (B) Aurizon Network's and established Australian design, engineering, safety and construction standards for similar purpose assets and meeting all relevant legislative requirements; and
    - (C) relevant codes of practice; and
  - (iii) regarding any relevant substitution possibilities between capital and operating expenditure.
- (f) A working paper relating to the cost allocation principles for a proposed Reference Tariff variation under **clause 6.2.4(a)(iv)(A)** will set out the following information:
- (i) an indicative estimate of the System Allowable Revenue associated with the relevant capital expenditure project;
  - (ii) the indicative impact on an existing relevant Reference Tariff from including the value of the relevant assets in the Regulated Asset Base;

- (iii) an indicative estimate of the economic benefits (including avoidable costs) to existing Access Holders arising from the relevant capital expenditure project; and
  - (iv) Aurizon Network's proposed cost allocation principles for the Expansion or Customer Specific Branch Line (as applicable), including the relevant Distance Discount.
- (g) If Aurizon Network is seeking a vote of Interested Participants on more than one aspect of the same capital expenditure project, then Aurizon Network may issue a single working paper that satisfies the requirements of each of **clauses 8.10.6(d) to (f)** (as applicable).

### **8.10.7 Compliance**

- (a) Any person who is an Interested Participant, or is entitled to be an Interested Participant, in respect of a proposed vote to be conducted under this **clause 8.10** who has any concerns about Aurizon Network's compliance with this **clause 8.10** in respect of the proposed vote may notify Aurizon Network of those concerns in writing including providing reasons or other information in support of those concerns prior to the end of the Voting Period.
- (b) Aurizon Network may take whatever action is reasonably required to address any concerns notified to it under **clause 8.10.7(a)** to achieve substantial compliance with this **clause 8.10**. Aurizon Network is not obliged to repeat a vote process where a valid concern is raised:
  - (i) if remedying the concern would not be expected to change the outcome of the vote; or
  - (ii) if it can remedy the concern in a way that achieves substantial compliance.<sup>3</sup>
- (c) An audit of Aurizon Network's compliance this **clause 8.10** in relation to a vote will be procured by Aurizon Network:
  - (i) prior to Aurizon Network relying on that vote for the purposes of the QCA's acceptance of prudence of scope or standard of capital expenditure project; and
  - (ii) subject to **clauses 8.10.7(d) to (f)**, in accordance with **clauses 10.8(a) to (d)** and **10.8(g) to (j)**.
- (d) Where an audit is required under **clause 8.10.7(c)**:
  - (i) Aurizon Network must provide to the auditor copies of all concerns notified to it under **clause 8.10.7(a)** in relation to the relevant vote for the purpose of the audit certificate's preparation; and

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<sup>3</sup> For example, if a person notifies Aurizon Network that it should be Interested Participant but the Voting Period has already commenced, then one remedy might be for Aurizon Network to provide all of the relevant notices, information and other material already provided to the other Interested Participants to that person and allow that person an extension of the Voting Period so that person can participate in the vote.



- (ii) the auditor will compile an audit report identifying:
  - (A) whether Aurizon Network has complied in all material respects with this **clause 8.10** and, if not, details as to the relevant non-compliance; and
  - (B) the process adopted for the conduct of the audit.
- (e) If, in preparing an audit certificate, the auditor identifies flaws in the calculation of the Access Train Paths, then:
  - (i) Aurizon Network may recalculate the Access Train Paths and recount the votes in a manner consistent with the auditor's findings;
  - (ii) the auditor will take that recalculation and recount into account in preparing the audit certificate; and
  - (iii) to the extent that the Aurizon Network has already notified Interested Participants of the outcome of the vote, Aurizon Network will notify the Interested Participants as soon as reasonably practical of the recounted vote.
- (f) If:
  - (i) in preparing an audit certificate, the auditor identifies a flaw in a vote of Interested Participants under this **clause 8.10**; and
  - (ii) either:
    - (A) Aurizon Network cannot remedy the flaw in a way that achieves substantial compliance with this **clause 8.10**; or
    - (B) the flaw would be expected to change the outcome of the vote,

then Aurizon Network may, but is not obliged to, redo the voting process.

## Part 9: Connecting Private Infrastructure

### 9.1 Connecting Infrastructure

If an Access Seeker proposes to construct and own Private Infrastructure which will connect to the Rail Infrastructure to allow the Access Seeker's Train Services to enter or exit from the Rail Infrastructure, then:

- (a) Aurizon Network will consent to such a connection where:
  - (i) unless otherwise agreed with the Access Seeker, Aurizon Network designs, constructs, project manages and commissions the Connecting Infrastructure;
  - (ii) the Connecting Infrastructure satisfies the minimum technical engineering and safety standards required by Aurizon Network for connection to the Rail Infrastructure;
  - (iii) the Connecting Infrastructure's construction is to a standard appropriate to the nature of the traffic and the current service standards of the adjoining Rail Infrastructure (including any planned or anticipated Expansion);
  - (iv) there is no adverse impact on safety;
  - (v) the Connecting Infrastructure will not, by virtue of its existence, reduce Capacity or supply chain capacity;
  - (vi) subject to **clause 9.1(b)**, the Access Seeker pays to Aurizon Network:
    - (A) Aurizon Network's costs associated with the design, construction, project management, commissioning, and where applicable, operation, maintenance and renewal of the Connection Infrastructure and, if necessary, decommissioning the Connecting Infrastructure; and
    - (B) all other reasonable costs incurred by Aurizon Network in connection with the Connecting Infrastructure;
  - (vii) the Connecting Infrastructure is owned by Aurizon Network or, where Aurizon Network holds the Rail Infrastructure of which that Connecting Infrastructure will form a part under a lease, is included under that lease as part of the leased infrastructure; and
  - (viii) Aurizon Network and the Access Seeker have entered into a Rail Connection Agreement which, unless otherwise agreed by Aurizon Network and the Access Seeker, must be consistent with the Standard Rail Connection Agreement,

but neither the Private Infrastructure nor any Connecting Infrastructure is required to be of a standard or to be of any condition which exceeds the standards and condition of any relevant Rail Infrastructure (including any planned or anticipated Expansion); and

- (b) to the extent that Aurizon Network's costs of operating, maintaining and renewing the Connecting Infrastructure are included in the cost build up for Reference Tariffs or are otherwise included in Access Charges for Train Services that enter or exit the Rail Infrastructure via the Connecting Infrastructure, then the costs payable to Aurizon Network under **clause 9.1(a)(vi)** will not include those amounts.

## Part 10: Reporting

### 10.1 Annual Reports

#### 10.1.1 *Annual financial report*

- (a) Aurizon Network will produce financial statements for Aurizon Network in accordance with the Costing Manual.
- (b) The financial statements referred to in **clause 10.1.1(a)** shall be certified as accurate by Aurizon Network's Executive Officer.
- (c) Within six months after the end of each Year in the Term, or such longer time as agreed by the QCA, Aurizon Network will publish on the Website the financial statements relating to the relevant Year which have been prepared and certified under **clause 10.1.1(b)**.

#### 10.1.2 *Annual compliance report*

- (a) Within four months of the end of each Year in the Term, or such longer time as agreed by the QCA, Aurizon Network will publish on the Website an annual compliance report in relation to the subject Year containing the information set out in **clauses 10.1.2(d)** and **(e)** and which will be accompanied by an audit report prepared in accordance with **clause 10.7** in respect of Aurizon Network's compliance with its obligations under this **clause 10.1.2**.
- (b) Where an annual compliance report has been published under **clause 10.1.2(a)** and Aurizon Network has actual knowledge of a material error in the annual compliance report, Aurizon Network will, as soon as practicable but no later than six months after acquiring knowledge of the material error, publish on the Website either, at Aurizon Network's discretion, an erratum or a corrected annual compliance report identifying the material errors. An error will be a material error where:
  - (i) if the error is a numerical error, the number reported deviates from the correct number by an amount of more than 2%; or
  - (ii) otherwise, Aurizon Network or the QCA considers the error to be material.

In addition, Aurizon Network shall notify the QCA of any errors that Aurizon Network has actual knowledge of in the annual compliance report unless the QCA has otherwise been notified or is aware of the error.

- (c) Aurizon Network will, in conjunction with publication on the Website of an annual compliance report in accordance with **clause 10.1.2(a)**, provide to the QCA a supplementary report that presents the information included in the public annual compliance report for each of the following classes of Access Holders:
- (i) Third Party Access Holders (on an aggregated basis); and
  - (ii) Aurizon Party Access Holders (on an aggregated basis).
- (d) Information in relation to Aurizon Network's compliance with this Undertaking over the subject Year as follows:
- (i) the number and percentage of Access Applications acknowledged in accordance with this Undertaking and within the applicable timeframe nominated in **clauses 4.3(c)** and **4.4(a)**;
  - (ii) for those Access Applications received in accordance with this Undertaking and that have not been acknowledged within the applicable timeframe nominated in **clauses 4.3(c)** and **4.4(a)** the average delay (in days) taken to acknowledge the Access Applications;
  - (iii) the number of requests for Capacity Information and percentage acknowledged in accordance with the applicable timeframe nominated in **clause 4.2(c)**.
  - (iv) the number and percentage of Indicative Access Proposals provided in accordance with this Undertaking within the applicable timeframe nominated in **clause 4.5(d)**;
  - (v) the number and percentage of Indicative Access Proposals provided in accordance with this Undertaking within the applicable timeframe nominated in **clause 8.5(i)**;
  - (vi) the number and percentage of Access Applications received in accordance with this Undertaking for which the time for the provision of an Indicative Access Proposal was extended in accordance with either **clause 4.5(d)** or **4.5(g)(ii)**;
  - (vii) for those Indicative Access Proposals provided in accordance with this Undertaking but that have not been provided within the applicable timeframe nominated in **clauses 4.5(d)** and **4.5(g)(ii)**, the average delay (in days) taken to provide the Indicative Access Proposals;
  - (viii) the number of instances where a non-ringfencing related issue has been referred to Dispute resolution in accordance with the process set out in **clause 11.1**;
  - (ix) the number of instances where a non-ringfencing related issue has been referred to Dispute resolution in accordance

with the process set out in **clause 11.1** and Aurizon Network was found to have committed a breach of this Undertaking;

- (x) the number of instances where Aurizon Network has received a written complaint from a Third Party that it has allegedly breached one or more of its obligations in **Part 3**.
- (xi) the number of instances where Aurizon Network has received a written complaint from a Third Party that it has allegedly breached one or more of its obligations in **Part 3** and Aurizon Network was found to have committed a breach of those ringfencing obligations;
- (xii) the number of instances where an Access Holder has made a written complaint to Aurizon Network about an incorrectly calculated bill, and where Aurizon Network's investigation into the complaint identifies that the bill was materially incorrectly calculated;
- (xiii) in respect of written complaints that Aurizon Network has made a decision in breach of Aurizon Network's traffic management decision making matrix contained in **clause 9 of schedule H** (for each of Third Party Access Holders collectively and Related Operators as Access Holders collectively):
  - (A) the number of complaints received by Aurizon Network;
  - (B) of the complaints received by Aurizon Network, the number which are currently being assessed by Aurizon Network; and
  - (C) of the complaints received by Aurizon Network, the number which, after being assessed by Aurizon Network, were verified as breaches; and
- (xiv) in respect of written complaints that Aurizon Network has made a decision in breach of Aurizon Network's Contested Train Path decision making process contained in **clause 8 of schedule H** (for each of Third Party Access Holders collectively and Related Operators as Access Holders collectively):
  - (A) the number of complaints received by Aurizon Network;
  - (B) of the complaints received by Aurizon Network, the number which are currently being assessed by Aurizon Network; and

- (C) of the complaints received by Aurizon Network, the number which, after being assessed by Aurizon Network, were verified as breaches.
- (e) Information in relation to the outcome of Aurizon Network's negotiations with Access Seekers over the subject Year as follows:
  - (i) the average length of the Negotiation Period (in days), where the Negotiation Period has commenced in accordance with this Undertaking and has ceased as the result of the execution of an Access Agreement, or variation to an existing Access Agreement, in respect of the Access sought by the Access Seeker;
  - (ii) the average length of the Negotiation Period (in days), where the Negotiation Period has commenced in accordance with this Undertaking and has ceased as the result of any reason other than the execution of an Access Agreement, or variation to an existing Access Agreement, in respect of the Access sought by the Access Seeker; and
  - (iii) the number of instances where a Negotiation Period commenced in accordance with this Undertaking has ceased as the result of the execution of an Access Agreement, or variation to an existing Access Agreement, in respect of the Access sought by the Access Seeker,

with such information to be reported separately for Train Operations Agreements, End User Access Agreements and other Access Agreements.

### **10.1.3 Annual maintenance cost report**

- (a) Within four months after the end of each Year in the Term, or such longer time as agreed by the QCA, Aurizon Network will publish on the Website a maintenance cost report for the relevant Year containing the information set out in **clause 10.1.3(b)** for the geographic areas specified in **clause 10.1.3(c)**.
- (b) Aurizon Network will, in the maintenance cost report required by clause **10.1.3(a)**:
  - (i) report its:
    - (A) actual maintenance costs in the subject Year compared to the forecast maintenance costs accepted by the QCA for the purpose of determining Reference Tariffs, and provide an explanation of significant variations between actual and forecast maintenance costs; and
    - (B) actual scope of maintenance compared to the forecast scope of maintenance accepted by the

QCA for the purpose of determining Reference Tariffs, for the following maintenance activities:

- (1) ballast undercutting;
- (2) rail grinding (for mainline);
- (3) rail grinding (for turnouts);
- (4) resurfacing (for mainline); and
- (5) ultrasonic track testing,

and provide an explanation of significant variations between actual and forecast scope of maintenance; and

- (ii) report the actual MCI and the forecast MCI accepted by the QCA for the purposes of determining Reference Tariffs for the subject year (including the indices, if any, comprised in the MCI) and provide an explanation of how any significance differences have or will impact on Aurizon Network's maintenance costs.
- (c) The actual and forecast maintenance costs will be separately reported for each Coal System, unless otherwise agreed by Aurizon Network and the QCA, provided that the Goonyella to Abbot Point System will not be reported on an independent basis separately from the other Coal Systems and the Goonyella Newlands Connection will be treated as though it was part of the Newlands System. The actual and forecast scope of maintenance will be reported for the Coal Systems in aggregate.
- (d) Where a report has been published under **clause 10.1.3(a)** and Aurizon Network has actual knowledge of a material error in the report, Aurizon Network will, as soon as practicable but no later than six months after acquiring knowledge of the material error, publish on the Website either, at Aurizon Network's discretion, an erratum or a corrected report identifying the material errors. An error will be a material error where:
  - (i) if the error is a numerical error, the number reported deviates from the correct number by an amount of more than 2%; or
  - (ii) otherwise, Aurizon Network or the QCA considers the error to be material.

In addition, Aurizon Network shall notify the QCA of any errors that Aurizon Network has actual knowledge of in the report unless the QCA has otherwise been notified or is aware of the error.

#### **10.1.4 Annual maintenance cost report to the QCA**

- (a) Within four months after the end of each Year in the Term, unless otherwise agreed between Aurizon Network and the QCA, Aurizon



Network will provide the QCA with a maintenance cost report for the relevant Year in the format agreed between Aurizon Network and the QCA. The format may be varied from time to time by agreement between Aurizon Network and the QCA or, failing agreement, as required by the QCA.

- (b) The maintenance cost report will be certified as accurate by Aurizon Network's Executive Officer.
- (c) The maintenance cost report will report Aurizon Network actual maintenance costs compared to the forecast maintenance cost accepted by the QCA for the purpose of determining Reference Tariffs and will include:
  - (i) a detailed description of its actual maintenance cost and scope of maintenance for mechanised maintenance separately for each Coal System and for the Coal Systems in aggregate; and
  - (ii) a detailed description of its actual maintenance costs, separately for each Coal System, for:
    - (A) general track maintenance;
    - (B) structures and facilities maintenance;
    - (C) trackside systems maintenance;
    - (D) electrical overhead maintenance; and
    - (E) telecommunication maintenance; and
  - (iii) an explanation of significant variations between the actual and forecast maintenance costs,

provided that the Goonyella to Abbot Point System will not be reported on an independent basis separately from the other Coal Systems and the Goonyella Newlands Connection will be treated as though it was part of the Newlands System.

#### **10.1.5 Annual operational data report**

- (a) Unless otherwise agreed between Aurizon Network and the QCA, Aurizon Network will, within four months after the end of each Year in the Term (but not prior to the Ultimate Holding Company giving to ASX Limited under ASX Limited's Listing Rules a copy of the reports, referred to in section 314(1) of the Corporations Act, that are to be, or have been, provided to the Ultimate Holding Company's security holders), publish on the Website a report in relation to the relevant Year, containing the following information:

- (i) information on the number and reliability of Train Services that operated in the relevant Year, as follows:
  - (A) the number and percentage of Train Services that reached their destination within the Allotted Time Threshold;
  - (B) the number and percentage of Train Services that did not reach their destination within the Allotted Time Threshold:
    - (1) due solely to the acts or omissions of Aurizon Network;
    - (2) due solely to delays attributed to an Access Holder; and
    - (3) that are not Train Services of the types identified in either **paragraph (1)** or **(2)**; and
  - (C) the total number of Train Services;
- (ii) information on the average transit times of Train Services that operated in the relevant Year, as follows:
  - (A) the average Above Rail Delay;
  - (B) the average Below Rail Delay; and
  - (C) the average Unallocated Delay,in minutes per 100 train kilometres, for all Train Services;
- (iii) information on the availability of the network for Train Services in the relevant Year, as follows:
  - (A) number and percentage of Train Services scheduled in the ITP cancelled due to a reason that can be attributed directly to Aurizon Network as Railway Manager;
  - (B) number and percentage of Train Services scheduled in the ITP cancelled due to a reason that can be attributed directly to an Access Holder (which would include cancellations attributable to its Nominated Railway Operator); and
  - (C) number and percentage of Train Services scheduled in the ITP cancelled due to a reason that cannot be clearly assigned as directly attributable to an Access Holder or to Aurizon Network as Railway Manager;

- (iv) information for each Coal System on network service quality, as follows:
    - (A) speed restrictions in the relevant Year, being the average percentage and the average number of kilometres of Track under temporary speed restrictions; and
    - (B) the most recent measure of Track quality for the network measured by a quality index with component measures including gauge, top, twist and versine;
  - (v) information for each Coal System on coal carrying Train Services that have operated in the relevant Year, being:
    - (A) the aggregate gtk;
    - (B) the aggregate nt;
    - (C) the aggregate ntk;
    - (D) the aggregate egtk;
    - (E) the average actual Below Rail Transit Time Percentage (including the methodology for calculating the amount);
    - (F) the aggregate Train Paths used by the relevant Train Services;
    - (G) the aggregate Train Paths contracted for relevant Train Services in accordance with the relevant Train Service Entitlements; and
    - (H) the aggregate number of Train Paths available for coal carrying Train Services; and
  - (vi) **subject to clause 10.1.5(c)**, information for each Coal System for the relevant Year in respect of:
    - (A) the aggregate number of Train Paths scheduled;
    - (B) the aggregate number of Train Paths used for planned maintenance;
    - (C) the aggregate number of Train Paths used for unplanned maintenance; and
    - (D) the percentage of Train Paths available but not used.
- (b) Subject to clause **10.1.5(c)**, for the purposes of clauses **10.1.5(a)(i)** to **(iii)**, the Train Services will be aggregated as follows, Train Services operated for the purpose of:
- (i) transporting coal within each Coal System;

- (ii) transporting freight products, and bulk minerals (other than coal); and
- (iii) providing long distance passenger transport.
- (c) Other than for clause **10.1.5(a)(v)**, the Goonyella to Abbot Point System is not subject to the reporting requirements in this clause **10.1.5**. For the purposes of reporting under clauses **10.1.5(a)(i)** to **(a)(iv)** inclusive and **10.1.5(a)(vi)**, the Goonyella Newlands Connection is part of the Newlands System.
- (d) Aurizon Network will use reasonable endeavours to ensure that the information contained in a report under this **clause 10.1.5** is accurate.
- (e) A report published under **clause 10.1.5(a)** will include a comparative presentation against the aggregate, published information, for the four quarters of the preceding Year provided that for the report in respect of the first Year during the Term, the information for the preceding Year shall be that published for that preceding Year under the 2010 Undertaking.
- (f) Where a report has been published under **clause 10.1.5(a)** and Aurizon Network has actual knowledge of a material error in that report, Aurizon Network will, as soon as practicable but no later than six months after acquiring knowledge of the material error, publish on the Website either, at Aurizon Network's discretion, an erratum or a corrected report identifying the material errors. An error will be a material error where:
  - (i) if the error is a numerical error, the number reported deviates from the correct number by an amount of more than 2%; or
  - (ii) otherwise, Aurizon Network or the QCA considers the error to be material.
- (g) Aurizon Network will, in conjunction with its public release of a report under this **clause 10.1.5**, provide to the QCA a supplementary report that presents the information included in the published report (except for information referred to in **clause 10.1.5(a)(iv)**) for each Railway Operator. If a supplementary report relates to a Railway Operator, Aurizon Network will provide to that Railway Operator those parts of that supplementary report that relate to that Railway Operator.

#### **10.1.6 Annual Regulatory Asset Base roll-forward report**

- (a) To the extent that the capital expenditure in the report under **clause 1.4** of **schedule E** has been accepted as prudent in cost, Aurizon Network will, within one month after that, publish on the Website a report of changes to the Regulatory Asset Base for the relevant Year, containing the information set out in **clause 10.1.6(b)** for each Coal System.

- (b) Aurizon Network will, in the Regulatory Asset Base roll-forward report include details of:
- (i) the opening value of the Regulatory Asset Base for the relevant Year;
  - (ii) indexation of the Regulatory Asset Base;
  - (iii) depreciation of the Regulatory Asset Base;
  - (iv) capital expenditure that is included in the Regulatory Asset Base, separately identifying individual projects with a value in excess of \$10 million;
  - (v) disposals and transfers from the Regulatory Asset Base;
  - (vi) the closing value of the Regulatory Asset Base for the relevant Year; and
  - (vii) for comparative purposes, the value of the Capital Indicator for the subject Year,
- separately reported for each Coal System.

## 10.2 Breach reports to the QCA

- (a) Subject to **clause 10.2(d)**, Aurizon Network will report to the QCA any breaches of this Undertaking of which Aurizon Network is aware, including advising the QCA of the nature of the breach and the remedial action proposed or taken by Aurizon Network in respect of the breach, at the following times:
- (i) within 10 Business Days after the end of each calendar month, in relation to any breaches of obligations with respect to timeframes that occurred within that calendar month; and
  - (ii) in relation to other breaches, as soon as Aurizon Network becomes aware of the breach.
- (b) There is no obligation on Aurizon Network to make the report in **clause 10.2(a)** where, if that information was sought from Aurizon Network by the QCA under section 105, 126 or 150AA of the Act, Aurizon Network could lawfully refuse to provide it to the QCA.
- (c) If Aurizon Network is obliged to report a breach to the QCA in accordance with this **clause 10.2** and that breach directly and adversely affects the interests of an Access Seeker, Access Holder or, if applicable, a Train Operator, then Aurizon Network will also provide the information reported to the QCA in respect of that breach to the relevant Access Seeker, Access Holder or Train Operator.
- (d) Where Aurizon Network does not report a breach or a remedial action proposed or taken by Aurizon Network to the QCA on the basis of the exception in this **clause 10.2**, Aurizon Network must notify the QCA of this and Aurizon Network or the QCA may apply to the Supreme

Court of Queensland for a determination of whether that exception applies.

### **10.3 Information requested by the QCA**

#### **10.3.1 Disclosure of Access Agreements**

- (a) Upon request by the QCA, Aurizon Network will provide to the QCA details of the Below Rail aspects of a specified, signed Access Agreement (including details of Access Charges) to allow the QCA to satisfy itself that the Below Rail aspects of the Access Agreement do not offend against the provisions of this Undertaking or the Act.
- (b) In the absence of the prior written consent of Aurizon Network and the relevant Access Holder, the QCA will not publish or otherwise disclose any aspect of an Access Agreement provided to it pursuant to this **clause 10.3.1** or otherwise.
- (c) For the purposes of **clause 10.3.1(a)**, the Below Rail aspects of Access Agreements will not include:
  - (i) the insurance provisions;
  - (ii) the contact details included in the Interface Coordination Plan;
  - (iii) the Rollingstock and Rollingstock Configuration performance characteristics;
  - (iv) the IRMP;
  - (v) any environmental management plan or EIRMR; and
  - (vi) Operating Plan provisions.

#### **10.3.2 QCA requested information**

- (a) The QCA may, by written notice, request that Aurizon Network provide to the QCA information or a document that the QCA reasonably requires for the purpose of:
  - (i) performing its obligations or functions pursuant to this Undertaking; or
  - (ii) determining whether it should exercise powers in this Undertaking.

The notice must include a description of the information or document required, the purpose for which it is required, and the day by which it is required, provided that the day stated in the notice must be reasonable.

- (b) Aurizon Network will comply with a request by the QCA under **clause 10.3.2(a)** by the day stated in the notice unless Aurizon Network has a reasonable excuse for noncompliance.
- (c) Except for documents that are to be made public in accordance with the terms of this Undertaking, nothing in this **clause 10.3** permits the

QCA to disclose any information (including the contents of a document) provided to it following a request under **clause 10.3.2(a)**.

#### **10.4 Compliance**

- (a) The Compliance Officer is to be responsible for using best efforts to undertake the following activities:
  - (i) notifying Aurizon Network's Executive Officer:
    - (A) as soon as possible of any material breach of the Undertaking by Aurizon Network and advising of any remedial action proposed or taken by Aurizon Network in respect of the breach; and
    - (B) in respect of other breaches and the remedial action proposed or taken by Aurizon Network in respect of those breaches, on a monthly basis; and
  - (ii) taking all steps necessary to ensure that Aurizon Network is able to meet its obligations under **clauses 10.1 and 10.3 and Part 3**.

#### **10.5 Certifications required from Aurizon Network's Executive Officer**

- (a) All certifications provided by Aurizon Network's Executive Officer in accordance with the requirements of this Undertaking, including the requirements for the provision of certifications of accuracy required in respect of financial statements and cost reports under this **Part 10**, are provided subject to **clause 10.5(b)**.
- (b) If in providing a certification required by this Undertaking Aurizon Network's Executive Officer relies on information or professional or expert advice, given or prepared by:
  - (i) an employee of, contractor to, or secondee working in the business of, Aurizon Network whom Aurizon Network's Executive Officer believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
  - (ii) a professional adviser or expert in relation to matters that Aurizon Network's Executive Officer believes on reasonable grounds to be within the person's professional or expert competence;
  - (iii) another director or officer of Aurizon Network in relation to matters within the director's or officer's authority; or
  - (iv) a committee of directors on which Aurizon Network's Executive Officer did not serve in relation to matters within the committee's authority; and
    - (A) the reliance was made:
      - (1) in good faith; and

(2) after making an independent assessment of the information or advice, having regard to Aurizon Network's Executive Officer's knowledge of Aurizon Network and the complexity of the structure and operations of Aurizon Network; and

(B) the reasonableness of Aurizon Network's Executive Officer's reliance on the information or advice arises in legal proceedings or an arbitration to determine whether Aurizon Network's Executive Officer has performed with due care and diligence in providing the certification,

Aurizon Network's Executive Officer's reliance on the information or advice is taken to be reasonable unless the contrary is proved.

## **10.6 Report auditing**

- (a) An audit of Aurizon Network's compliance with all or a part of its reporting obligations under this **Part 10** will be conducted if required in writing by the QCA:
- (i) no more than once each year; and
  - (ii) subject to this **clause 10.6**, in accordance with **clause 10.8**.
- (b) The Auditor will compile an audit report identifying:
- (i) whether Aurizon Network has complied in all material respects with its reporting obligations under this **Part 10** and, if not, details as to the relevant non-compliance; and
  - (ii) the process adopted for the conduct of the audit.
- (c) If the QCA requires an audit of Aurizon Network's compliance with all or a part of its obligations under this **Part 10** in relation to a relevant report, then the date by which that report must be provided to the QCA or published will be extended by 20 Business Days.

## **10.7 Compliance audit requested by the QCA**

- (a) Despite any other provisions of this Undertaking that require the conduct of an audit, the QCA may request Aurizon Network to undertake an audit, in accordance with **clause 10.8**, in relation to whether any specific conduct or decisions of Aurizon Network comply with this Undertaking provided that the QCA has:
- (i) reasonable grounds to believe that such an audit is necessary; and
  - (ii) has given Aurizon Network written notice of those grounds and why it believes such an audit is necessary.



- (b) If the QCA, in accordance with **clause 10.7(a)**, has requested Aurizon Network to undertake an audit, then the audit will be conducted in accordance with **clause 10.8**.
- (c) The Auditor will compile an audit report identifying:
  - (i) whether Aurizon Network has complied in all material respects with its obligations which were the subject of the requested audit and if not, details as to the relevant non-compliance; and
  - (ii) the process adopted for the conduct of the audit.
- (d) Costs incurred by Aurizon Network in complying with this **clause 10.7** will be incorporated in the Adjusted System Allowable Revenue in accordance with **clause 4.3 of schedule F**.

## **10.8 Audit Process**

An audit required under **clause 3.22, 10.6 or 10.7 or clause 6.2 of schedule E** must be conducted in accordance with the following process:

- (a) Aurizon Network will annually appoint an Auditor who will be available to conduct audits required in accordance with this Undertaking;
- (b) the Auditor must:
  - (i) not be an employee of Aurizon Network or another Aurizon Party;
  - (ii) be appropriately qualified and experienced; and
  - (iii) be subject to professional standards of ethics and independence;
- (c) the Auditor will have a duty of care to the QCA in the provision of the audit and, in the event of a conflict between the Auditor's obligations to Aurizon Network and its duty of care to the QCA, the Auditor's duty of care to the QCA will take precedence;
- (d) the Auditor for a financial matter may be different from the Auditor for another matter;
- (e) prior to commencing the audit the Auditor must agree an audit plan with Aurizon Network, document that audit plan, and obtain the QCA's approval of the audit plan;
- (f) the audit plan will:
  - (i) consist of a proposed work program for the execution of the audit, including audit costs (which shall be payable by Aurizon Network);
  - (ii) where necessary, contain any procedural controls necessary to ensure the independence of the auditor; and
  - (iii) provide for the establishment of an audit liaison group, comprising the Auditor, Aurizon Network and the QCA,

during the course of the audit, to provide a forum for the resolution of any audit issues that arise;

- (g) Aurizon Network will provide:
  - (i) any relevant information the Auditor reasonably requires for the purpose of conducting the audit, within a nominated timeframe that is determined by the Auditor to be reasonable after consultation with Aurizon Network; and
  - (ii) if an audit is required of the financial statements referred to in **clause 10.1.1**, access to Aurizon Network's financial records and information systems necessary for the purpose of conducting the audit;
- (h) the Auditor may be required to enter into a confidentiality deed with Aurizon Network in relation to any information provided by Aurizon Network, to the effect that it must keep the information confidential and only use that information for the purpose of conducting the audit and completing the audit report;
- (i) the Auditor will provide to Aurizon Network and the QCA a copy of:
  - (i) the audit report (which the QCA may publish); and
  - (ii) any letter or report from the Auditor accompanying the audit report which explains the audit findings in greater detail (which the QCA must not publish); and
- (j) Aurizon Network must use reasonable endeavours to implement any recommendations made by the auditor in the audit report or any other letters or reports provided undertaking **clause 10.8(i)** (except to the extent the non-implementation is approved by the QCA) as soon as reasonably practicable after the documents are provided by the Auditor.

## Part 11: Dispute Resolution and Decision Making

### 11.1 Dispute Resolution

#### 11.1.1 Disputes

- (a) Any dispute (**Dispute**) arising:
- (i) as between an Access Seeker and Aurizon Network in relation to the negotiation or grant of Access;
  - (ii) between a Train Operator and Aurizon Network, the negotiation of a Train Operations Agreement; or
  - (iii) in respect of any matters expressly required by this Undertaking to be resolved in accordance with this **Part 11**,
- shall be resolved in accordance with this **Part 11** and any party to the Dispute may give to the other party or parties a Dispute Notice.
- (b) Unless otherwise agreed by the parties in writing, Disputes in connection with an Access Agreement or a Train Operations Agreement shall be dealt with in accordance with the provisions of that Access Agreement or the Train Operations Agreement, as applicable, and are not to be dealt with under this Undertaking (even if the Dispute relates to provisions included in that Access Agreement or Train Operations Agreement that are similar to, required by, or inconsistent with this Undertaking).
- (c) For the purposes of this **clause 11.1**, where
- (i) a Dispute involves an Access Seeker who proposes to be an End User; or
  - (ii) a Dispute involves a Train Operator,
- then:
- (iii) Aurizon Network must provide the relevant Train Operator(s) (where paragraph (i) applies) or the relevant End User (where paragraph (ii) applies) with:
    - (A) a copy of the Dispute Notice and any subsequent notices or correspondence given by Aurizon Network to the Access Seeker or Train Operator, as applicable, in connection with the Dispute; and
    - (B) a reasonable opportunity to participate in any discussions between the parties under **clause 11.1.2**; and
  - (iv) any such Train Operator or End User may elect, by giving written notice to Aurizon Network and the other parties to the Dispute within 5 Business Days after receiving the Dispute

Notice under **clause 11.1.1(c)(iii)(A)**, to become a party to the Dispute for the purposes of **clauses 11.1.2 to 11.1.6**.

### **11.1.2 Chief executive resolution and mediation**

Unless otherwise agreed by both parties in writing:

- (a) Subject to **clause 11.1.2(c)**, any Dispute shall, within 5 Business Days of the receipt of a Dispute Notice, be referred in the first instance to each party's chief executive (or his or her nominee) for resolution.
- (b) Subject to **clause 11.1.2(c)**, if the Dispute is not resolved within 10 Business Days after the referral under **clause 11.1.2(a)**, the relevant Dispute may be referred by either party to mediation administered by the Australian Commercial Disputes Centre (**ACDC**) in accordance with ACDC's guidelines for mediation. The costs charged by ACDC for the mediation shall be borne equally by the parties and each party shall bear its own costs of preparing for and attending the mediation.
- (c) Where this Undertaking requires a Dispute to be determined by expert determination, the Dispute will be referred directly to expert determination without the Dispute first being referred to the chief executives under **clause 11.1.2(a)** or to mediation under **clause 11.1.2(b)**.

### **11.1.3 Mediation**

- (a) Referral of a Dispute to the ACDC for mediation (or any other entity by agreement) shall qualify as an attempt to have the Dispute resolved by mediation for the purposes of the Act.
- (b) Where mediation resolves the Dispute, the resolution must be documented in writing and signed by the parties to the Dispute. The mediator must provide a copy of the agreement by which the Dispute was resolved to the QCA. If the mediator fails to do so, Aurizon Network must provide a copy of the agreement to the QCA.
- (c) If:
  - (i) neither party refers the matter to mediation within 10 Business Days of the failure to resolve the Dispute through negotiation as contemplated by **clause 11.1.2(a)**; or
  - (ii) mediation fails to resolve the Dispute within four months of referral to mediation under **clause 11.1.2(b)**,
    - (A) where this Undertaking prescribes that the subject matter of the Dispute be resolved by expert determination, the parties will refer the Dispute to an expert for determination in accordance with **clause 11.1.4**; and
    - (B) in other cases, the parties may agree to refer the Dispute for resolution by an expert in accordance

with **clause 11.1.4**. Failing such agreement, either party or, (where applicable) the mediator, may refer the Dispute to the QCA for a determination of the Dispute in accordance with **clause 11.1.5**.

#### **11.1.4 Expert Determination**

- (a) Where a provision of this Undertaking requires a matter to be referred to an expert for determination or where the parties to a Dispute agree to refer a matter to an expert for determination, the Dispute must be referred to the expert for determination in accordance with this **clause 11.1.4**.
- (b) Where a Dispute is referred to an expert:
  - (i) the expert shall be appointed by agreement between the parties, or in default of such appointment, the expert appointed is to be the person nominated by:
    - (A) if the parties agree that the Dispute is of a financial nature, the President (for the time being) of CPA Australia;
    - (B) if the parties agree that the Dispute is of a non-financial nature, the chief executive (for the time being) of the Institute of Arbitrators and Mediators (IAMA); or
    - (C) in any other case, the President (for the time being) of the Queensland Law Society Incorporated;
  - (ii) either party to the Dispute may engage with the relevant nominating party under **clause 11.1.4(a)** to initiate the nomination process; and
  - (iii) the expert shall:
    - (A) have appropriate qualifications and practical experience having regard to the nature of the Dispute;
    - (B) have no interest or duty which conflicts or may conflict with his or her function as expert, he or she being required to fully disclose any such interest or duty by written notice to the parties before his or her appointment;
    - (C) not be an employee of the parties or of a Related Party of any of them;
    - (D) not be permitted to act until he or she has given written notice to each party that he or she is willing and able to accept the appointment;

- (E) have regard to the provisions of this Undertaking and consider all submissions (including oral submissions by each party provided that such oral submissions are made in the presence of the parties to the Dispute), supporting documentation, information and data with respect to the matter submitted by the parties;
  - (F) not make a determination in relation to a Dispute that is inconsistent with this Undertaking;
  - (G) provide to the parties a copy of his or her determination in relation to the Dispute in the form of a report within a reasonable time after his or her appointment;
  - (H) be required to undertake to keep confidential all matters coming to his or her knowledge by reason of this appointment and performance of his or her duties; and
  - (I) be deemed to be and shall act as an expert and not an arbitrator and the law relating to arbitration (including the *Commercial Arbitration Act 1990* (Qld)), shall not apply to him or her or to the determination or the procedures by which he or she may reach a determination.
- (c) The parties shall, upon request by the expert, provide or make available to the expert, as soon as reasonably practicable, all information in their possession or control and all assistance that the expert may reasonably require.
- (d) In the absence of manifest error, the decision of the expert shall be final and binding upon the parties. If a party believes that there has been a manifest error it may refer the matter to the QCA for a determination. If the QCA determines that there has been a manifest error, then the parties may agree to refer the Dispute to another expert in accordance with this **clause 11.1.4**, or failing such agreement, either party may refer the Dispute to the QCA for resolution in accordance with **clause 11.1.5**.
- (e) Unless otherwise agreed by the parties:
- (i) the parties shall be liable for the costs of the expert and any advisers to the expert, and where applicable under **clause 11.1.4(b)**, any costs payable to the third party nominating the expert, in equal shares; and
  - (ii) each party shall bear their own costs of participating in the expert determination.

### 11.1.5 *Determination by the QCA*

- (a) If a Dispute is referred to the QCA for determination by arbitration pursuant to this Undertaking, Subdivision 3 of Division 5 of Part 5 of the Act shall apply in relation to any determination by the QCA of that Dispute.
- (b) Any referral of a Dispute to the QCA must be accompanied by a written Dispute Notice setting out the information required by section 113 of the Act.
- (c) If a Dispute is referred to the QCA in accordance with this Undertaking the QCA will provide written notices of the Dispute to the parties specified in section 114 of the Act.
- (d) If a Dispute is referred to the QCA in accordance with this Undertaking, the QCA shall seek the advice of the Safety Regulator on any aspect of the Dispute that either party to the Dispute or the QCA considers to be a safety-related matter. The QCA shall not make any decision that is inconsistent with any advice it receives from the Safety Regulator to the extent that the advice relates to any aspect of safety. The QCA will provide to the parties a copy of any advice it receives from the Safety Regulator.
- (e) Any cost imposed by the Safety Regulator for the provision of its advice to the QCA shall be borne equally by the parties to the Dispute.
- (f) The QCA must not make a determination in relation to a Dispute that could prejudice the land or Rail Infrastructure tenure of Aurizon Network. Aurizon Network bears the onus of establishing to the QCA that the decision will have that effect. Where the QCA is not satisfied that its determination will have that effect it shall notify Aurizon Network accordingly at least five Business Days before making the determination final.
- (g) The QCA may, as part of an arbitral determination, make a costs order as contemplated by section 208 of the Act.

### 11.1.6 *Procedure*

Where a Dispute is referred to either an expert or the QCA (**decision maker**) for determination:

- (a) the parties to the Dispute must provide written submissions to the decision maker outlining their respective views on the matter(s) in dispute, including reasons why their view should be preferred and an outline of how they would like to see the Dispute resolved;
- (b) each party to a dispute will be provided with a reasonable opportunity to respond to submissions made to the decision maker by the other party;

- (c) where the matter in Dispute arises under a provision of this Undertaking which sets out the relevant matters to be taken into account by Aurizon Network or the decision maker in making a decision:
  - (i) the submissions to the decision maker by the parties to the Dispute must address those matters; and
  - (ii) the decision maker must make its decision in relation to the Dispute having regard to those matters; and
- (d) the decision maker will:
  - (i) publish to the parties a draft determination with reasons;
  - (ii) provide the parties with a reasonable opportunity to respond to the draft determination in writing; and
  - (iii) have regard to the any responsive submissions before issuing a final determination.

## 11.2 QCA decision-making

- (a) The QCA may not make a decision (**Decision**) under this Undertaking (including a determination under this **Part 11**) that may affect Aurizon Network (including to require Aurizon Network to do, give or submit anything to the QCA, to resolve a Dispute or to refuse to approve, approve or consent to or grant anything), unless:
  - (i) the QCA observed the rules of natural justice;
  - (ii) the QCA observed any procedures that were required by law or this Undertaking;
  - (iii) the QCA had jurisdiction to make the Decision under this Undertaking;
  - (iv) the QCA was authorised to make the Decision under this Undertaking;
  - (v) the QCA's Decision would not be an improper exercise of the power conferred by this Undertaking. An improper exercise of power includes a reference to:
    - (A) taking an irrelevant consideration into account in the exercise of a power;
    - (B) failing to take a relevant consideration into account in the exercise of a power;
    - (C) an exercise of a power for a purpose other than a purpose for which the power is conferred;
    - (D) an exercise of a discretionary power in bad faith;
    - (E) an exercise of a personal discretionary power at the discretion or behest of another person;



- (F) an exercise of a discretionary power in accordance with a rule or policy without regard to the merits of a particular case;
  - (G) an exercise of a power that is so unreasonable that no reasonable person could so exercise the power;
  - (H) an exercise of a power in such a way that the result of the exercise of the power is uncertain; and
  - (I) any other exercise of a power in a way that is an abuse of the power;
- (vi) the QCA's Decision did not involve an error of law (whether or not the error appears on the record of the Decision);
  - (vii) the QCA's Decision was not induced or affected by fraud;
  - (viii) to the extent that any matters were required to be established before the Decision could be made or taken, there was some material or evidence from which the QCA could reasonably be satisfied the matter was established to justify the Decision or, to the extent that the existence of a particular fact forms the basis on which the Decision is made, the fact did or does exist; and
  - (ix) the Decision was not otherwise contrary to law or this Undertaking. For the avoidance of doubt, the terms of this **clause 11.2(a)** are intended to have the same meaning as used in the *Judicial Review Act 1991* (Qld).
- (b) If the QCA's Decision or conduct is challenged on the basis of a breach of a requirement in this **clause 11.2**, Aurizon Network and the QCA agree that Aurizon Network may seek an order suspending the operation of the Decision and a stay of any proceedings under the Decision.
  - (c) This **clause 11.2** does not affect the right of any party to seek any other form of remedy or relief including relief by way of the equitable remedies of injunction or declaration or to seek review under the *Judicial Review Act 1991* (Qld).

## Part 12: Definitions and Interpretation

### 12.1 Definitions

In this Undertaking these terms have the following meanings:

**Above Rail Delay** A delay to a Train Service from its scheduled Train Path in the DTP, where that delay can be attributed directly to an Access Holder (including, if applicable, its Nominated Railway Operator) in operating its Train Services, but excludes:

- (a) cancellations;
- (b) delays resulting from compliance with a Passenger Priority Obligation; and
- (c) delays resulting from a Force Majeure Event.

**Above Rail Services** Those activities, other than Below Rail Services, required to provide and operate Train Services, including Rollingstock provision, Rollingstock maintenance, non Train Control related communications, train crewing, terminal provision and services, freight handling and marketing and administration of those services and **Above Rail** has a similar meaning.

**Access** The non-exclusive utilisation of a specified section of Rail Infrastructure for the purposes of operating Train Services including, to the extent necessary for the operation of Train Services:

- (a) the use of passing loops and Train queuing and staging including before and after loading and unloading of Trains;
- (b) the loading and unloading of Trains at facilities that are Rail Infrastructure;
- (c) Train marshalling and shunting:
  - (i) in preparation for running of a Train Service;
  - (ii) before or after loading or unloading of a Train; and
  - (iii) before or after maintenance and provisioning of a Train;
- (d) Stowage;
- (e) the benefit of other Below Rail Services essential to the use of the Rail Infrastructure such as:
  - (i) signalling;

- (ii) Train Control Services and associated communication;
  - (iii) access to walkways immediately adjacent to, and crew changeover points connecting to, Track; and
  - (iv) the provision of electric transmission infrastructure on electrified sections of the Track so as to permit the acquisition of electric energy for traction (but, for the avoidance of doubt, not including the sale or supply of electric energy); and
- (f) entry upon land:
- (i) to the extent that entry upon the land is incidental to and essential for the use of Rail Infrastructure; or
  - (ii) for access to walkways and crew changeover points referred to in **paragraph (e)(iii)** of this definition to the same degree as is available to Related Operators,
- provided that:
- (iii) the land is owned by Aurizon Network , or Aurizon Network has, through a lease, licence or other arrangement with the owners of the land or pursuant to the TIA, the authority to authorise access to that land; and
  - (iv) the entry is not inconsistent with the terms of any lease, licence or other arrangement to which Aurizon Network is a party in respect of the land.

**Access Agreement**

An agreement between Aurizon Network and an Access Holder for the provision of Access.

**Access Application**

A written request for Access:

- (a) using the application form for such requests published on the Website from time to time; and
- (b) which satisfies:
  - (i) the information requirements set out in **schedule B** and **Part 4**; and
  - (ii) any additional information or clarification requested by Aurizon Network in accordance with **Part 4**.

<b>Access Charge</b>	<p>The price paid to Aurizon Network:</p> <ul style="list-style-type: none"> <li>(a) for Access under an Access Agreement; or</li> <li>(b) by a Train Operator, if any, for the right to operate Trains on the Rail Infrastructure for that Train Operator's End User,</li> </ul> <p>and for clarity:</p> <ul style="list-style-type: none"> <li>(c) includes any Take or Pay charges; and</li> <li>(d) excludes amounts paid to Aurizon Network in accordance with any Commercial Terms, Studies Funding Agreement, User Funding Agreement or Rail Connection Agreement.</li> </ul>
<b>Access Facilitation Charge</b>	An ongoing charge separate to an Access Charge for the facilitation of Access which is payable irrespective of the actual use of the Rail Infrastructure.
<b>Access Holder</b>	Unless expressed to the contrary, a person that has been granted Access Rights to operate Train Services on all or part of the Rail Infrastructure excluding a Train Operator.
<b>Access Holder Access Agreement</b>	An Access Agreement substantially in the form of the Standard Access Agreement (Access Holder).
<b>Access Provision Period</b>	A month or, where the period specified in the relevant Access Holder's Access Agreement in provisions equivalent to clause 33.5 (Claims and exclusions in respect of non-provision of access) of the Standard Access Agreement (Operator) (or an equivalent clause under another applicable Standard Access Agreement) is different, that different period.
<b>Access Rights</b>	An entitlement to Access in accordance with a specified Train Service Entitlement.
<b>Access Seeker</b>	Subject to <b>clause 4.7(a)</b> and unless expressed to the contrary, the entity that provides Aurizon Network with a properly completed Access Application excluding a Train Operator.
<b>Acknowledgment Notice</b>	A notice given to an Access Seeker under <b>clause 4.4(a)</b> acknowledging the receipt of an Access Application.
<b>Act</b>	<i>Queensland Competition Authority Act 1997</i> (Qld)
<b>Ad Hoc Train Service</b>	<p>A Train Service:</p> <ul style="list-style-type: none"> <li>(a) which is additional to number of Train Services permitted to operate in a month under a Train Service Entitlement for that Train Service but</li> </ul>

which is otherwise in accordance with the Train Service Entitlement under the relevant Access Agreement; or

- (b) where **paragraph (a)** does not apply, that varies from the Train Service Entitlement under the relevant Access Agreement but which Aurizon Network permits to operate.

<b>Additional Information</b>	The information required to be provided by Aurizon Network to an Access Seeker under <b>clause 2 of schedule A</b> .
<b>Adjustment Amount</b>	The meaning given to that term in <b>clause 6.1(a) of schedule F</b> .
<b>Adjustment Charge</b>	The meaning given to that term in <b>clause 6.1(a) of schedule F</b> .
<b>Affected Parties</b>	A person described as such under <b>clause 6.2.4(a)(iv)(A)</b> .
<b>Affected Person</b>	The meaning given to that term in <b>clause 7.6.4(a)(i)(A)</b> .
<b>Allotted Time Threshold</b>	<p>The threshold within which a Train Service is considered to be on time as follows, for a Train Service operated for the purpose of:</p> <ul style="list-style-type: none"><li>(a) transporting coal, 30 minutes;</li><li>(b) transporting bulk minerals (other than coal), 60 minutes;</li><li>(c) transporting freight products, 60 minutes; and</li><li>(d) providing long distance passenger transport, 30 minutes.</li></ul>
<b>Ancillary Access Rights</b>	Access Rights (that will use Available Capacity without the need for an Expansion or Customer Specific Branch Line) that are ancillary to Transferred Access Rights to the extent required by a Transferee, in addition to the Transferred Access Rights, to provide complete Train Paths using the Transferred Access Rights for the Transferee's origin to destination.
<b>Applicable Undertaking</b>	This Undertaking, the 2010 Undertaking, the 2008 Undertaking, the 2005 Undertaking or the 2001 Undertaking that applied at the relevant time.
<b>Approval Date</b>	The date on which this Undertaking was approved by the QCA.
<b>Approved Capital Expenditure</b>	All capital expenditure approved by the QCA in accordance with <b>schedule E</b> .

<b>Approved WACC</b>	8.18% per annum.
<b>Asset Management Plan</b>	The asset management plan accepted by the QCA under <b>clause 2.4, schedule E</b> , as amended from time to time.
<b>Asset Replacement Expenditure</b>	Expenditure on capital projects required to maintain the Existing Capacity of the Rail Infrastructure (for example, the replacement of life expired or obsolete assets).
<b>AT<sub>2-4</sub></b>	The aggregate of the AT <sub>2</sub> , AT <sub>3</sub> and AT <sub>4</sub> components of Access Charges.
<b>AT<sub>2-4</sub> Revenue Adjustment Amount</b>	For a Coal System, the amount calculated under <b>clause 4.3(a)(i) of schedule F</b> for that Coal System.
<b>AT<sub>5</sub> Revenue Adjustment Amount</b>	For a Coal System, the amount calculated under <b>clause 4.3(a)(ii) of schedule F</b> for that Coal System.
<b>Auditor</b>	An auditor in accordance with <b>Part 10</b> .
<b>Aurizon Group</b>	The group of companies for which the holding company (as defined under the Corporations Act) is the Ultimate Holding Company.
<b>Aurizon Holdings</b>	Aurizon Holdings Limited ACN 146 335 622
<b>Aurizon Network</b>	Aurizon Network Pty Ltd ACN 132 181 116
<b>Aurizon Network Cause</b>	<p>Where Aurizon Network is unable to make Rail Infrastructure available for the operation of Train Services in accordance with any Access Holder's Train Service Entitlement, as a result of:</p> <ul style="list-style-type: none"> <li>(a) Planned Possessions, Emergency Possessions or Urgent Possessions;</li> <li>(b) a Force Majeure Event affecting Aurizon Network; or</li> <li>(c) any other action by Aurizon Network which directly resulted in the Rail Infrastructure not being so available,</li> </ul> <p>where such inability by Aurizon Network is not attributable in any way:</p> <ul style="list-style-type: none"> <li>(d) to an Access Holder, a Railway Operator or a Railway Operator's customer (including a Customer);</li> <li>(e) to Aurizon Network complying with its Passenger Priority Obligations;</li> <li>(f) to the unavailability of the relevant Access</li> </ul>

	Holder's loading facility or an unloading facility;
	(g) to the failure to load a Train at the relevant Access Holder's loading facility within the maximum time at loading facility (as specified in the relevant Access Agreement) for that Train Service, or unload a Train at the relevant Access Holder's unloading facility within the maximum time at unloading facility (as specified in the relevant Access Agreement) for that Train Service; or
	(h) in respect of a Train Service that will operate on Private Infrastructure prior to entering and/or after exiting the Rail Infrastructure as part of its journey, to the unavailability of, or cancellation of train services on, that Private Infrastructure.
<b>Aurizon Network's Executive Officer</b>	The person who is, from time to time, the chief executive of Aurizon Network.
<b>Aurizon Operations</b>	Aurizon Operations Limited ACN 124 649 967
<b>Aurizon Party</b>	A Related Party of Aurizon Network other than a Related Party of Aurizon Network who is a User Funding Trustee.
<b>Authority</b>	The Crown (in right of the State or the Commonwealth), a minister of the Crown, a federal, state or local government department, a corporation or authority constituted for a public purpose, a holder of an office for a public purpose, a local authority, a court, a tribunal and any officer or agent of the foregoing acting as such..
<b>Available Capacity</b>	Capacity excluding all Committed Capacity other than: <ul style="list-style-type: none"> <li>(a) in respect of a Renewal Access Seeker, where the circumstances in <b>clause 7.3(c)(iii)</b> or <b>(iv)</b> apply;</li> <li>(b) Capacity that is required to comply with any Passenger Priority Obligation or Preserved Train Path Obligation, subject to the terms of those obligations.</li> </ul>
<b>Below Rail Delay</b>	The meaning given to that term in the Standard Access Agreement (Operator).
<b>Below Rail Services</b>	The activities associated with the provision and management of Rail Infrastructure, including the construction, maintenance and renewal of Rail Infrastructure assets, and the network management services required for the safe operation of Train Services on the Rail Infrastructure, including Train Control

	Services and the implementation of Safeworking Procedures and <b>Below Rail</b> has a similar meaning.
<b>Below Rail Transit Time</b>	The meaning given to that term in the Standard Access Agreement (Operator).
<b>Below Rail Transit Time Percentage</b>	For a type of Train Service specified in a Train Service Entitlement for a Year means the proportion (expressed as a percentage) which is the sum of the actual Below Rail Transit Times for all Train Services for that type of Train Service operated during that Year divided by the sum of the maximum sectional running times (as set out in the relevant Access Agreement) for all relevant sections (as set out in the relevant Access Agreement) for all of those Train Services during that Year.
<b>Blackwater System</b>	The Rail Infrastructure comprising the rail corridor from the port of Gladstone (including domestic coal terminals in the vicinity of Gladstone) to Gregory, Minerva and Rolleston mines, and all branch lines directly connecting coal mine loading facilities to those corridors with the exception of the corridor to Oaky Creek (and beyond) and the corridor to Moura mine (and beyond).
<b>Business Day</b>	A day which is not a Saturday, Sunday or special or public holiday in Brisbane or, if and to the extent that this Undertaking expressly refers to another place, in that other place.
<b>Capacity</b>	The aggregate of all Existing Capacity and all Planned Capacity.
<b>Capacity Analysis</b>	<p>An assessment, based on the relevant Access Seeker's Operating Plan and requested Access Rights, of:</p> <ul style="list-style-type: none"> <li>(a) whether there is sufficient Available Capacity to accommodate the requested Access Rights;</li> <li>(b) if there is not sufficient Available Capacity to accommodate the requested Access Rights, the Expansions required to provide the additional Capacity to accommodate the requested Access Rights (and an indicative estimate of the cost of such works and timing for completion); and</li> <li>(c) the operational impacts of the requested Access Rights including the impact of the requested Access Rights on the System Operating Assumptions,</li> </ul> <p>and which provides a sufficient basis to enable Aurizon Network to finalise the relevant Train Service Entitlement, initial timetable, applicable Access Charges</p>



	and associated funding arrangements (subject to other variations identified in the negotiation process).
<b>Capacity Change</b>	The meaning given to that term in <b>clause 8.7.2(a)</b> .
<b>Capacity Information</b>	The information required to be provided by Aurizon Network to an Access Seeker under <b>clause 3 of schedule A</b> .
<b>Capacity Multiplier</b>	(a) Prior to 1 July 2015, the Capacity Multiplier is 1; and (b) after 1 July 2015: (i) for the Constrained Section of the Blackwater System, 1.59; and (ii) for the Constrained Section of the Goonyella System, 1.63.
<b>Capacity Shortfall</b>	A circumstance where the Available Capacity at the time of Aurizon Network is contractually committed to an Expansion plus the Capacity actually created from that Expansion is less than the Capacity that is required to satisfy Access Rights under Access Agreements that were granted on the condition of that Expansion being completed and commissioned.
<b>Capacity Shortfall Access Application</b>	An Access Application that is taken to have been lodged with Aurizon Network in accordance with <b>clause 8.7.2</b> .
<b>Capital Expenditure Carryover Account</b>	The account maintained by Aurizon Network recording the difference between Approved Capital Expenditure and the Capital Indicator in the manner specified in <b>clause 7 of schedule E</b> .
<b>Capital Indicator</b>	The annual capital expenditure allowance approved by the QCA, from time to time, for the purpose of assessing the relevant Reference Tariffs.
<b>Change in Law</b>	Any of the following: (a) any amendment, repeal or enactment of any Law; (b) any change in the interpretation or application, including by the exercise of delegated authority, of any Law resulting from a decision of a court or Authority; (c) the making of any new directive, or any change in an existing directive, of any Authority; (d) the imposition of a requirement for authorisations not required as at the Commencing Date;

- (e) after the date of grant of any authorisation, a change in the terms and conditions attaching to that authorisation or the attachment of any new terms or conditions; or
- (f) any such authorisation as has been granted ceasing to remain in full force and effect or, if granted for a limited period, not being renewed on a timely basis on application therefore being duly made, or being renewed on conditions which are materially less favourable than those attached to the original authorisation.

**Change in Relevant Taxes**

Any of the following:

- (a) the imposition of a new Relevant Tax;
- (b) an increase in the rate of a Relevant Tax; or
- (c) a change in the basis of calculation of a Relevant Tax.

**Changes in Market Circumstances**

Changes in circumstances which have occurred in any market and which have had, or as assessed by Aurizon Network, will have, a material effect on an Access Holder's ability to pay the Access Charges.

**Coal Dust Management Plan**

Aurizon Network's Coal Dust Management Plan dated 22 February 2010, including as amended or replaced from time to time.

**Coal System**

Any one of the following:

- (a) the Newlands System;
- (b) the Goonyella System;
- (c) the Blackwater System;
- (d) the Moura System; or
- (e) the Goonyella to Abbot Point System.

**Commencing Date**

1 July 2013

**Commercial Terms**

Conditions additional to those in the relevant Standard Access Agreement, whether the conditions are contained in an Access Agreement or a separate agreement, requiring, without limitation:

- (a) an upfront contribution;
- (b) a payment of an Access Facilitation Charge;
- (c) a prepayment of all or part of an Access Facilitation Charge;
- (d) a varied or an additional take or pay arrangement

including, for example, to address 'back-end' payment risk to an appropriate value equivalent to the exposure (for example, for the development of infrastructure for a new coal mine, the undepreciated component of any relevant Infrastructure Enhancements that were constructed solely for the purpose of the mine);

- (e) a bank guarantee or other security that is unconditional, irrevocable, payable on demand and otherwise in a form acceptable to Aurizon Network, acting reasonably, to support payment of an amount (including, for example, payment of an Access Facilitation Charge or under an additional take or pay arrangement);
- (f) the forfeiting of any right to relinquish Access Rights that may arise under this Undertaking; or
- (g) Access Charges being calculated on the basis of a Varied WACC or other risk adjustments to projected cash flows.

**Committed Capacity**

That portion of the Capacity that is required:

- (a) to meet Train Service Entitlements;
- (b) to satisfy Aurizon Network's obligations under **clause 7.3(c)** in respect of a Renewal Access Seeker;
- (c) to comply with any Passenger Priority Obligation or Preserved Train Path Obligation;
- (d) to provide Access Rights for Funding Users in relation to a User Funded Expansion; and
- (e) to provide Access Rights for Access Holders where Aurizon Network has, in relation to those Access Rights, contractually committed to construct an Expansion or Customer Specific Branch Line under Commercial Terms.

**Common Costs**

Those costs associated with provision of Rail Infrastructure that are not Incremental Costs for any particular Train Service using that Rail Infrastructure.

**Compliance Officer**

The Aurizon Network employee designated as such by the Aurizon Network's Executive Officer.

<b>Concept Study</b>	A study for the purpose of determining on a prima facie basis whether there is a case for a future Expansion, including identifying alternative schemes for evaluation in any Pre-feasibility Study.
<b>Conditional Access Holders</b>	The meaning given to that term in <b>clause 8.7.2(a)</b> .
<b>Conditional Access Rights</b>	The meaning given to that term in <b>clause 8.7.2(a)</b> .
<b>Connecting Infrastructure</b>	The rail transport infrastructure (including track, signalling and overhead electric traction (if applicable)) that is managed, controlled or owned by Aurizon Network, which connects the Private Infrastructure to the Rail Infrastructure and that on completion forms part of the Rail Infrastructure.
<b>Constrained Section</b>	<p>As at 1 July 2015, the Rail Infrastructure:</p> <ul style="list-style-type: none"> <li>(a) for the Blackwater System, between Edungalba and Tunnel; and</li> <li>(b) for the Goonyella System, between Broadlea and Coppabella,</li> </ul> <p>and after 1 July 2015, as amended or set out from time to time in the relevant System Operating Assumptions.</p>
<b>Contested Train Path</b>	A Train Path in respect of which more than one Access Holder has expressed an interest in operating a Train Service in the week in question.
<b>Core Access-related Functions</b>	The meaning given to that term in <b>clause 3.4(b)</b> .
<b>Corporations Act</b>	The <i>Corporations Act 2001</i> (Cth) and the regulations made under it, as amended from time to time.
<b>Costing Manual</b>	<p>A manual prepared by Aurizon Network and approved by the QCA from time to time that identifies the following matters:</p> <ul style="list-style-type: none"> <li>(i) for financial statements prepared in accordance with <b>clause 10.1.1</b>, the process for identifying, from the Ultimate Holding Company's audited general purpose financial statements, the cost base for Below Rail Services, separate from other services provided by Aurizon Parties to which those financial statements relate;</li> <li>(ii) within the cost base for Below Rail Services, the process for identifying costs attributable to specified line sections (line section costs), costs</li> </ul>

not attributable to specified line sections but attributable to specified geographic regions (regional costs), and costs not attributable to specified line sections or any specified geographic region (network costs); and

(iii) the format of financial statements.

**CPI** The Consumer Price Index: All Groups – Brisbane (Australian Bureau of Statistics Publication No.6401.0).

**Cross Subsidy** Where the Access Charges payable in respect of one Train Service or combination of Train Services are insufficient to meet:

(i) the Incremental Cost imposed on the Rail Infrastructure by that Train Service or combination of Train Services; and

(ii) in respect of a combination of Train Services, the Common Costs related specifically to sections of Rail Infrastructure that are used solely for the purpose of Train Services within that combination of Train Services,

and the shortfall is contributed to by another Train Service or combination of Train Services.

**Cross System Train Service** A coal carrying Train Service that requires Access in respect of more than one Coal System (excluding any Train Service that operates solely within the Goonyella to Abbot Point System even though it might otherwise require Access to more than one Coal System – for example, the Goonyella System and the Newlands System).

**Customer** A person in respect of which an Access Holder or an Access Seeker is or is intending to use Access Rights to provide Train Services for that person (in that Access Seeker's or Access Holder's capacity as a Railway Operator).

<b>Customer Specific Branch Line</b>	<p>An extension, enhancement, expansion, augmentation, duplication or replacement of all or part of the Rail Infrastructure:</p> <ul style="list-style-type: none"> <li>(a) to be constructed solely to connect an Access Holder's or Customer's single loading facility to Rail Infrastructure; and</li> <li>(b) that on completion will form part of the Rail Infrastructure,</li> </ul> <p>excluding:</p> <ul style="list-style-type: none"> <li>(c) Connecting Infrastructure; and</li> <li>(d) any capital expenditure project to the extent that it involves Asset Replacement Expenditure.</li> </ul>
<b>Cyclic Traffic</b>	<p>A traffic whose Train Service Entitlements are defined in terms of a number of Train Services within a particular period of time, for example, a year, month or week. Coal traffic is an example of such traffic.</p>
<b>Daily Train Plan or DTP</b>	<p>That document detailing the scheduled times for all Train Services and any Planned Possessions, Urgent Possessions and Emergency Possessions for a particular day on a specified part of the Rail Infrastructure.</p>
<b>Deprecated Optimised Replacement Cost or DORC</b>	<p>The value of assets determined in the following manner:</p> <ul style="list-style-type: none"> <li>(a) the replacement value of the assets will be assessed as the cost of the modern engineering equivalent replacement asset;</li> <li>(b) optimisation of the asset base will occur, but such optimisation will only consider whether or not the infrastructure standard and infrastructure capacity are excessive, given the current and likely future requirements of Access Holders; and</li> <li>(c) depreciation of the optimised replacement asset value will be undertaken over the useful life of the assets.</li> </ul>
<b>Destination System</b>	<ul style="list-style-type: none"> <li>(a) For any Train Service which originates in the Blackwater System and uses the Goonyella Newlands Connection, the Goonyella to Abbot Point System; or</li> <li>(b) in all other cases, the Coal System on which the Nominated Unloading Facility is located.</li> </ul>
<b>Discloser</b>	<p>The meaning given to that term in <b>clause 3.11</b>.</p>

<b>Discount Rate</b>	The rate equivalent to the ROA, as defined in <b>clause 6.3.3(c)</b> .
<b>Dispute</b>	The meaning given to that term in <b>clause 11.1.1(a)</b> .
<b>Dispute Notice</b>	A notice in writing given under <b>clause 11.1.1</b> specifying the nature of the dispute and the proposed resolution and, where applicable, the information specified in <b>clause 11.1.5(b)</b> .
<b>Distance Discount</b>	The amount calculated in accordance with the following formula:

$$\{ART - MRC\} * \left\{ \frac{\text{Max}[SL_{lower}, SL_{actual}] - SL_{lower}}{SL_{upper} - SL_{lower}} \right\} * \{ \text{Min}(1, ML_{actual} / ML_{ave}) \}$$

where:

*ART* is the aggregate of the AT<sub>1</sub>, AT<sub>2</sub>, AT<sub>3</sub> and AT<sub>4</sub> components of the relevant existing Reference Tariff converted to a \$/nt basis assuming the System Nominal Train Payload;

*SL<sub>actual</sub>* is the new spur's length in kilometres;

*SL<sub>upper</sub>* is 100 kilometres;

*SL<sub>lower</sub>* is 25 kilometres;

*ML<sub>ave</sub>* is the average mainline haul length from a Nominated Loading Facility to a Nominated Unloading Facility for the relevant Reference Tariff;

*ML<sub>actual</sub>* is the mainline haul length from the loading facility to the unloading facility for the new Train Service; and

*MRC* is the relevant Minimum Revenue Contribution.

<b>Distribution Entities</b>	The meaning given to that term in the <i>Electricity Act 1994</i> (Qld).
<b>DTMR</b>	The Department of Transport and Main Roads for the State of Queensland or other department from time to time responsible for the administration of the TIA.
<b>Dwell</b>	Where a Train stops for a short period on Rail Infrastructure at locations specified by Aurizon Network as required for crew changes, meal breaks and maintenance, examination and provisioning of that Train.
<b>EC</b>	The electric energy charge defined as "EC" in <b>clause 2.2(a)</b> of <b>schedule F</b> .

<b>Efficient Cost</b>	The cost for each Year during the Evaluation Period, that reflects the cost that would be reasonably expected to be incurred by a Railway Manager adopting efficient work practices in the provision of the Rail Infrastructure to the required service standard, having regard to any matters particular to the environment in which Aurizon Network operates, and including any transitional arrangements agreed between Aurizon Network and the QCA to reflect the transition from Aurizon Network's actual cost to that efficient cost.
<b>egtk</b>	The electric gross tonne kilometres attributed to the relevant Train Service, being: <ul style="list-style-type: none"> <li>(a) the gtk for the Train Service, if that Train Service uses electric traction; and</li> <li>(b) zero, if the Train Service does not use electric traction.</li> </ul>
<b>Electricity Retailers</b>	Retail Entities as defined under the <i>Electricity Act 1994</i> (Qld).
<b>Eligible Operator</b>	A person referred to as an 'Eligible Operator' under <b>clause 2.4(k) of schedule F</b> .
<b>Emergency Possession</b>	A Possession required to rectify a serious fault with the Rail Infrastructure that Aurizon Network (acting reasonably) considers dangerous to any person, or where severe speed restrictions have been imposed affecting the scheduled Train Services of Railway Operators and that Aurizon Network, complying with the Possession Protocols, will use reasonable endeavours to carry out within seven days after the detection of the fault giving rise to the need for that Possession.
<b>Endorsed Variation Event</b>	The occurrence of any of the events listed in <b>clause 5.2 of schedule F</b> .
<b>End User</b>	A person other than Aurizon Network who is a party to an End User Access Agreement.
<b>End User Access Agreement</b>	An Access Agreement between Aurizon Network and an Access Holder in the form of the Standard Access Agreement (Alternate Form) (which has a pro forma Train Operations Agreement as a schedule).
<b>Environment Compliance Charge</b>	A charge determined by Aurizon Network equal to the aggregate of any fine, penalty, cost, impost or other amount incurred by, or imposed on, Aurizon Network by an Authority under any Environmental Law (including the EP Act) in relation to any non-compliance with the Coal



	Dust Management Plan:
	<ul style="list-style-type: none"> <li>(a) as a result of or in connection with any act or omission of the Access Holder (excluding good faith acts and omissions in accordance with an express request by Aurizon Network in relation to compliance); or</li> <li>(b) where the Access Holder fails to do, or not do, anything requested by Aurizon Network that would have avoided or reduced the amount incurred by, or imposed on, Aurizon Network.</li> </ul>
<b>Environmental Harm</b>	Serious environmental harm, material environmental harm or environmental nuisance as those terms are defined in the EP Act.
<b>Environmental Initiatives</b>	<p>Environmental initiatives relating directly or indirectly to the sale of electricity to Aurizon Network including:</p> <ul style="list-style-type: none"> <li>(a) the <i>Renewable Energy (Electricity) Act 2000</i> (Cth) and <i>Renewable Energy (Electricity) (Charge) Act 2000</i> (Cth); and</li> <li>(b) the 13% Gas Scheme and other arrangements under the <i>Electricity Act 1994</i> (Qld).</li> </ul>
<b>Environmental Laws</b>	<p>A Law relating to the environment (as defined under the EP Act), including:</p> <ul style="list-style-type: none"> <li>(a) a Law relating to planning, health, toxic or contaminating materials, dangerous goods, waste disposal or pollution; and</li> <li>(b) environmental protection policies, guidelines, regulations and relevant approved codes of practice, and the conditions of all licences, notices, directions, approvals, consents, permissions or permits, issued under any such Law.</li> </ul>
<b>Environmental Risks</b>	All risks to the environment (as defined under the EP Act) arising or potentially arising from the Access Seeker's or Access Holder's proposed operations (including risks associated with the matters identified in item 3 of schedule 7 of the Standard Access Agreement (Operator)).
<b>EP Act</b>	<i>Environmental Protection Act 1994</i> (Qld)
<b>Evaluation Period</b>	(a) When in reference to an individual Train Service, the period which is equal to the length of the expected duration of the existing or proposed Access Right under the Access Agreement in

respect of the relevant Train Service;

- (b) when in reference to a combination of Train Services for the purpose of determining a Reference Tariff to apply for some or all of those Train Services, the period for which that Reference Tariff will apply; or
- (c) when in reference to a combination of Train Services other than referred to in **paragraph (b)** of this definition, the period which is equal to the length of the expected duration of the longest existing or proposed Access Right under an Access Agreement in respect of any of the Train Services comprising the combination of Train Services, provided that such period does not exceed 10 years.

**Existing Capacity**

The existing capability of Rail Infrastructure (in the absence of any Expansions) to accommodate Train Services, after:

- (a) providing for Aurizon Network's reasonable requirements for the exclusive utilisation of that Rail Infrastructure for the purposes of performing activities associated with the maintenance, repair, construction (including Expansions and Customer Specific Branch Lines) or other enhancement of Rail Infrastructure, including the operation of work Trains; and
- (b) taking into account the System Operating Assumptions applicable for that Rail Infrastructure.

**Expansion**

An extension, enhancement, expansion, augmentation, duplication or replacement of all or part of the Rail Infrastructure that on completion forms part of the Rail Infrastructure, excluding:

- (a) Customer Specific Branch Lines;
- (b) Connecting Infrastructure; and
- (c) any capital expenditure project to the extent that it involves Asset Replacement Expenditure.

**Expected Access Revenue**

- (a) For an individual Train Service, the revenue reasonably expected from the Access Charge from that Train Service; and
- (b) for a combination of Train Services, the aggregate revenue reasonably expected from the Access Charges for all Train Services comprising that

combination of Train Services, where the expected Access Charges for different Train Services will be developed on a basis consistent with:

- (i) if a Reference Tariff is to be developed for a Train Service, the proposed Reference Tariff;
- (ii) the terms of the relevant Standard Access Agreement; and
- (iii) if **paragraph (b)(i)** of this definition does not apply, current applicable Access Charges, except as provided in **clause 6.4.1(b)(iii)**.

<b>Expression of Interest</b>	An expression of interest, request for proposals or other similar process.
<b>Feasibility Funder</b>	An Access Seeker or a Customer who is a party to a Studies Funding Agreement with Aurizon Network in respect of a Feasibility Study for an Expansion.
<b>Field Incident Management</b>	The field management of incidents and accidents occurring on or affecting the Rail Infrastructure.
<b>Force Majeure Event</b>	<p>Any cause, event or circumstance or combination of causes, events or circumstances which:</p> <ul style="list-style-type: none"><li>(a) is beyond the reasonable control of the affected party; and</li><li>(b) by the exercise of due diligence the affected party was not reasonably able to prevent or is not reasonably able to overcome,</li></ul> <p>and includes:</p> <ul style="list-style-type: none"><li>(c) compliance with a lawful requirement, order, demand or direction of an Authority or an order of any court having jurisdiction other than where that requirement, order, demand or direction results from any act or omission of the affected party;</li><li>(d) a strike, lockout, stoppage, go slow, labour disturbance or other such industrial action, whether or not the affected party is a party to industrial action or would be able to influence or procure the settlement of such industrial action;</li><li>(e) act of God;</li><li>(f) war, invasion, terrorist act, act of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or</li></ul>

usurped power, blockade or civil commotion;

- (g) equipment failure or breakdown where such failure or breakdown could not have been prevented by Good Engineering Practices;
- (h) malicious damage or sabotage;
- (i) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
- (j) failure of electricity supply from the electricity grid;
- (k) delay, restraint, restriction, embargo or other material adverse effect arising from any act or omission of any Authority;
- (l) fire, flood, storm surge, cyclone, tornado, earthquake, washaway, landslide, explosion severe weather conditions or other catastrophe or natural calamity;
- (m) epidemic or quarantine restriction; and
- (n) delay of a supplier due to any of the foregoing whether any such cause of delay exists before or after the Commencing Date.

<b>Funding User</b>	An Access Seeker, Access Holder or its Customer who has entered into a User Funding Agreement with Aurizon Network.
<b>General Expansion Capital Expenditure</b>	Expenditure on capital projects required for an Expansion where the relevant Expansion is utilised or to be utilised for the benefit of more than one Customer or more than one Access Holder.
<b>Good Engineering Practices</b>	In respect of any undertaking in any circumstances, the exercise of that degree of care, foresight, prudence and skill that would reasonably and ordinarily be expected from a competent, skilled and experienced person in the same type of undertaking in the same or similar circumstances.
<b>Goonyella Newlands Connection</b>	The Rail Infrastructure between the North Goonyella mine junction and the Newlands mine junction.

<b>Goonyella System</b>	The Rail Infrastructure comprising the rail corridor from the ports at Hay Point and Dalrymple Bay to Hail Creek mine, Blair Athol mine, North Goonyella mine and the junction with the Gregory mine branch line and all branch lines directly connecting coal mine loading facilities to those corridors, with the exception of: <ul style="list-style-type: none"> <li>(a) the branch line to Gregory mine; and</li> <li>(b) the corridor beyond North Goonyella mine to Newlands mine (and beyond).</li> </ul>
<b>Goonyella to Abbot Point System</b>	The Rail Infrastructure comprising: <ul style="list-style-type: none"> <li>(a) the Goonyella Newlands Connection; and</li> <li>(b) that part of any other Coal System which is used by a Train Service that also uses or connects to any part of the Goonyella Newlands Connection, except where that Train Service originates or terminates south of Gregory.</li> </ul>
<b>GST</b>	The meaning given to that term in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
<b>gtk</b>	The gross tonne kilometres attributed to the relevant Train Service, being the total gross weight (in tonnes) of the Rollingstock utilised in the relevant Train Service (including all goods, product, persons or matter carried) multiplied by the distance (in kilometres) travelled by the Train Service.
<b>Increment</b>	The meaning given to that term in <b>clause 4.3(a)(iii)</b> of <b>schedule F</b> .
<b>Incremental Costs</b>	Those costs of providing Access, including capital (renewal and expansion) costs, that would not be incurred (including the cost of bringing expenditure forward in time) if the particular Train Service or combination of Train Services (as appropriate) did not operate, where those costs are assessed as the Efficient Costs and based on the assets reasonably required for the provision of Access.
<b>Indicative Access Proposal or IAP</b>	A non-binding response from Aurizon Network to an Access Application, prepared in writing and including the information set out in <b>clause 4.5(b)</b> .
<b>Infrastructure Enhancement</b>	Expansions and Customer Specific Branch Lines.

<b>Infrastructure Service Providers</b>	Those parties who provide maintenance, construction and other related services in respect of the Rail Infrastructure.
<b>Initial Capacity Assessment</b>	<p>A preliminary Capacity Analysis limited to:</p> <ul style="list-style-type: none"> <li>(a) an indicative assessment of whether there is sufficient Available Capacity to accommodate the requested Access Rights; and</li> <li>(b) if there is not sufficient Available Capacity, to accommodate the requested Access Rights either: <ul style="list-style-type: none"> <li>(i) an outline of the Expansions required to provide additional Capacity to accommodate the requested Access Rights (and an indicative estimate of the cost of such works and the timing for completion); or</li> <li>(ii) if Aurizon Network has not carried out the investigations required to provide the information in <b>paragraph (i)</b>, an outline of the requirements for an investigation into the works required to accommodate the requested Access Rights.</li> </ul> </li> </ul>
<b>Insolvency Event</b>	<p>Where one of the following events has happened in relation to the Access Seeker:</p> <ul style="list-style-type: none"> <li>(a) it is unable to pay all its debts as and when they become due and payable or it has failed to comply with a statutory demand as provided in section 459F(1) of the Corporations Act;</li> <li>(b) a meeting is convened to pass a resolution to place it in voluntary liquidation or to appoint an administrator unless the resolution is withdrawn within 10 Business Days or the resolution fails to pass;</li> <li>(c) an application is made to a court for it to be wound up and the application is not dismissed within 10 Business Days after it is made;</li> <li>(d) the appointment of a liquidator, provisional liquidator or controller (as defined in the Corporations Act) of any of its assets if that appointment is not revoked within 10 Business Days after it is made;</li> <li>(e) it resolves to enter into or enters into any form of arrangement (formal or informal) with its creditors or any of them, including a deed of company</li> </ul>

arrangement; or

- (f) any similar event occurs in respect of the Access Seeker under the laws of any jurisdiction other than Australia.

**Interested Participant**

The meaning given to the term in **clauses 8.10.3(a) and (b)**, as applicable.

**Interface Coordination Plan**

A plan that identifies the procedures to be followed and the responsible officers from both Aurizon Network and the Access Holder (or, where the Access Holder is an End User, a Train Operator), in respect of all regular operational interfaces between the parties that arise in the exercise of rights and the performance of obligations under an Access Agreement other than those specified in the Network Management Principles.

**Interface Risk Assessment**

An assessment to:

- (a) identify all reasonably foreseeable Interface Risks and Environmental Risks;
- (b) assess:
  - (i) the likelihood of those Interface Risks and Environmental Risks occurring;
  - (ii) the consequences (including commercial consequences) of those Interface Risks and Environmental Risks occurring; and
  - (iii) any factors relevant to the effective management of those Interface Risks and Environmental Risks;
- (c) identify appropriate measures to effectively manage those Interface Risks and Environmental Risks within a risk management framework, including:
  - (i) an audit, inspection and review regime; and
  - (ii) applicable Safeworking Procedures and Safety Standards having regard to existing Aurizon Network and industry practices; and
- (d) identify the party responsible for implementing, complying with and/or ensuring compliance with the measures referred to in **paragraph (c)** of this definition and ensuring the ongoing effectiveness of such measures.

<b>Interface Risks</b>	<p>All risks to the safety of persons or property arising or potentially arising from the interaction between the Access Seeker's or Access Holder's (or, where the Access Seeker or Access Holder is or will be an End User, a Train Operator's) proposed operations and:</p> <ul style="list-style-type: none"> <li>(a) the Rail Infrastructure;</li> <li>(b) any land relating to the Rail Infrastructure;</li> <li>(c) activities on the Rail Infrastructure (including other Train Services) or any land relating to the Rail Infrastructure; or</li> <li>(d) persons on, using or near the Rail Infrastructure or any land relating to the Rail Infrastructure.</li> </ul>
<b>Intermediate Train Plan or ITP</b>	<p>A plan that details the indicative scheduled times for all Train Services and Planned Possessions, Urgent Possessions and Emergency Possessions on a specified part of the Rail Infrastructure on each day of the relevant period.</p>
<b>IRMP</b>	<p>An interface risk management plan which sets out each of the matters required to be identified and assessed during an Interface Risk Assessment.</p>
<b>Law</b>	<ul style="list-style-type: none"> <li>(a) Any statute, rule, regulation, code, proclamation, ordinance or by-law, present or future, whether State, Commonwealth or otherwise; and</li> <li>(b) any requirement, condition, notice, consent, accreditation, order or direction or similar thing of any statutory, public or other competent authority (including the State in any of its regulatory capacities), present or future, given or imposed pursuant to anything specified in <b>paragraph (a)</b> of this definition.</li> </ul>
<b>Line Diagrams</b>	<p>A diagrammatical representation of the rail network identifying:</p> <ul style="list-style-type: none"> <li>(a) the configuration of the rail network; and</li> <li>(b) the parts of the rail network which are managed by Aurizon Network, a Related Operator or a person other than Aurizon Network.</li> </ul>



<b>Load Variation Table</b>	A table published by Aurizon Network in respect of a nominated Reference Train Service or type of Train Service identifying allowable overloads for wagons and bogies and specifying relevant Operational Constraints and additional charges, where applicable, for such overloads.
<b>Loading Time</b>	The time between a Train Service arriving at a Nominated Loading Facility and that same Train departing the Nominated Loading Facility, and for the purpose of clarity, this time runs from when a Train Service arrives at the entry signal to the Nominated Loading Facility until it has completed loading, presented at the exit signal, is ready to depart the Nominated Loading Facility and has advised the relevant Train Controller accordingly.
<b>Maintenance Work</b>	Any work involving maintenance or repairs to, or renewal, replacement and associated alterations or removal of, the whole or any part of the Rail Infrastructure (other than Infrastructure Enhancements) and includes any inspections or investigations of the Rail Infrastructure.
<b>Major Periodic Maintenance</b>	Activities that renovate the Rail Infrastructure to retain it in a functional condition completed on Track sections at intervals of more than one year, and includes activities such as re-railing, rail grinding, resurfacing, re-signalling, communications upgrades, renovating structures, ballast cleaning and re-sleepering.
<b>Major Yards</b>	The yards at Callemondah, Jilalan, Coppabella, and Pring.
<b>Marketing Division</b>	Those persons within the Aurizon Group (other than those persons in the positions described in <b>clause 3.9(c)(i) to (iv)</b> ) with responsibility for one or more of the following: <ul style="list-style-type: none"> <li>(a) the marketing of Train Services in competition with other above rail train service providers in the Coal Systems;</li> <li>(b) the negotiation of contracts (including pricing) for the provision of above rail train services in competition with other above rail train service providers in the Coal Systems;</li> <li>(c) the development of above rail service plans for response to a competitive tender process relating to the provision of above rail services in the Coal</li> </ul>

Systems, where:

- (i) the relevant persons are exercising their responsibility for the purpose of determining Aurizon Group's tender response (having regard to commercial risks and trade offs associated with the train plan being proposed); and
  - (ii) if the tender is successful, those persons will also be involved in the day-to-day delivery of the applicable above rail train services; and
- (d) the commercial decision to enter into a contract for the provision of above rail services in the Coal Systems.

**Master Train Plan or MTP**

That document detailing the distribution of Train Service Entitlements as advised by Aurizon Network from time to time for all Train Services and any Planned Possessions on a specified part of the Rail Infrastructure.

**Material Default**

- (a) Failure on more than one occasion to comply with any terms or conditions of a relevant agreement where that breach would not lawfully justify termination; or
- (b) a breach of a term or condition of a relevant agreement where that breach would lawfully justify termination,

where a "relevant agreement" is as described in **clause 4.11(b)(ii)**.

**Maximum Allowable Revenue**

The maximum revenue that Aurizon Network should be entitled to earn by way of Access Charges from the provision of Access to the relevant Train Service(s) over the Evaluation Period, as determined in accordance with **clause 6.3.3**.

**MCI**

The maintenance cost index developed by Aurizon Network for the purposes of the escalation of Reference Tariffs and which has been approved by the QCA (and as adjusted from time to time to replace any index used in the calculation of the maintenance cost index that ceases to be published with the CPI, or an appropriate substitute index approved by the QCA).

- Minimum Revenue Contribution** The AT<sub>1</sub> input for the relevant Reference Tariff plus the higher of:
- (a) the amount calculated as:
    - (i) the increase in System Allowable Revenue that would occur if the relevant costs that would be incurred by Aurizon Network as a consequence of providing the new or additional Access Rights were included in that System Allowable Revenue; less
    - (ii) any cost allocation to existing Access Rights (associated with any economic benefit to existing Access Holders from the relevant Expansion or Customer Specific Branch Line),

divided by 90% of the aggregate of the contracted tonnes in nt for the relevant Coal System; or
  - (b) the sum of:
    - (i) the relevant AT<sub>2</sub> component of the relevant Reference Tariff (converted to a \$/nt basis assuming a System Nominal Train Payload); plus
    - (ii) 25% of the amount calculated as follows:
      - (A) System Allowable Revenue for attributable to the AT<sub>3</sub> and AT<sub>4</sub> components of the relevant Reference Tariff for the relevant Coal System; divided by
      - (B) the System Forecast relevant to that system for that Year,

(converted to a \$/nt basis assuming a System Nominal Train Payload).

**Moura System** The Rail Infrastructure comprising the rail corridor from the port of Gladstone (including domestic coal terminals in the vicinity of Gladstone) to Moura mine and the loading facility for Baralaba mine in the vicinity of Moura mine, and all branch lines directly connecting coal mine loading facilities to that corridor but excluding the corridor to Blackwater (and beyond).

<b>Mutually Exclusive Access Applications</b>	Access Applications where if Aurizon Network grants Access Rights in respect of one or more of those Access Applications then Aurizon Network will have insufficient Available Capacity to grant Access Rights in respect of the remaining Access Applications.
<b>Negotiation Cessation Notice</b>	A notice issued by Aurizon Network pursuant to <b>Part 4</b> .
<b>Negotiation Period</b>	The period during which the terms and conditions of an Access Agreement will be negotiated, as described in <b>clause 4.9.1</b> .
<b>Network Development Plan</b>	A plan setting out options and indicative plans relating to the short and medium term development, extension, use, or improvement of, or capital investment in, or interaction with, the Coal Systems to promote increased Capacity.
<b>Network Executive Team</b>	The meaning given to that term in <b>clause 3.8(a)</b> .
<b>Network Incident</b>	Any derailment, disablement or breakdown of Rollingstock, accident, collision or other unplanned occurrence, on or affecting the use of the Rail Infrastructure which causes or contributes to, or could cause or contribute to: <ul style="list-style-type: none"> <li>(a) the death of, or injury to, any person;</li> <li>(b) damage to any property;</li> <li>(c) Environmental Harm; or</li> <li>(d) a disruption to, or cancellation by Aurizon Network of any Train Movement.</li> </ul>
<b>Network Management Principles</b>	The principles set out in <b>schedule H</b> and all System Rules existing from time to time.
<b>New Access Agreement</b>	An Access Agreement to the extent entered into or varied for the purpose of a transfer of Access Rights from a pre-existing Access Agreement under a provision equivalent to clause 14 (Transfer of Access Rights by Customer) of the Standard Access Agreement (Operator).

<b>Newlands System</b>	The Rail Infrastructure comprising the rail corridor from the port of Abbot Point to Newlands mine, and all branch lines directly connecting coal mine loading facilities to that corridor, with the exception of the corridor between the Newlands mine and the North Goonyella mine (and beyond).
<b>Nominated Infrastructure</b>	That Rail Infrastructure over which the relevant Reference Train Service travels between the Nominated Loading Facility/ies and Nominated Unloading Facility/ies.
<b>Nominated Loading Facility</b>	A loading facility specified for a nominated Reference Train Service in <b>schedule F</b> .
<b>Nominated Railway Operator</b>	For an Access Holder, a Railway Operator nominated or appointed by that Access Holder in accordance with an Access Agreement for the purpose of operating Train Services for that Access Holder for specified periods in accordance with that Access Holder's Access Rights.
<b>Nominated Unloading Facility</b>	An unloading facility specified for a nominated Reference Train Service in <b>schedule F</b> .
<b>Nominated Separation Time</b>	Maximum transit time for a Train Service to clear a Constrained Section of the Rail Infrastructure without imposing consequential delays and cancellations for other Train Services as specified in the operating characteristics included in <b>schedule F</b> for each Coal System.
<b>nt</b>	The net tonnes attributed to the relevant Train Service, being the total gross weight (in tonnes) of the Rollingstock when loaded utilised in the relevant Train Service (including all goods, product, persons or matter carried) less the weight of such Rollingstock (in tonnes) when empty.
<b>ntk</b>	The net tonne kilometres attributed to the relevant Train Service, being the nt for the Train Service multiplied by the distance (in kilometres) travelled by the Train Service.
<b>Old Access Agreement</b>	In relation to a New Access Agreement, the pre-existing Access Agreement to which the relevant transfer relates.
<b>System Operating Assumptions</b>	Aurizon Network's assumptions on the operation of each element of the coal supply chain and the interfaces between those elements including in relation to the supply chain operating mode, seasonal variations and live run losses.

<b>Operating Plan</b>	A description of how the proposed Train Services are to be operated, including the matters identified in <b>schedule C</b> .
<b>Operational Constraint</b>	Any restriction on the use of any part of the Rail Infrastructure that impacts adversely on Train Services, including speed restrictions, load restrictions, Possessions or signalling or overhead restrictions.
<b>Operator Access Agreement</b>	An Access Agreement substantially in the form of the Standard Access Agreement (Operator).
<b>Origin System</b>	The Coal System on which the Nominated Loading Facility is located.
<b>Out-Of-Course Running</b>	The circumstance that occurs when the actual running of one or more Train Service/s differs by more than the relevant agreed threshold/s as set out in the relevant Access Agreement, from that provided in the DTP.
<b>Passenger Priority Obligation</b>	The obligations of a Railway Manager pursuant to sections 265 and 266 of the TIA.
<b>Planned Capacity</b>	The increase in Existing Capacity that is expected to result from an Expansion that Aurizon Network is contractually committed to construct.
<b>Planned Possession</b>	A Possession that is entered into the MTP and may adversely impact upon the operation of Train Services.
<b>Possession</b>	The temporary closure and/or occupation by Aurizon Network on part of the Rail Infrastructure (including closure of Track or isolation of any electrical overhead traction system) for the purposes of carrying out Maintenance Work, Infrastructure Enhancements or other work on or in the proximity of the Rail Infrastructure which may affect the safety of any person or property.
<b>Possession Protocols</b>	The protocols developed and advised by Aurizon Network from time to time (as varied in accordance with any Access Agreement) for managing and scheduling Possessions.
<b>Pre-feasibility Funder</b>	An Access Seeker or a Customer who is a party to a Studies Funding Agreement with Aurizon Network in respect of a Pre-feasibility Study for an Expansion.
<b>Preliminary Information</b>	The information set out in <b>clause 1 of schedule A</b> as applicable to the relevant Access Seeker's Access Application.

<b>Preserved Train Path Obligations</b>	The obligations of a Railway Manager under section 266A of the TIA.
<b>Private Infrastructure</b>	The rail transport infrastructure (as defined under the TIA), including track, signalling and electrical overhead traction system (if applicable), that is not Rail Infrastructure.
<b>Protected Information</b>	The meaning given to that term in <b>clause 3.11</b> .
<b>Protected Information Register</b>	The register established and maintained under <b>clause 3.19</b> .
<b>Provisional Capacity Allocation</b>	The meaning given to that term in <b>clause 8.5(i)</b> .
<b>Prudent Practices</b>	The exercise of that degree of diligence, care, foresight, prudence and skill that would reasonably be expected from a competent, skilled and experienced person in the same type of undertaking in the same or similar circumstances.
<b>QCA</b>	The Queensland Competition Authority as established by the Act.
<b>QCA Levy</b>	The fee allocated to the nominated Train Services to cover the fees imposed by the QCA on beneficiaries of its regulatory services and, for a Reference Train Service, is that amount specified as such for that Reference Train Service in <b>schedule F</b> .
<b>Quarter</b>	Each period of three consecutive months commencing each 1 July, 1 October, 1 January and 1 April in each year.
<b>Rail Connection Agreement</b>	An agreement by which Aurizon Network agrees to the connection of Private Infrastructure to the Rail Infrastructure.
<b>Rail Infrastructure</b>	Rail transport infrastructure (as defined under the TIA) for which Aurizon Network is the owner or lessee, the use of which is taken to be a service declared for the purposes of Part 5 of the Act pursuant to section 250(1)(a) of the Act.
<b>Rail Infrastructure Manager</b>	The meaning given to that term in the Rail Safety Act.
<b>Rail Safety Act</b>	<i>Transport (Rail Safety) Act 2010 (Qld)</i>
<b>Railway Manager</b>	The meaning given to that term in the TIA.

<b>Railway Operator</b>	The meaning given to that term in the TIA and, for clarity, includes an End User's nominated Train Operator.
<b>Reasonable Demand</b>	The current contracted demand, potential future demand within a reasonable timeframe and any spare rail capacity considered appropriate by Aurizon Network.
<b>Recipient</b>	The meaning given to that term in <b>clause 3.17</b> .
<b>Reference Tariff</b>	A tariff, set out in <b>schedule F</b> or established by Aurizon Network and authorised by the QCA, for a specified Reference Train Service, which is used in determining an applicable Access Charge and which can be amended, varied or escalated in accordance with this Undertaking from time to time.
<b>Reference Train Service</b>	A notional Train Service described in <b>clause 1.3 of schedule F</b> .
<b>Regulatory Asset Base</b>	The asset value for the Rail Infrastructure accepted by the QCA for the purpose of developing Reference Tariffs for coal carrying Train Services.
<b>Related Operators</b>	Functional units within the Aurizon Group that provide Above Rail Services.
<b>Related Party</b>	A related body corporate as defined in the Corporations Act.
<b>Relevant Period</b>	The relevant seven day period commencing at 12:00 am on Monday and immediately prior to 12:00 am on the following Sunday or such other period as expressly specified in the relevant System Rules.
<b>Relevant Tax</b>	Any tax, charge, levy, duty, impost, rate, royalty or imposition which is imposed on Aurizon Network by, or payable by Aurizon Network to, any Authority but does not include any income tax, fringe benefits tax, capital gains tax or any tax that replaces any of those taxes.
<b>Relinquishment Fee</b>	A Relinquishment Fee (as defined under a Standard Access Agreement) payable to Aurizon Network as a requirement for Access Rights to be relinquished or any other amount payable in such circumstances under a relevant Access Agreement.
<b>Renewal</b>	The meaning given to that term under <b>clause 7.3(a)</b> .
<b>Renewing Access Seeker</b>	The meaning given to that term under <b>clause 7.3(a)</b> .



<b>Revenue Adjustment Amounts</b>	Collectively the AT <sub>2-4</sub> Revenue Adjustment Amount and the AT <sub>5</sub> Revenue Adjustment Amount and <b>Revenue Adjustment Amount</b> means one of them.
<b>Review Event</b>	The occurrence of any of the events listed in <b>clause 5.3</b> of <b>schedule F</b> .
<b>Rollingstock</b>	Locomotives, carriages, wagons, rail cars, rail motors, light rail vehicles, light inspection vehicles, rail/road vehicles, trolleys and any other vehicle that operates on or uses the Track.
<b>Rollingstock Configuration</b>	The description of the combination of Rollingstock comprising a Train including identification number and gross mass of individual items of Rollingstock and the order in which those Rollingstock items are placed in the Train.
<b>Rollingstock Interface Standards</b>	The minimum standards relating to Rollingstock and Rollingstock Configurations specified in Aurizon Network's document entitled "Interface Standards" published on the Website (as amended and replaced from time to time).
<b>rtp</b>	The number of reference Train Paths used by the relevant Train Service calculated in accordance with <b>clause 6.2.2(d)</b> .
<b>Safety Management System</b>	Aurizon Network's safety management system as required under the Rail Safety Act.
<b>Safety Regulator</b>	The rail safety regulator as defined under the Rail Safety Act.
<b>Safety Standards</b>	All standards relating to safety, including occupational health and safety, established in published guidelines, industry practice or Aurizon Network policies and all standards relating to safety, including occupational health and safety, prescribed by any Laws.
<b>Safeworking Procedures</b>	The procedures and systems implemented by Aurizon Network, including supporting communications systems, for the safe operation of Trains and protection of work sites on the Rail Infrastructure.
<b>Second Year System Allowable Revenue</b>	The meaning given to that term in <b>clause 4.5(a)(i)</b> of <b>schedule F</b> .

<b>Stand Alone Costs</b>	<p>Those costs that Aurizon Network would incur if the relevant Train Service(s) was (were) the only Train Service(s) provided Access by Aurizon Network, where those costs are assessed:</p> <ul style="list-style-type: none"> <li>(a) as the Efficient Costs; and</li> <li>(b) on the basis of the assets reasonably required for the provision of Access,</li> </ul> <p>and includes an allowable rate of return expressed in nominal post tax terms (with the cost of debt expressed on a before tax basis), as agreed by Aurizon Network and the QCA or, failing such agreement, as determined by the QCA, and <b>Stand Alone</b> has a similar meaning.</p>
<b>Standard Access Agreement</b>	The standard form of Access Agreements being the Standard Access Agreement (Operator), Standard Access Agreement (Access Holder) or the Standard Access Agreement (Alternate Form), as applicable.
<b>Standard Access Agreement (Alternate Form)</b>	The standard form of Access Agreement referred to by that name in Volume 3 (which when executed will constitute an End User Access Agreement).
<b>Standard Access Agreement (Access Holder)</b>	The standard form of Access Agreement referred to by that name in Volume 3.
<b>Standard Access Agreement (Operator)</b>	The standard form of Access Agreement referred to by that name in Volume 3.
<b>Standard Agreement</b>	Any agreement that is in the form of a Standard Access Agreement, Standard Rail Connection Agreement or Standard User Funding Agreement, Standard Studies Funding Agreement (Pre-feasibility) or Standard Studies Funding Agreement (Feasibility).
<b>Standard Rail Connection Agreement</b>	The standard form of Rail Connection Agreement set out in Volume 3.
<b>Standard Studies Funding Agreement (Feasibility)</b>	The standard form of Studies Funding Agreement for a Feasibility Study set out in Volume 3.
<b>Standard Studies Funding Agreement (Pre-feasibility)</b>	The standard form of Studies Funding Agreement for a Pre-feasibility Study set out in Volume 3.

<b>Standard User Funding Agreement or SUFA</b>	The suite of documents contained in Volume 2.
<b>State</b>	The State of Queensland
<b>Stowage</b>	<p>The storage of Trains (excluding individual items of Rollingstock) on the Rail Infrastructure at locations specified by Aurizon Network under the following circumstances:</p> <p>(a) during a Possession; or</p> <p>(b) during the operation of a Train Service.</p>
<b>Studies Funding Agreement</b>	In respect of Pre-feasibility Study or a Feasibility Study, as applicable, an agreement with Aurizon Network in relation to the provision of funding to Aurizon Network for that Pre-feasibility Study or Feasibility Study.
<b>Subsidiary</b>	The meaning given to that term in the Corporations Act.
<b>Supply Chain Group</b>	<p>(a) A group that has been established as a whole of coal supply chain coordination group for the purpose of coordinating some or all aspects of the planning or operation of a coal supply chain relevant to the Rail Infrastructure; and</p> <p>(b) a group which Aurizon Network reasonably considers has the support of sufficient participants in the coal supply chain to effectively perform that coordination purpose.</p>
<b>Supply Chain Master Plan</b>	An integrated plan identifying feasible investment options for increasing the capacity of a coal supply chain (including variations to supply chain operating assumptions for the coal supply chain) and evaluating those investment options from a total cost, risk and timing perspective.
<b>Supply Chain Rights</b>	<p>The following rights:</p> <p>(a) where any Private Infrastructure is required to be accessed or used to operate Train Services, rights which are sufficient to allow access or use that Private Infrastructure to operate the Train Services;</p> <p>(b) in respect of Train Services that will operate on Private Infrastructure prior to entering and/or after exiting the Rail Infrastructure as part of its journey, rights which are sufficient to allow the Train Services to enter or exit (as applicable) the Rail</p>

Infrastructure from or to (as applicable) that Private Infrastructure; and

- (c) if the Train Services are coal carrying Train Services which are to be operated to an unloading facility, rights which are sufficient to allow:
  - (i) access to the relevant unloading facility with a fully loaded Train which complies with the proposed Train Service Entitlement for the Train Services; and
  - (ii) the unloading of all coal from the Train at the relevant unloading facility,

assuming 100% utilisation of the Access Rights for the relevant Train Services in accordance with the proposed Train Service Entitlement.

**System Allowable Revenue**

- (a) For AT<sub>2-4</sub> in relation to a Coal System, the total revenue from AT<sub>2-4</sub> arising from all Access Agreements in relation to that Coal System that Aurizon Network is entitled to earn over the relevant Year, as specified in **clauses 7.3, 8.3, 9.3, 10.3 and 11.3 of schedule F**; and
- (b) for the AT<sub>5</sub> component of Access Charges in relation to a Coal System, the total revenue from the AT<sub>5</sub> component of Access Charges arising from all Access Agreements in relation to that Coal System that Aurizon Network is entitled to earn over the relevant Year, as specified in either **clause 7.3 and 8.3 of schedule F**,

as amended from time to time and as adjusted in accordance with **schedule F**.

**System Discount**

The amount specified as such, in **schedule F**, for the relevant Reference Train Service.

**System Forecast**

The gtk for the relevant Coal System that is specified for the relevant Reference Train Service in **schedule F**.

**System Gtk**

In respect of a Coal System, the aggregate of the gtk for all coal carrying Train Services to the extent those Train Services travel on the relevant Coal System over the relevant period.

**System Nominal Train Payload**

The nominal train payload that applies to the Train Service in accordance with **clause 7.2(d), 8.2(c), 9.2(b), 10.2(c) or 11.2(b) of schedule F**, as applicable.

<b>System Path</b>	A path that can be taken by a Train Service from a specific origin to a Nominated Unloading Facility.
<b>System Rules</b>	<p>Rules specifying the way in which Aurizon Network will plan, schedule and control the operation of Train Services on a one or combination of Coal Systems, in greater detail than under <b>schedule H</b>:</p> <p>(a) which:</p> <ul style="list-style-type: none"> <li>(i) are approved for a Coal System under <b>clause 7.6.3</b>; or</li> <li>(ii) existed under the 2010 Undertaking immediately prior to the Approval Date, as amended from time to time under <b>clause 7.6.4</b>; and</li> </ul> <p>(b) which may include, for example:</p> <ul style="list-style-type: none"> <li>(i) the declaration of System Paths for a Coal System;</li> <li>(ii) the procedures for Access Holders to submit Train Orders and for Aurizon Network to schedule Train Services in the ITP;</li> <li>(iii) the procedures for Aurizon Network to schedule the DTP from the ITP, provided that these procedures must be consistent with the matters referred to in <b>clauses 5.2 and 5.3(b)(i) to (vi) of schedule H</b>;</li> <li>(iv) the relevant critical objectives for Train Services operating in one or a combination of Coal Systems to assist decision-making for Train Control under <b>clause 7 of schedule H</b>;</li> <li>(v) a methodology for defining path availability/use for the purpose of calculating take-or-pay charges; and</li> <li>(vi) the identification of any circumstances where a full Initial Capacity Assessment or Capacity Analysis is not required for the purposes of <b>clause 4.5(b)(iii) or clause 4.9.2(a)(v)</b>.</li> </ul>
<b>Take or Pay</b>	A charge payable to Aurizon Network in circumstances where contracted Train Services are not operated by or for the relevant Access Holder. For a Reference Tariff, the Take or Pay requirements and calculations are set

	out in <b>clause 2.4 of schedule F</b> .
<b>Take or Pay Grouping</b>	The Train Service Entitlements for a relevant Eligible Operator (as defined in <b>clause 2.4(k) of schedule F</b> ) that the Eligible Operator has nominated to Aurizon Network in writing prior to the end of May in a Year (in accordance with that Eligible Operator's Eligible Access Agreement, as defined in <b>clause 2.4(k) of schedule F</b> ) as grouped together for the purpose of Take or Pay adjustments under <b>clause 2.4(k) of schedule F</b> in respect of that Year.
<b>Term</b>	The period between the Approval Date and the Terminating Date.
<b>Terminating Date</b>	The earlier of 30 June 2017 and the date on which this Undertaking is withdrawn in accordance with the Act.
<b>Third Party</b>	A person other than an Aurizon Party.
<b>TIA</b>	<i>Transport Infrastructure Act 1994 (Qld)</i>
<b>Timetabled Traffic</b>	A traffic, the Train Service Entitlement in respect of which, is defined in terms of a specified Train Path on a particular day and/or week (but excluding any traffic that is a coal carrying Train Service).
<b>Total Actual Revenue</b>	<p>(a) For AT<sub>2-4</sub> in relation to an Coal System, the amount calculated in accordance with <b>clauses 4.3(c) to (e) of schedule F</b>; and</p> <p>(b) for the AT<sub>5</sub> component of Access Charges in relation to a Coal System, the amount calculated in accordance with <b>clause 4.3(f) of schedule F</b>.</p>
<b>Track</b>	That part of the Rail Infrastructure comprising the rail, ballast, sleepers and associated fittings.
<b>Train</b>	Any configuration of Rollingstock operating as a unit on Track.
<b>Train Controller</b>	A person performing Train Control Services from within a Train Control centre.
<b>Train Control Services</b>	<p>The management and monitoring of all Train Movements and of all other operation of Rollingstock on the Rail Infrastructure and of any activities affecting or potentially affecting such Train Movements or Rollingstock operation including:</p> <p>(a) recording Train running times on Train diagrams and in Aurizon Network's information systems;</p> <p>(b) reporting of incidents occurring on the Rail Infrastructure;</p>

- (c) managing incidents occurring on the Rail Infrastructure from within a Train Control centre;
- (d) Field Incident Management and Yard Control services; and
- (e) exchanging information with Railway Operators, and **Train Control** has a related meaning.

<b>Train Movement</b>	Any operation of a Train on the Rail Infrastructure by Aurizon Network, any Access Holder or any Railway Operator.
<b>Train Orders</b>	Railing requests for a nominated period of time submitted to Aurizon Network, by or on behalf of an Access Holder, to assist in the scheduling of Train Services.
<b>Train Operations Agreement</b>	An agreement in the form of a 'Train Operations Agreement' as defined under the Standard Access Agreement (Alternate Form).
<b>Train Operator</b>	A person nominated by an Access Seeker or an Access Holder to operate Train Services for that Access Seeker or Access Holder under the terms of a Train Operations Agreement.
<b>Train Path</b>	The occupation of a specified portion of Rail Infrastructure, which may include multiple sections in sequential order, for a specified time.
<b>Train Service</b>	The operation of a Train on the Rail Infrastructure between a specified origin and destination.
<b>Train Service Entitlement</b>	An Access Holder's entitlement pursuant to an Access Agreement to operate or cause to be operated a specified number and type of Train Services over the Rail Infrastructure including within a specified time period, in accordance with specified scheduling constraints and for the purpose of either carrying a specified commodity or providing a specified transport service.
<b>Train Service Time Change</b>	A change to the time or times in the MTP at which one or more Train Services are scheduled to operate (and not the other terms under which a person has an entitlement to run those Train Services, for example, the Rollingstock or Rollingstock Configuration for those Train Services or the Rail Infrastructure on which those Train Services may operate).

<b>Train Service Type</b>	In respect of an Access Holder, a ‘Train Service Type’ as defined in that Access Holder’s Access Agreement.
<b>Transfer</b>	The relinquishment by an Access Holder under an Access Agreement of all or part of its Access Rights in order to create Available Capacity that can be used to grant new Access Rights to that Access Holder (who will be an Access Seeker in relation to those new Access Rights) or an Access Seeker nominated by that Access Holder.
<b>Transfer Fee</b>	An amount payable to Aurizon Network pursuant to an Access Agreement as a pre-condition for a Transfer.
<b>Transferred Access Rights</b>	Access Rights that will use the Available Capacity that will be created by the Access Holder’s relinquishment as part of a Transfer.
<b>Transferee</b>	The relevant Access Seeker for a Transfer.
<b>Transmission Entities</b>	The meaning given to that term in the <i>Electricity Act 1994</i> (Qld).
<b>Ultimate Holding Company</b>	The holding company (as defined in the Corporations Act) of Aurizon Network, which is the ultimate owner of Aurizon Network – being as at the Approval Date, Aurizon Holdings.
<b>Ultimate Holding Company Support Deed</b>	The deed required under <b>clause 3.3</b> .
<b>Unallocated Delay</b>	A delay to a Train Service from its Train Path scheduled in the DTP that is neither an Above Rail Delay nor a Below Rail Delay.
<b>Undertaking</b>	This document (including all volumes and schedules) which is an access undertaking for the purposes of the Act.
<b>Unloading Time</b>	The time between a Train Service arriving at a Nominated Unloading Facility and that same Train departing the Nominated Unloading Facility, and for the purpose of clarity, this time runs from when a Train Service arrives at the entry signal to the Nominated Unloading Facility until it has completed unloading, presented at the exit signal, is ready to depart the Nominated Unloading Facility and has advised the relevant Train Controller accordingly.
<b>Users</b>	Access Seekers, Access Holders and/or their Customers (if any).



<b>Urgent Possession</b>	A Possession required to correct problems that Aurizon Network (acting reasonably) considers potentially dangerous to any person, or property, and that Aurizon Network, complying with the Possession Protocols, will use reasonable endeavours to carry out between seven days and three months after the detection of the fault giving rise to the need for that Possession.
<b>User Funded Expansion</b>	An Expansion that is funded wholly or partly by Funding Users under a User Funding Agreement.
<b>User Funding</b>	The provision of funding to Aurizon Network by a Funding User (including indirectly through a User Funding Trustee or other person) in accordance with a User Funding Agreement.
<b>User Funding Agreement</b>	An agreement, or a number of related agreements, to which Aurizon Network is a party under which, among other things, Access Seekers (and/or their Customers) agree to provide funding for the construction of an Expansion (including agreements in the form of the Standard User Funding Agreement).
<b>User Funding Trustee</b>	An entity that is the trustee of a trust established under a User Funding Agreement.
<b>Varied WACC</b>	A weighted average cost of capital different to that of the Approved WACC.
<b>Website</b>	<a href="http://www.aurizon.com.au">www.aurizon.com.au</a>
<b>Yard Control</b>	The control of Train Movements and other activities affecting Train Movements at those locations that are not under the direct control of a Train Controller.
<b>Year</b>	A period of 12 months commencing 1 July.
<b>2001 Undertaking</b>	The access undertaking prepared by Aurizon Operations (previously named QR Limited) and approved by the QCA pursuant to the Act which commenced on 1 March 2002 (as amended during the term of that access undertaking).
<b>2005 Undertaking</b>	The access undertaking prepared by Aurizon Operations (previously named QR Limited) and approved by the QCA pursuant to the Act which commenced on 30 June 2006 (as amended during the term of that access undertaking).
<b>2008 Undertaking</b>	The access undertaking prepared by Aurizon Network and approved by the QCA pursuant to the Act which commenced on 23 October 2008 (as amended during the term of that access undertaking).

**2010 Undertaking** The access undertaking prepared by Aurizon Network and approved by the QCA pursuant to the Act which commenced on 1 October 2010 (as amended during the term of that access undertaking).

## 12.2 Interpretation

- (a) Unless expressed to the contrary, in this Undertaking:
- (i) a reference to:
    - (A) a specified position name is a reference to that position name as it changes during the Term, provided that the position retains responsibility for the same or substantially the same tasks;
    - (B) a person includes a partnership, an unincorporated joint venture, an unincorporated association, a corporation, a government or statutory body or authority and any other entity recognised by law;
    - (C) 'dollars' or '\$' means a reference to Australian dollars;
    - (D) any parties by their defined terms includes that party's executors, administrators, permitted assigns or permitted subcontractors or, being a company, its successors, permitted assigns or permitted subcontractors and the obligation of any party extends to those persons;
    - (E) a right includes a benefit, remedy, discretion, authority or power;
    - (F) conduct includes any omission and any representation, statement or undertaking, whether or not in writing;
    - (G) 'includes' means includes without limitation;
    - (H) time is to local time in Brisbane, Queensland;
    - (I) this or any other document or agreement includes the document or agreement as varied, amended or replaced from time to time;
    - (J) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
    - (K) this Undertaking includes this Undertaking as amended from time to time in accordance with the Act or this Undertaking;

- (L) an input of a Reference Tariff or an Access Charge is reference to each amount that is a tariff or input which is applied in the calculation for that Reference Tariff or Access Charge – for example, the amounts for AT<sub>1</sub>, AT<sub>2</sub>, AT<sub>3</sub>, AT<sub>4</sub>, AT<sub>5</sub>, EC and the QCA Levy specified in **clauses 7.2, 8.2, 9.2, 10.2 and 11.2 of schedule F**, as applicable for each Reference Tariff, are each inputs for the Reference Tariff; and
- (M) a component of a Reference Tariff or an Access Charge is a reference to each sub-calculation for that Reference Tariff or Access Charge that involves an input being multiplied by an applicable multiplier – for example, in the formula under **clause 2.2(a) of schedule F** each individual bracketed calculation comprised in that formula is a separate component of the Reference Tariff;
- (ii) words importing the singular number includes the plural number and vice versa;
- (iii) words importing any gender include the other gender;
- (iv) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (v) clause headings are for reference purposes only and do not affect the interpretation of this Undertaking;
- (vi) where:
  - (A) a group of persons are in a partnership, an unincorporated joint venture, an unincorporated association or other similar arrangement; and
  - (B) that group of persons together execute or seek to execute an agreement (including an Access Agreement or a rail haulage agreement) or such an agreement is executed or is sought to be executed for or on behalf of that group of persons,
 then:
  - (C) that group of persons is deemed to constitute a single person, Customer, Access Seeker or Access Holder (as applicable); and
  - (D) where a notification required to be given under this Undertaking is given by one member of that group of persons it will be deemed to have been given on behalf of all members of that group persons;

- (vii) every agreement or undertaking expressed or implied by which more than one person agrees or undertakes any obligations or derives any benefit binds or ensures for the benefit of those persons jointly and each of them severally;
- (viii) subject to **clause 12.2(a)(ix)**, a reference to:
  - (A) a part or clause is a reference to the corresponding part or clause found in **Part 1 to Part 12** of this Undertaking;
  - (B) a volume is a reference to the corresponding volume of this Undertaking; or
  - (C) a schedule is a reference to the corresponding schedule to this Undertaking,
 as amended or replaced from time to time;
- (ix) in a schedule to this Undertaking, a reference to:
  - (A) a part or clause, is a reference to a part or clause of that schedule unless otherwise stated; and
  - (B) a part or clause of this Undertaking, is a reference to a part or clause found in **Part 1 to Part 12** of this Undertaking; and
- (x) Subject to **clause 12.2(b)**, if there is any inconsistency between matters contained in a schedule and **Part 1 to Part 12** of this Undertaking, the provisions in **Part 1 to Part 12** of the Undertaking prevail.
- (b) A term that is used in this Undertaking but not defined in this **Part 12** and which is defined in a Standard Access Agreement, will have the meaning given to that term in the Standard Access Agreement.
- (c) Where a provision of this Undertaking includes a reference to preventing or hindering an Access Seeker's or Access Holder's Access:
  - (i) that reference is solely a reflection of Aurizon Network's obligations under sections 104 and 125 of the Act (as applicable) and does not expand those obligations; and
  - (ii) must be given the same meaning as in sections 104 and 125 of the Act (as applicable).
- (d) To the extent that Aurizon Network's obligations under this Undertaking are or become inconsistent with Aurizon Network's obligations under any Law, this Undertaking does not apply to the extent of that inconsistency.
- (e) If this Undertaking obliges Aurizon Network to provide any information, reports, documents or other material (in whatever form) (**Information**) to the QCA or any other person (including an Auditor)

then, despite any other provision in this Undertaking, Aurizon Network is not required to comply with that obligation if Aurizon Network claims:

- (i) on the ground of self incrimination a privilege Aurizon Network would be entitled to claim against providing the Information were Aurizon Network a witness in a prosecution for an offence in the Supreme Court; or
- (ii) that legal professional privilege applies in respect of that Information.

But if the Aurizon Network does not comply with an obligation on that basis, Aurizon Network must notify the QCA of this and Aurizon Network or the QCA may apply to the Supreme Court of Queensland for a determination of the validity of such a claim of privilege.

- (f) Despite any other provision in this Undertaking, this Undertaking does not expressly or impliedly waive any claim that Aurizon Network may have to legal professional privilege in respect of any information, reports, documents or other material (in whatever form).

### 12.3 Notices

- (a) Where this Undertaking requires a notice or other document (**Notice**) be given to a person, the Notice may, in addition to any other lawful means be given by being hand delivered, sent by pre-paid post, facsimile or, if agreed by Aurizon Network, email.
- (b) Unless a later time is specified in it, any Notice takes effect and, subject to **clause 12.3(d)**, is given from the earlier of the time it is actually given or is taken to be given.
- (c) A Notice is taken to be given, in the case of a Notice given by:
  - (i) hand delivery, at the time of delivery;
  - (ii) post:
    - (A) three Business Days after the date of posting – if posted within Australia to an Australian address; and
    - (B) 10 Business Days after the date of posting – in any other case;
  - (iii) facsimile, on the sender's facsimile machine producing a transmission report indicating that the facsimile was sent in full to the facsimile number of the addressee (and that report is conclusive evidence that the addressee received the facsimile in full at the time indicated on that report); and
  - (iv) email, on the next Business Day after being sent (as recorded on the device from which the sender sent the

email) unless the sender receives an automated message that the email has not been delivered.

- (d) If a Notice is given:
  - (i) after 5:00 pm in the place of receipt; or
  - (ii) on a day which is not a Business Day in the place of receipt, it is taken as having been given at 9:00 am on the next Business Day in the place of receipt.

## 12.4 Transitional

- (a) All acts, applications, approvals, approval processes, arrangements, circumstances, conduct, decisions, determinations, dispute resolution processes, events, Force Majeure Events, matters, negotiations, notices, omissions, queues, registers, requests, time periods, votes, warranties or any other process or thing whatsoever (**Matter**) done, agreed, arising, given, received, undertaken, commenced or established (**Done**) or deemed to be Done under the 2010 Undertaking are deemed to be Done and, as applicable, continue under this Undertaking as though the Matter was Done under this Undertaking to the extent that this Undertaking provides for equivalent Matters to be Done.
- (b) For the purposes of this Undertaking, the date of execution for an Access Agreement executed in accordance with Subparagraph 2.5.2(f) of the 2008 Undertaking is deemed to be the date when the Internal Access Agreement (as defined under the 2008 Undertaking) it replaced was put in place.
- (c) If this Undertaking requires Aurizon Network to report to the QCA on a Quarter or a Year that began prior to the Approval Date, then:
  - (i) the relevant report will include information in respect of the period prior to the Approval Date; and
  - (ii) Aurizon Network is only obliged to provide information for the period prior to the Approval Date as would have been required to be provided under the 2010 Undertaking in respect of that same type of report.
- (d) If the Approval Date is not the first day of a Year, then this Undertaking will apply in respect of any calculation of Revenue Adjustment Amounts, adjustments to Second Year System Allowable Revenue and other relevant revenue cap calculations in relation to the whole of the Year within which the Approval Date falls.
- (e) If the Approval Date occurs prior to the calculation of Revenue Adjustment Amounts, adjustments to Second Year System Allowable Revenue and other revenue cap calculations for the preceding Year being undertaken and submitted to the QCA for approval, then those calculations may still be undertaken, and submitted to the QCA, by

Aurizon Network as though the provisions under the 2010 Undertaking still applied in respect of those calculations and their approval by the QCA.

# Schedule A

## Preliminary, Additional and Capacity Information

### 1 Preliminary Information

The following preliminary information in respect of each Coal System – provided that the Goonyella to Abbot Point System will not be reported on an independent basis separately from the other Coal Systems and the Goonyella Newlands Connection will be treated as though it was part of the Newlands System – will be made available on the Website for Access Seekers:

- (a) **(Introduction)** The criteria for the use of data and the purpose of the preliminary information.
- (b) **(Civil Infrastructure)** A description of the railway and Track and any operational constraints, e.g. grades and curves.
- (c) **(Telecommunications)** A description of the communication system used.
- (d) **(Electric Traction)** A general system description.
- (e) **(Interface Requirements)** Information on track gauge, axle loads, train speeds, Rollingstock gauge and noise limits.
- (f) **(Locality Information)** Terrain information and climatic conditions and resultant system disruptions.
- (g) **(Committed Corridor Upgrades)** Identification of any relevant committed corridor upgrades.
- (h) **(Maps and Drawings)** Corridor maps and Line Diagrams.
- (i) **(Level Crossings)** The number of level crossings and the type of protection used.
- (j) **(Train Operations)** Sectional running times (calculated based on the projected average sectional running times), maximum Train lengths incident recovery times, crew change locations and stowage infrastructure locations.
- (k) **(Systems)** A description of operational, safeworking and signalling systems.
- (l) **(Rollingstock Interface Standards)** A copy of the relevant Rollingstock Interface Standards.
- (m) **(Commercial Information)** The applicable Reference Tariffs and Standard Access Agreement and System Rules (if any) together with a sample IRMP listing Interface Risks and Environmental Risks that



should, at a minimum, be addressed during an Interface Risk Assessment, along with suggested control measures.

However, the sample IRMP is not exhaustive of the matters that should be considered as part of an Interface Risk Assessment. An IRMP may set out additional or different matters depending on the circumstances.

## 2 Additional Information

<p><b>Access to rail corridor</b></p>	<p>Where Aurizon Network does not have authority to authorise the Access Seeker to access land on which Rail Infrastructure on a route nominated by the Access Seeker is situated, the following information in relation to access to that land:</p> <ul style="list-style-type: none"> <li>(a) the name, address and contact details of the person that the Access Seeker needs approval from to access that land, where this information is reasonably available to Aurizon Network;</li> <li>(b) advice as to the nature and extent of the rights, if any, that Aurizon Network holds in relation to the relevant; and</li> <li>(c) a notice that may be provided to that person indicating that Aurizon Network has no objection to the Access Seeker negotiating for access to that land.</li> </ul>
<p><b>Compliance information</b></p>	<p>Subject to the Access Seeker having entered into an applicable confidentiality agreement with Aurizon Network, the protocols, standards and procedures an Access Holder is required to comply with under the terms of the relevant Standard Access Agreement.</p>
<p><b>Other information</b></p>	<ul style="list-style-type: none"> <li>(a) Information required under section 101(2) of the Act, to the extent not already provided.</li> <li>(b) Other information that is reasonably required by the Access Seeker in accordance with Aurizon Network's obligation under section 101(1) of the Act, provided such information cannot reasonably be obtained from another source.</li> </ul>

## 3 Capacity Information

- (a) The following information will be provided to an Access Seeker by Aurizon Network on request by that Access Seeker:

- (i) in addition to the Preliminary Information, the Master Train Plan; and
- (ii) in addition to the Additional Information, the Daily Train Plan (as assessed under **clause 3(b)**) for the relevant part of the Rail Infrastructure,

subject to:

- (iii) the identity of other Access Holders not being detailed; and
- (iv) the terms of other Access Holders' Train Service Entitlements not being detailed.

In addition, the Master Train Plan and the Daily Train Plan may not show all parts of the Rail Infrastructure, and as such may not show all Train Services that may impact on the Existing Capacity detailed. However, Aurizon Network will note those other parts of the Rail Infrastructure where interaction with other Train Services is most likely to impact on the Existing Capacity detailed.

- (b) The relevant current Daily Train Plan will be assessed as, for an Access Application in respect of:
  - (i) a Timetabled Traffic, the current Daily Train Plan for the relevant day (or days) of the week; or
  - (ii) a Cyclic Traffic, the current Daily Train Plans for a week, unless Aurizon Network reasonably believes that provision of Daily Train Plans for a longer period of time is required in order that the Daily Train Plans show a use of Existing Capacity that is representative of current utilisation.
- (c) Aurizon Network will also provide access to Train Control diagrams, indicating actual running of Train Services against the relevant Daily Train Plan, for those days for which the Daily Train Plan has been provided under **clause 3(a)(ii)**.

# Schedule B

## Access Application information requirements

### 1 Access Seeker and Customer

Relevant contact details including:

- (a) the Access Seeker's name and contact details;
- (b) if the Access Seeker has a Customer, the Customer's name and contact details; and
- (c) if the Access Seeker or the Customer is an unincorporated joint venture, the names and contact details for all joint venture participants.

### 2 Ability to use Access Rights

Information needed to assess matters referred to in **clause 4.11(c)** including:

- (a) whether the Access Seeker has secured, or is reasonably likely to secure, Supply Chain Rights;
- (b) whether the Access Seeker, or its Customer (if any), has secured or is reasonably likely to secure a rail haulage agreement for the operation of the proposed Train Services within the timeframes and in the manner contemplated by the Access Application, if applicable;
- (c) whether the Access Seeker or its Rail Operator has sufficient facilities (including Rollingstock, provisioning facilities, maintenance facilities and storage facilities) to enable it to run Train Services to fully utilise the Access Rights sought; and
- (d) where the Access Rights are sought to transport the output of a mine, whether the anticipated output of the mine is sufficient to support full utilisation of the Access Rights sought.

### 3 Form of Access Agreement

Nominate the proposed form of Access Agreement that the Access Seeker is seeking – for example, a Standard Access Agreement (Alternate Form), a Standard Access Agreement (Access Holder), a Standard Access Agreement (Operator) or some other form.

## 4 Coal and freight Train Services

### 4.1 Train Service description

Information describing the Train Services, including:

- (a) the route of operation (including a diagram if necessary) including origin, destination, loading facility, unloading facility and depot;
- (b) the proposed commencement date for Train Services
- (c) the proposed term of the Access Agreement;
- (d) the method of transporting freight (e.g. containers, louvered wagons, bulk wagons);
- (e) a description of freight/ commodity;
- (f) the Coal System(s) in which the Train Service will operate;
- (g) the net tonnes of product per annum each Year of operation, represented on a monthly basis, or where monthly railings are not even, the proposed distribution of the net tonnes;
- (h) the proposed sectional run times;
- (i) the proposed maximum Dwell times, time at loading facility, time at unloading facility and time at depot;
- (j) the proposed non standard operating modes or methods (if applicable);  
and
- (k) the proposed Stowage requirements.

### 4.2 Timetable requirements

Information setting out the timetabling requirements, including:

- (a) whether the Access Rights sought are for a new Train Service, or a variation to an existing Train Service, for the Access Seeker;
- (b) whether the Access Rights sought are for a new Train Service or variation to an existing Train Service on the Rail Infrastructure;
- (c) the required frequency of Train Services, including weekly requirements, seasonality variations and any trends over the proposed Access Agreement term;
- (d) the preferred departure and arrival windows on preferred days of operation, separately for forward and return journeys, where relevant;  
and
- (e) the requirements for shunting or Dwell times enroute, separately for forward and return journeys.

### **4.3 Rollingstock details**

For all Access Seekers (other than End Users), information describing the Rollingstock, including:

- (a) the proposed number of locomotives per Train;
- (b) the proposed number of wagons per Train;
- (c) the type and class of locomotive;
- (d) the mass of each locomotive (includes full sand and fuel load);
- (e) the type and class of wagons;
- (f) the nominal gross mass of wagons;
- (g) the tare mass of each wagon;
- (h) the tare mass per container;
- (i) the average number of containers per wagon;
- (j) the average proposed load (of product) per wagon;
- (k) the maximum proposed gross tonnes per wagon;
- (l) the maximum axle load of locomotives and wagons;
- (m) locomotive traction type;
- (n) the gross tonnes per Train Service, separately for forward and return journeys;
- (o) the nominal payload per Train Service, separately for forward and return journeys; and
- (p) the total length of Train (including locomotives).

### **4.4 Infrastructure requirements**

Details of any Expansions or Customer Specific Branch Lines that may be necessary for operation of service, where known.

## **5 Passenger Train Services**

### **5.1 Train Service description**

Information describing the Train Services, including:

- (a) the route of operation (including a diagram, if necessary);
- (b) the proposed term of the Access Agreement; and
- (c) the type of passenger traffic (e.g. long distance, commuter, tourist).

### **5.2 Timetable requirements**

Information setting out the timetabling requirements, including:

- (a) whether the Access Rights sought are for a new Train Service, or a variation to an existing Train Service, for the Access Seeker;

- (b) whether the Access Rights sought are for a new Train Service, or a variation to an existing Train Service, for the Rail Infrastructure;
- (c) the required frequency of Train Services, including weekly requirements, seasonality variations and any trends over the proposed Access Agreement term;
- (d) the preferred departure and arrival windows on preferred days of operation, separately for forward and return journeys; and
- (e) the requirements for shunting or Dwell times enroute, separately for forward and return journeys.

### **5.3 Rollingstock details**

Information describing the Rollingstock, including:

- (a) the total number of locomotives per Train;
- (b) the total number of carriages per Train;
- (c) the total number of passenger multiple units (**PMU**) per Train;
- (d) the type and class of locomotive;
- (e) the mass of each locomotive (including full sand and fuel load);
- (f) the type and class of carriage;
- (g) the nominal gross mass of each carriage;
- (h) the type and class of PMU;
- (i) the average gross mass of PMU;
- (j) the maximum number of vehicles including locomotives, wagons or units within PMU;
- (k) the maximum axle load of locomotives and wagons;
- (l) locomotive traction type;
- (m) the total length of Train (including locomotives);
- (n) the gross tonnes per Train Service, separately for forward and return journeys; and
- (o) the maximum operation speed separately for loaded and empty Trains.

### **5.4 Infrastructure requirements**

Details of any Expansions or Customer Specific Branch Lines that may be necessary for operation of service, where known.

# Schedule C

## Operating Plan Requirements

The following matters must, amongst others, must be included in an Operating Plan.

- |                          |  |
|--------------------------|--|
| <b>Area of Operation</b> | <ul style="list-style-type: none"><li>• Origin and destination</li><li>• Cycle description (including nominated stops enroute)</li><li>• Entry and exit points onto or off of Rail Infrastructure</li><li>• Description of any activities that may negatively impact main line running</li><li>• Details regarding repositioning of Rollingstock (prior to, during and after operation of the Train Service)</li><li>• Depot location</li></ul>  |
| <b>Business Plan</b>     | <ul style="list-style-type: none"><li>• Tonnage profile (five year forecast)</li><li>• Passenger loading and unloading profile (if applicable)</li><li>• Anticipated project service life</li></ul>  |
| <b>Operation</b>         | <ul style="list-style-type: none"><li>• Type of service (passenger, freight) or commodity</li><li>• Special operating parameters (e.g. key arrival and departure windows)</li><li>• Dangerous goods details</li><li>• Overload management system</li><li>• Stowage locations</li><li>• Shunting activities on Rail Infrastructure</li><li>• Timing of scheduled servicing/provisioning activities</li><li>• Train Service Entitlements – nominated weekly, monthly and annual levels</li><li>• Maximum number of one way Train Services per year – contracted Train Paths</li><li>• Dwell times at loading facility (minimum and maximum)</li><li>• Dwell times at unloading facility (minimum and maximum)</li><li>• Dwell times enroute and operational requirements (minimum and maximum)</li><li>• The maximum Rollingstock operational speed separately for</li></ul> |

	loaded and empty Trains
	<ul style="list-style-type: none"> <li>• Indicative timetable requirements or sectional run times</li> <li>• Any connecting services</li> <li>• Any critical timings at specified locations</li> <li>• Authority from Private Infrastructure manager to enter and/or exit the Private Infrastructure to enable use of the Access Rights</li> </ul>
<b>Train Information</b>	<ul style="list-style-type: none"> <li>• Type, class and number of locomotives per Train</li> <li>• Maximum and average gross tonnage of loaded Train (including locomotives)</li> <li>• Tare of empty Train</li> <li>• Method of operation (push/pull)</li> <li>• Traction type</li> <li>• Safety systems</li> <li>• Communication system</li> <li>• Train length</li> <li>• Rollingstock and Rollingstock Configuration details (number of wagons/locomotives/carriages/self-propelled units)</li> </ul>
<b>Information in compliance with standards and protocols</b>	<ul style="list-style-type: none"> <li>• Rollingstock Interface Standard: <ul style="list-style-type: none"> <li>• Total number of consists</li> <li>• Minimum number of consists available to ensure 100% utilisation of Train Service Entitlements</li> </ul> </li> <li>• Overload management standard: <ul style="list-style-type: none"> <li>• Load tables (including the loads for Train Services and all relevant requirements and information in relation to the specification of those loads)</li> </ul> </li> </ul>
<b>Crewing Plan</b>	<ul style="list-style-type: none"> <li>• Train Service crew requirements: <ul style="list-style-type: none"> <li>• Location of crew depots</li> <li>• Crew change points</li> <li>• Dwell times at change points (minimum and maximum)</li> </ul> </li> </ul>
<b>Recovery Methods</b>	<ul style="list-style-type: none"> <li>• Recovery of marked off Rollingstock at loading/unloading locations/enroute</li> <li>• Recovery of derailments</li> <li>• Recovery of failed locomotive</li> </ul>





# Schedule D

## Ultimate Holding Company Deed

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Aurizon Holdings Limited

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# Ultimate Holding Company Support Deed

**Date:**

## Party

**Aurizon Holdings Limited** ACN 146 335 622 of Level 15, 175 Eagle Street, Brisbane in the State of Queensland (**Aurizon Holdings**)

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## Background

- A Aurizon Network is the railway manager of certain rail transport infrastructure, access to which is provided in accordance with the Access Undertaking.
  - B In order to comply with certain obligations imposed on Aurizon Network pursuant to the Access Undertaking, Aurizon Network will require the cooperation of members of the Aurizon Group.
  - C As required by clause 3.3 of the Access Undertaking and the QCA's decision to approve the Access Undertaking, Aurizon Network has requested that Aurizon Holdings, as Aurizon Network's ultimate holding company, enter into this Deed in favour of the QCA. Aurizon Holdings has agreed to do so.
- 

## Agreed terms

### 1 Definitions

In this Deed the following terms will have the meanings set out below. All other terms shall have the meaning ascribed to them in the Access Undertaking.

**Access Undertaking** The Aurizon Network Access Undertaking approved by the QCA on **[insert]** in accordance with Part 5 of the Act (as amended from time to time in accordance with the Act).

**Aurizon Network** Aurizon Network Pty Ltd (ACN 132 181 116).

**QCA** Queensland Competition Authority

### 2 Term

Aurizon Holdings' obligations under this Deed will terminate upon the earlier of:

- (a) any new ultimate holding company of Aurizon Network providing a deed poll in substantially similar form to this Deed; or
- (b) expiry of the Access Undertaking.

## 3 Procuring Compliance by Aurizon Group

### 3.1 Procuring compliance with Access Undertaking

Aurizon Holdings will, and will procure that each other member of the Aurizon Group:

- (a) not direct or request Aurizon Network to act in contravention of its obligations in **Part 3** of the Access Undertaking; and
- (b) not to disclose Protected Information received from Aurizon Network, as permitted by the Access Undertaking, to any third party otherwise than as permitted by the Access Undertaking or with the consent of the Access Seeker or Access Holder to which the Protected Information belongs or relates.

### 3.2 Management separation

Aurizon Holdings undertakes that:

- (a) Aurizon Network's Executive Officer be maintained at the same or greater level of seniority within the organisational structure of the Aurizon Group, as the position of the executive manager with direct management responsibility for a Related Operator; or
- (b) in the event there is more than one Related Operator, at the same or greater level of seniority within the organisational structure of the Aurizon Group as the position of the most senior executive manager with direct management responsibility for a Related Operator.

### 3.3 Benefit of Deed

This Deed is provided in favour of the QCA.

### 3.4 Consequences of non-compliance

The consequences of non-compliance with the obligations in **clause 3.1**, will be limited to those described in clause 3.3(b) of the Access Undertaking.

## 4 New Ultimate Holding Company

To the extent that Aurizon Holdings ceases to be the ultimate holding company of Aurizon Network, Aurizon Holdings will use its best endeavours to procure that the new ultimate holding company of Aurizon Network enters a deed poll in substantially similar form to this Deed as soon as reasonably practicable.

# Execution

**Executed** as a deed.

**Executed by Aurizon Holdings Limited**

.....  
Director Signature

.....  
Company Secretary Signature

.....  
Name of Director (print)

.....  
Name of Company Secretary (print)

# Schedule E

## Regulatory Asset Base

### 1 Maintenance of Regulatory Asset Base

#### 1.1 Roll forward principles

- (a) On an annual basis, Aurizon Network will roll forward the asset values in its Regulatory Asset Base, applying the following principles:
- (i) the opening asset value, being:
    - (A) for the first Year of the Term, the value in the Regulatory Asset Base at the expiry of the 2010 Undertaking<sup>4</sup>; and
    - (B) for each other Year in the Term, the value in the Regulatory Asset Base at the end of the immediately prior Year,will be indexed for the Year using change in the CPI between the June Quarter of the previous Year and the June Quarter for that Year;
  - (ii) depreciation of the assets will be calculated for the Year using asset lives and a depreciation profile as endorsed by the QCA;
  - (iii) subject to **clause 1.1(b)**, where assets are disposed of during the Year the following amount will be subtracted from the Regulatory Asset Base, where the net proceeds on disposing of the assets after deducting all costs and expenses incurred by Aurizon Network in connection with that disposal are:
    - (A) less than, or equal to, the value in the Regulatory Asset Base for the disposed assets, the net proceeds of the disposal; or
    - (B) greater than the value in the Regulatory Asset Base of the disposed assets, the sum of:
      - (1) the value in the Regulatory Asset Base of the disposed assets; and

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<sup>4</sup> The roll forward of the asset values in the Regulatory Asset Base from the 2010 Undertaking will be submitted to the QCA under the 2010 Undertaking but the QCA consideration of that roll forward will not be finalised until after the Approval Date. As the actual value of assets in the Regulatory Asset Base for the first Year of the Term will not be determined until after the Approval Date, an assumed value of assets in the Regulatory Asset Basis was used for the purposes of this Undertaking including, amongst other matters, for setting Reference Tariffs and System Allowable Revenues. Once the actual opening value of assets in the Regulatory Asset Base for the Term is accepted by the QCA, the Reference Tariffs and System Allowable Revenues will be adjusted based on those actual values.

- (2) 50% of the difference between the net proceeds of the disposal of those assets and the value in the Regulatory Asset Base of the disposed assets;
  - (iv) prudent capital expenditure will be added to the Regulatory Asset Base, where that expenditure is accepted into the Regulatory Asset Base by the QCA in accordance with **clause 2**; and
  - (v) the value of the assets in the Regulatory Asset Base will be adjusted in accordance with **clauses 1.2**.
- (b) The subtraction of an amount referred to in **clause 1.1(a)(iii)(B)(2)** from the value of remaining assets in Regulatory Asset Base will be as determined by Aurizon Network and accepted by the QCA.

## **1.2 Adjusting the value of assets in the Regulatory Asset Base**

- (a) The value of assets contained in the Regulatory Asset Base may be increased by Aurizon Network by including:
- (i) at the end of the Term, the value of intangible assets that were not included in the initial valuation of assets contained in the Regulatory Asset Base; or
  - (ii) the Depreciated Optimised Replacement Cost of additional Rail Infrastructure incorporated into the Coal Systems,
- provided that the asset value increase has been accepted by the QCA on request by Aurizon Network.
- (b) The value of assets contained in the Regulatory Asset Base may be increased by Aurizon Network by including, after the end of the Term, an amount for equity raising costs calculated under **clause 1.5** provided that the asset value increase has been accepted by the QCA on request by Aurizon Network. The QCA must accept those equity raising costs if they have been calculated in accordance with **clause 1.5**.
- (c) The QCA will not require the value of assets contained in the Regulatory Asset Base to be reduced unless:
- (i) the QCA made its decision to accept the relevant capital expenditure into the Regulatory Asset Base on the basis of information provided by Aurizon Network that Aurizon Network knew, or should have known, was false or misleading at the time it provided the information; and
  - (ii) the provision of this false or misleading information resulted in a materially different outcome from that which would have occurred if the QCA had been provided with information that was not false or misleading.
- (d) Where the QCA requires the value of the assets in the Regulatory Asset Base to be reduced, it must identify those specific assets including the class and location of those assets.



- (e) If the QCA has not notified Aurizon Network of whether it accepts any asset value increase under **clauses 1.2(a) or (b)** (as applicable) within 40 Business Days after receiving a request from Aurizon Network under **clauses 1.2(a) or (b)** (as applicable), then the QCA is taken to have made a determination to accept Aurizon Network's request.
- (f) Subject to **clause 1.2(e)**, if the QCA refuses to accept Aurizon Network's request, then the QCA must notify Aurizon Network of the reasons why that request was not accepted.

### **1.3 Capital expenditure report**

- (a) Unless otherwise agreed between Aurizon Network and the QCA, Aurizon Network will, within four months after the end of each Year in the Term, provide to the QCA the following details for capital expenditure in the subject Year that Aurizon Network considers should be included in the Regulatory Asset Base:
  - (i) the name of the project;
  - (ii) the location of the project;
  - (iii) the amount of the capital expenditure; and
  - (iv) information:
    - (A) where applicable, to support the QCA's assessment of the prudence of the capital expenditure under **clauses 2 to 5** (except to the extent that the QCA has already accepted that capital expenditure as prudent in scope, standard or cost); and
    - (B) to the extent that the capital expenditure is taken to be prudent in scope or standard because of acceptance by Interested Participants under **clause 8.10** of this Undertaking:
      - (1) evidence that a vote under **clause 8.10** of this Undertaking has occurred and the result for that vote; and
      - (2) an audit certificate in respect of whether the vote conducted under **clause 8.10** of this Undertaking is in all material respects compliant with **clause 8.10** of this Undertaking.
- (b) If the information set out in a report provided to the QCA under this **clause 1.3** is insufficient, the QCA may request additional relevant information in accordance with **clause 2.3(b)**.
- (c) Information provided to the QCA under this **clause 1.3** (including in response to a request under **clause 2.3(b)**):

- (i) will be accompanied by a statement signed by Aurizon Network's Executive Officer confirming that information is, in all material respects, correct; and
- (ii) must be kept confidential and not published by the QCA except to the extent that Aurizon Network agrees otherwise.

#### **1.4 Regulatory Asset Base roll forward report to the QCA**

- (a) Unless otherwise agreed between Aurizon Network and the QCA, to the extent that the QCA, under **clause 2.2**, has accepted the capital expenditure in the report under **clause 1.3** into the Regulatory Asset Base, Aurizon Network will, within four weeks after that acceptance, provide to the QCA Aurizon Network's roll-forward of the Regulatory Asset Base under **clause 1.1**, subject to **clause 1.2**, including details of:
  - (i) the opening value of the Regulatory Asset Base for the relevant Year;
  - (ii) indexation of the Regulatory Asset Base;
  - (iii) depreciation of the Regulatory Asset Base;
  - (iv) capital expenditure that is included in the Regulatory Asset Base;
  - (v) disposals and transfers from the Regulatory Asset Base; and
  - (vi) the closing value of the Regulatory Asset Base for the relevant Year (which will be the opening value of the Regulatory Asset Base for the following Year),
 separately reported for each Coal System.
- (b) Information provided to the QCA under this **clause 1.4**:
  - (i) will be accompanied by a statement signed by Aurizon Network's Executive Officer confirming that information is, in all material respects, correct;
  - (ii) must be kept confidential and not published by the QCA except to the extent that Aurizon Network agrees otherwise; and
  - (iii) must be based on the roll forward principles in **clause 1.1**.

#### **1.5 Equity raising costs**

- (a) After the end of the Term, Aurizon Network will calculate an amount for equity raising costs in relation to capital expenditure projects occurring during the Term where the capital expenditure for that project has been accepted as prudent by the QCA, having regard to:
  - (i) the aggregate of the Adjusted System Allowable Revenue determined over the Term under **clause 4.3(b)** of **schedule F**, excluding any Revenue Adjustment Amounts, over the Term;
  - (ii) the Approved Capital Expenditure amounts over the Term;

- (iii) the tax depreciation that should have applied for the Approved Capital Expenditure (which must be the same as that used in **clause 7(c)(iii)** to calculate the tax depreciation component for the Capital Expenditure Carryover Account);
- (iv) the tax payable based on the tax depreciation that should have applied for the Approved Capital Expenditure excluding imputation; and
- (v) the following parameters<sup>5</sup>:
  - (A) dividend reinvestment of 30%;
  - (B) dividend reinvestment plan cost of 1% of the total dividends reinvested;
  - (C) dividend imputation payout ratio of 70%; and
  - (D) seasoned equity raising cost of 3% of total external equity requirements,

to the extent that Aurizon Network can demonstrate that the need to raise new equity was reasonably required having regard to maintaining the debt percentage of the Regulatory Asset Base over the Term that has been assumed in the Approved WACC.

- (b) The amount calculated in **clause 1.5(a)** will be allocated amongst the Coal Systems on a pro rated basis by reference to the Approved Capital Expenditure over the Term that will, subject to the QCA's acceptance, be applied in determining the Reference Tariff for that Coal System for the next regulatory period.

## 2 Acceptance of capital expenditure into the Regulatory Asset Base by the QCA

### 2.1 Overview

- (a) This **clause 2** refers to various determinations that the QCA may be requested to make in order for capital expenditure to be included in the Regulatory Asset Base.
- (b) These determinations may be made:
  - (i) in response to a report provided to it under **clause 1.3**; or
  - (ii) in some instances, in advance of the capital expenditure being incurred – for example, regarding the prudence of scope of a capital expenditure project.
- (c) Aurizon Network may seek the QCA's acceptance of prudence of scope (**clause 3**) and prudence of standard of works (**clause 4**). Alternatively,

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<sup>5</sup> These parameters are consistent with those relied upon by the AER, as referred to in its Final Decision on the Powerlink Transmission Determination (April 2012) at 2012-13 to 2016 -17.

Aurizon Network may seek acceptance of either or both of these matters through a vote of Interested Participants under **clause 8.10** of this Undertaking. If such a vote is successful, then the QCA must accept the outcome of that vote. If such a vote is unsuccessful, Aurizon Network is not prevented from seeking the QCA's acceptance of that matter or a future vote.

- (d) However, certain decisions may only be made by the QCA including:
  - (i) acceptance of the prudence of cost of a capital expenditure project (**clause 5**); and
  - (ii) acceptance of an Asset Management Plan (**clause 2.4**) or a procurement strategy (**clause 6.1**).

## **2.2 Acceptance of capital expenditure into the Regulatory Asset Base by the QCA**

- (a) The QCA will accept capital expenditure in the report provided to the QCA under **clause 1.3** into the Regulatory Asset Base if that capital expenditure:
  - (i) either:
    - (A) is or has been accepted as:
      - (1) prudent in scope in accordance with **clause 3** or **clause 8.10** of this Undertaking;
      - (2) prudent in the standard of works in accordance with **clause 4** or **clause 8.10** of this Undertaking; and
      - (3) prudent in cost in accordance with **clause 5**; or
    - (B) is for a Concept Study, Pre-feasibility Study, Feasibility Study or other study in connection with a potential capital expenditure project (or any precursor to a capital expenditure project); and
  - (ii) has been incurred and either the capital expenditure project has been commissioned or formally discontinued.
- (b) A vote by Interested Participants in respect of the cost allocation principles for the purposes of developing a proposed Reference Tariff variation under **clause 6.2.4(a)(iv)(A)** of this Undertaking is not a vote in relation to the prudence of scope, standard of works or cost for the relevant capital expenditure project.
- (c) Aurizon Network does not have an obligation to construct or fund a capital expenditure project as a result of seeking or obtaining any acceptance of the scope, standard or cost of a capital expenditure project under this **clause 2, clause 3, 4** or **5**.
- (d) The QCA must notify Aurizon Network in writing if it accepts capital expenditure into the Regulatory Asset Base.

- (e) If the QCA is considering refusing to accept all or part of any capital expenditure into the Regulatory Asset Base:
  - (i) the QCA must give Aurizon Network a draft of the QCA's decision (including a statement of reasons including the way it considers the capital expenditure should be adjusted);
  - (ii) Aurizon Network may, within 20 Business Days after being given that draft decision (or such longer period as agreed by the QCA), revise the capital expenditure and/or provide additional information supporting its view that the capital expenditure or the revised amount should be included in the Regulatory Asset Base; and
  - (iii) the QCA must consider that revision and/or additional information when deciding whether to accept or refuse to accept the capital expenditure into the Regulatory Asset Base.
- (f) If the QCA refuses to accept all or part of any capital expenditure into the Regulatory Asset Base, the QCA must give Aurizon Network a notice of the QCA's decision (including a statement of reasons and the clear identification of the capital expenditure project and the capital expenditure to which its decision relates).
- (g) If Aurizon Network does not obtain the QCA's acceptance of any matters under **clauses 3 to 5** in relation to a capital expenditure project at any time, this does not affect its right to seek any such acceptance under **clauses 3 to 5** or **clause 8.10** of this Undertaking at a later time.
- (h) If:
  - (i) Aurizon Network has obtained:
    - (A) the QCA's acceptance for any matter under **clauses 3 to 5**;  
or
    - (B) Interested Participants' acceptance for any matter under **clause 8.10** of this Undertaking; and
  - (ii) a material change subsequently occurs in respect of that matter, Aurizon Network may seek the QCA's acceptance in respect of that change under the relevant process set out in **clauses 3 to 5** or, alternatively, where **clause 2.2(h)(i)(B)** applies, the process set out in **clause 8.10** of this Undertaking.
- (i) For the avoidance of doubt, the Capital Indicator does not imply any acceptance by the QCA of that level of capital expenditure into the Regulatory Asset Base.

## 2.3 Assessing prudence of capital expenditure

For the purposes of **clauses 3 to 5**:

- (a) the QCA must:
  - (i) in assessing whether capital expenditure is prudent:
    - (A) only consider information available, or reasonably available, to Aurizon Network at the time of making the investment decision; and
    - (B) as it considers necessary, take advice from independent advisors using appropriate benchmarks and experience provided that it gives Aurizon Network a copy of that advice as soon as reasonably practicable and in any event no later than with its notice under **clause 2.3(a)(ii)**; and
  - (ii) give Aurizon Network a notice of any determination that it makes under **clauses 3, 4 or 5** (as applicable) and, if that determination is a refusal to accept anything (in whole or part), that notice must state the reasons for that refusal;
- (b) the QCA may request additional information from Aurizon Network that is reasonably required to make any determination under **clauses 3, 4 or 5** (as applicable) within 45 Business Days after receiving the request from Aurizon Network to make such a determination under **clauses 3, 4 or 5** (as applicable);
- (c) Aurizon Network must respond to a request by the QCA under **clause 2.3(b)** within 30 Business Days after receiving that request; and
- (d) if the QCA has not notified Aurizon Network of any determination that it is required to make under **clauses 3, 4 or 5** (as applicable) within 45 Business Days after:
  - (i) where the QCA has not made a request under **clause 2.3(b)**, receiving a request from Aurizon Network under **clauses 3, 4 or 5** (as applicable) to make such a determination; or
  - (ii) where the QCA has made a request under **clause 2.3(b)**, receiving additional information from Aurizon Network reasonably required to make any determination under **clauses 3, 4 or 5** (as applicable) as requested by the QCA,

then the QCA is taken to have made a determination to accept Aurizon Network's request.

## 2.4 Asset Management Plan

- (a) Aurizon Network may prepare a proposed Asset Management Plan describing the standards that Aurizon Network will apply in determining whether to incur capital expenditure by replacing assets within the Regulatory Asset Base rather than maintaining those assets and submit that proposed Asset Management Plan to the QCA for acceptance.

- (b) Aurizon Network may amend the Asset Management Plan from time to time, but if Aurizon Network wishes to do so it must provide any proposed amendments to the Asset Management Plan to the QCA for acceptance.
- (c) If the QCA is considering refusing to accept a proposed Asset Management Plan or Asset Management Plan amendments (as applicable) (**Proposal**):
  - (i) the QCA must give Aurizon Network a draft of the QCA's decision (including a statement of reasons including the way it considers the Proposal should be adjusted);
  - (ii) Aurizon Network may, within 20 Business Days after being given that draft decision (or such longer period as agreed by the QCA), revise the Proposal and/or provide additional information supporting its view that the Proposal or the revised Proposal should be accepted by the QCA; and
  - (iii) the QCA must consider that revision and/or additional information when deciding whether to accept or refuse to accept the Proposal.
- (d) If the QCA refuses to accept the Proposal, the QCA must give Aurizon Network a notice of the QCA's decision (including a statement of reasons).
- (e) For the purpose of this **clause 2.4**:
  - (i) the QCA may request additional information from Aurizon Network that is reasonably required to make any determination under this **clause 2.4** within 45 Business Days after receiving the request from Aurizon Network to make such a determination under this **clause 2.4**;
  - (ii) Aurizon Network must respond to a request by the QCA under **clause 2.4(e)(i)** within 30 Business Days after receiving that request; and
  - (iii) if the QCA has not notified Aurizon Network of any determination that it is required to make under this **clause 2.4** within 30 Business Days after:
    - (A) where the QCA has not made a request under **clause 2.4(e)(i)**, receiving a request from Aurizon Network under to make such a determination under this **clause 2.4**;
    - or
    - (B) where the QCA has made a request under **clause 2.4(e)(i)**, receiving additional information from Aurizon Network reasonably required to make any determination under this **clause 2.4** as requested by the QCA,

the QCA is taken to have accepted the Asset Management Plan.

## 3 Prudency of scope

### 3.1 Assessment of prudency of scope

- (a) Assessing the prudency of scope of works for a capital expenditure project involves assessing whether the works are reasonably required.
- (b) The QCA's acceptance of the prudency of scope for a capital expenditure project may be requested at any time including prior to the capital expenditure being incurred.

### 3.2 Process for acceptance of prudency of scope

- (a) Aurizon Network may request the QCA to, and the QCA will, accept the scope of a capital expenditure project as prudent if:
  - (i) for Asset Replacement Expenditure, it is in accordance with the Asset Management Plan; or
  - (ii) it is Customer or Access Holder specific capital expenditure and the scope of the capital expenditure has been accepted by that Customer or Access Holder.
- (b) If **clause 3.2(a)** does not apply or acceptance is not sought or obtained under **clause 3.2(a)**, Aurizon Network, an Access Seeker, an Access Holder or a Customer may request the QCA's acceptance of the scope of a capital expenditure project as prudent in accordance with **clause 3.2(c)**.
- (c) If a request is made under **clause 3.2(b)**, the QCA will accept the scope of a capital expenditure project as prudent if it is demonstrated to the QCA's reasonable satisfaction, having regard to the factors set out in **clause 3.2(d)**, that:
  - (i) where the expenditure for the capital expenditure project has already been incurred, Aurizon Network had reasonable grounds for proceeding with the capital expenditure project given the circumstances relevant at the time the investment decision was made; or
  - (ii) where the expenditure for the capital expenditure project has not already been incurred, reasonable grounds exist for proceeding with the capital expenditure project.
- (d) The factors that the QCA will have regard to for the purposes of **clause 3.2(c)** are:
  - (i) any relevant Network Development Plan;
  - (ii) the need to accommodate what is reasonably required to comply with Access Agreements;
  - (iii) the extent of Reasonable Demand, and the need for new capital expenditure projects to accommodate that demand;



- (iv) the age and condition of existing assets, the need for asset replacement capital expenditure projects and the extent of consistency with the Asset Management Plan;
- (v) Aurizon Network's legislative and tenure requirements, including relating to rail safety, workplace health and safety and environmental requirements; and
- (vi) the outcomes of consultation (if any), about the capital expenditure project, with Access Seekers and Access Holders whose Access Charges (or likely Access Charges) would be affected by including the amount of capital expenditure for the capital expenditure project into the Regulatory Asset Base.

### 3.3 Excluded capital expenditure

- (a) If:
  - (i) the capital expenditure for a capital expenditure project has been incurred by Aurizon Network; and
  - (ii) the QCA, in assessing the prudence of scope of that capital expenditure project for the purposes of **clause 3.2(c)**, determines that the scope of the capital expenditure project is in excess of that needed to accommodate Reasonable Demand,
 

the QCA may also determine the element of the prudent costs of the capital expenditure project that was not needed to meet Reasonable Demand (**Excluded Capital Expenditure**). For clarity, this **clause 3.3** does not apply where:

    - (iii) the QCA has already accepted the scope of the capital expenditure project as prudent;
    - (iv) the QCA accepts the scope of the capital expenditure project as prudent in accordance with **clause 3.2(a)**; or
    - (v) the scope of the capital expenditure project has been accepted as prudent by Interested Participants by a vote in accordance with **clause 8.10** of this Undertaking and an audit certificate has been provided to the QCA indicating the conduct of that vote was in all material respects compliant with **clause 8.10** of this Undertaking.
- (b) If the QCA has determined Excluded Capital Expenditure in respect of a capital expenditure project:
  - (i) that Excluded Capital Expenditure will be set aside and escalated at the rate of the Approved WACC from the date of commissioning of the capital expenditure project until the full scope of the capital expenditure project is accepted by the QCA as required to meet Reasonable Demand (whether on one occasion or in parts over time); and

- (ii) when the QCA accepts that all or part of the Excluded Capital Expenditure is required to meet Reasonable Demand:
  - (A) the QCA will accept all or the relevant part of the Excluded Capital Expenditure into the Regulatory Asset Base at its escalated value; and
  - (B) if only part of the Excluded Capital Expenditure is included in the Regulatory Asset Base, **clause 3.3(b)(i)** will continue to apply to the remainder.

## 4 Prudency of standard of works

### 4.1 Assessment of prudency of standard of works

- (a) Assessing the prudency of standard of works for a capital expenditure project involves assessing whether the works are of a reasonable standard to meet the requirements of the scope for that capital expenditure project and are not overdesigned such that they are beyond the requirements of that scope.
- (b) The QCA's acceptance of the prudency of standard of works for a capital expenditure project may be requested at any time including prior to the capital expenditure being incurred.

### 4.2 Process for acceptance of prudency of standard of works where there is an Asset Management Plan

- (a) To the extent that a capital expenditure project includes Asset Replacement Expenditure and there is an Asset Management Plan, Aurizon Network may request the QCA's acceptance of the standard of works for that Asset Replacement Expenditure as prudent.
- (b) If a request is made under **clause 4.2(a)**, the QCA will accept as prudent the standard of works relevant to the Asset Replacement Expenditure if that standard of works is consistent with the Asset Management Plan.

### 4.3 General process for acceptance of prudency of standard of works

- (a) If **clause 4.2** does not apply or acceptance is not sought or obtained under **clause 4.2**, Aurizon Network may request the QCA's acceptance of the standard of works of a capital expenditure project as prudent in accordance with this **clause 4.3**.
- (b) If a request is made under **clause 4.3(a)**, the QCA will accept the standard of works of a capital expenditure project as prudent if:
  - (i) it is demonstrated to the QCA's reasonable satisfaction, having regard to the factors set out in **clause 4.3(c)**, that:
    - (A) where the expenditure for the capital expenditure project has already been incurred, Aurizon Network had reasonable grounds for its design of the relevant infrastructure given the

- circumstances relevant at the time that the design was prepared; or
- (B) where the expenditure for the capital expenditure project has not already been incurred, reasonable grounds exist for the design of the relevant infrastructure; or
- (ii) the proposed works are consistent in all material respects with the existing standard and configuration of adjacent infrastructure or existing infrastructure with similar usage levels, or its modern engineering equivalent, to the extent that the standard of the adjacent or existing infrastructure has previously been accepted by the QCA as being reasonable.
- (c) The factors that the QCA will have regard to for the purposes of **clause 4.3(b)(i)** are:
- (i) the requirements of Railway Operators and what is reasonably required to comply with Access Agreements;
- (ii) current and likely future usage levels;
- (iii) the requirements of relevant Australian design and construction standards;
- (iv) if applicable, the extent of consistency with the Asset Management Plan;
- (v) Aurizon Network's design standards contained within the Safety Management System; and
- (vi) all relevant Laws and the requirements of any Authority (including the Safety Regulator).

## 5 Prudency of costs

### 5.1 Assessment of prudency of costs

- (a) Assessing the prudency of costs for a capital expenditure project involves assessing whether the costs are reasonable for the scope and standard of work done or to be done.
- (b) The QCA's acceptance of the prudency of costs for a capital expenditure project may be requested at any time.

### 5.2 Process for acceptance of prudency of costs where there is an accepted procurement strategy

- (a) If the QCA has accepted a procurement strategy for a capital expenditure project under **clause 6.1(b)**, Aurizon Network may request the QCA's acceptance of the costs of that capital expenditure project as prudent in accordance with this **clause 5.2**.

- (b) If a request is made under **clause 5.2(a)**, the QCA will accept as prudent the amounts incurred by Aurizon Network under a contract if the auditor engaged under **clause 6.2** certifies that:
  - (i) the tender for the contract has been conducted in accordance with the accepted procurement strategy;
  - (ii) if applicable, any relevant variations of, and/or escalations under, that contract have been handled in a manner consistent with the relevant contract provisions; and
  - (iii) the amounts incurred were incurred in a manner consistent with the relevant contract provisions.

### **5.3 General process for acceptance of prudence of costs**

- (a) If **clause 5.2** does not apply or acceptance is not sought or obtained under **clause 5.2**, Aurizon Network may request the QCA's acceptance of the costs of a capital expenditure project as prudent in accordance with this **clause 5.3**.
- (b) If a request is made under **clause 5.3(a)**, the QCA will accept the costs of a capital expenditure project as prudent if the costs are reasonable for the scope and standard of works undertaken having regard to the matters set out in **clause 5.3(c)** given the circumstances relevant at the time when the costs were incurred or the capital expenditure project was undertaken (as applicable).
- (c) The factors that the QCA will have regard to for the purposes of **clause 5.3(b)** are:
  - (i) any relevant Network Development Plan;
  - (ii) the level of such costs relative to the scale, nature, cost and complexity of the project;
  - (iii) the circumstances prevailing in the markets for:
    - (A) engineering, equipment supply and construction;
    - (B) labour; and
    - (C) materials;
  - (iv) the allocation of costs attributable to Rail Infrastructure on an optimised Stand Alone Cost basis;
  - (v) where the QCA has accepted a procurement strategy for the capital expenditure project under **clause 6.1(b)**, the extent to which Aurizon Network has achieved compliance with that procurement strategy;
  - (vi) the Asset Management Plan; and
  - (vii) the manner in which the capital expenditure project has been managed by Aurizon Network given the circumstances at the time

when relevant management decisions and actions were made or undertaken, including Aurizon Network's balancing of:

- (A) safety during construction and operation;
- (B) compliance with environmental requirements during construction and operation;
- (C) compliance with Laws and the requirements of Authorities;
- (D) minimising disruption to the operation of Train Services during construction;
- (E) accommodating reasonable requests of Access Holders to amend the scope and sequence of works undertaken to suit their needs;
- (F) minimising whole of asset life costs including future maintenance and operating costs;
- (G) minimising total project cost which may at times not be consistent with minimisation of individual contract costs;
- (H) aligning other elements in the supply chain; and
- (I) meeting contractual timeframes and dealing with external factors.

## 6 Procurement strategy

### 6.1 Process for the acceptance of a procurement strategy

- (a) Where the QCA has accepted the scope of a capital expenditure project as prudent under **clause 3**, Aurizon Network may request the QCA's acceptance of a procurement strategy for all or part of that capital expenditure project.
- (b) If a request is made under **clause 6.1(a)**, the QCA will accept Aurizon Network's procurement strategy if the QCA is satisfied that the procurement strategy:
  - (i) is in accordance with good industry practice;
  - (ii) will generate an efficient and competitive outcome;
  - (iii) will avoid conflict of interest or collusion amongst tenderers;
  - (iv) is prudent in the circumstances of the capital expenditure project (including having regard to:
    - (A) the factors set out in **clause 6.1(c)**; and
    - (B) whether the procurement strategy tends to assist in achieving the requirements for prudence of costs set out in **clause 5.3**); and
  - (v) will avoid unreasonable exposure to contract variation claims.

- (c) The factors that the QCA will have regard to for the purposes of **clause 6.1(b)(iv)(A)** are whether in the procurement strategy:
- (i) there is a clear process for the calling of tenders, including having clear specifications for tenders, and processes for mitigating conflicts of interest (except when it is assessed that calling tenders is likely to be less advantageous than an alternative means of negotiating a contract);
  - (ii) there is a tender assessment process which contains clear and appropriate processes for determining the successful tender, with any decisions to approve a tender that is not the lowest tender being appropriately justified and documented;
  - (iii) the basis of payment for works is clearly specified and the basis for undertaking the works is in accordance with good commercial practice;
  - (iv) there is a process for managing contracts before and after award that accords with good commercial practice for a project of the type and scale of the capital expenditure project and provides appropriate guidance on the criteria that Aurizon Network should apply to decisions regarding the management of the capital expenditure project, including:
    - (A) safety during construction and operation;
    - (B) compliance with environmental requirements during construction and operation;
    - (C) minimising disruption to Committed Capacity during construction;
    - (D) accommodation of the reasonable requests of Access Holders and, if applicable, their Customers to change the scope and sequence of construction to suit their needs;
    - (E) a prudent balance between:
      - (1) a higher price in return for more certainty as to final cost;
      - (2) a lower price accepting that final cost may be less certain; and
      - (3) costs, schedule and minimising disruption to Committed Capacity during construction;
    - (F) minimising whole of asset life costs including future maintenance and operating costs; and
    - (G) minimising total project cost which may at times not be consistent with minimisation of individual contract costs; and

- (v) there is a process for managing contract variations and/or escalation that occurs post award of a contract, requiring:
  - (A) that reasonable consideration be given to:
    - (1) managing the risk of contract variations and/or escalation; and
    - (2) the allocation of potential risks during the management of the contract; and
  - (B) the provision of clear documentary evidence regarding the nature and reasonableness of any variation and/or escalation.
- (d) The QCA will give Aurizon Network a notice in writing regarding:
  - (i) whether the procurement strategy is accepted; and
  - (ii) if the QCA decides not to accept the procurement strategy (in whole or part) the reasons for its refusal and the way the processes under the procurement strategy may be amended to obtain the QCA's acceptance.
- (e) In deciding whether to accept a procurement strategy, the QCA may take advice as it considers necessary from appropriately qualified and experienced independent advisors and, if so, the cost of those advisors will be borne by Aurizon Network.
- (f) For the purpose of this **clause 6.1**:
  - (i) the QCA may request additional information from Aurizon Network that is reasonably required to make any determination under this **clause 6.1** within 20 Business Days after receiving the request from Aurizon Network to make such a determination under this **clause 6.1**;
  - (ii) Aurizon Network must respond to a request by the QCA under **clause 6.1(f)(i)** within 20 Business Days after receiving that request; and
  - (iii) if the QCA has not given Aurizon Network a notice under **clause 6.1(d)** within 20 Business Days after:
    - (A) where the QCA has not made a request under **clause 6.1(f)(i)**, receiving a request from Aurizon Network for the acceptance of a procurement strategy under **clause 6.1(a)**; or
    - (B) where the QCA has made a request under **clause 6.1(f)(i)**, receiving additional information from Aurizon Network reasonably required to make any determination under this **clause 6.1** as requested by the QCA,

the QCA is taken to have accepted the procurement strategy.  
Aurizon Network and the QCA may agree to vary the timeframes

set out in this **clause 6.1(f)** based on the nature or circumstances of the relevant capital expenditure project and if varied timeframes are agreed then those alternative timeframes will apply under this **clause 6.1(f)** in relation to the relevant capital expenditure project.

## **6.2 Compliance with accepted procurement strategy**

- (a) As part of the implementation of a procurement strategy accepted by the QCA under **clause 6.1**, Aurizon Network will engage an independent external auditor to audit the compliance of Aurizon Network's tender and contract management processes with the accepted procurement strategy.
- (b) For the purpose of **clause 5.3**:
  - (i) the QCA will accept as prudent the costs incurred by Aurizon Network in relation to:
    - (A) an auditor engaged under this **clause 6.2**; and
    - (B) any costs paid or incurred by Aurizon Network under **clause 6.1(e)**,  
as part of the capital expenditure for the relevant capital expenditure project; and
  - (ii) the QCA will accept for inclusion into the Regulatory Asset Base all other costs, paid or incurred by Aurizon Network, that Aurizon Network can demonstrate were prudently incurred for the purpose of this **clause 6** or for compliance with an accepted procurement strategy (such as costs of tender and contract management processes including legal and probity costs).

## **7 Capital Expenditure Carryover Account**

- (a) Aurizon Network will maintain a register in which it annually records all Approved Capital Expenditure including identifying the relevant capital expenditure:
  - (i) by project;
  - (ii) by whether it relates to electrification assets; and
  - (iii) by Coal System.
- (b) If, at the end of each Year, the Approved Capital Expenditure differs from the Capital Indicator, the difference will be entered in the Capital Expenditure Carryover Account for assets funded under User Funding Agreements and assets funded by Aurizon Network. If the Approved Capital Expenditure exceeds the Capital Indicator, it will be deemed an under recovery of revenue. If the Approved Capital Expenditure is less than the Capital Indicator, it will be deemed an over-recovery of revenue.



- (c) The balance recorded in the Capital Expenditure Carryover Account will include :
- (i) a return on capital component, calculated as the difference between the return on capital assumed for the Capital Indicator and the return on capital that should have applied for the Approved Capital Expenditure, accrued at the Discount Rate;
  - (ii) a depreciation component, calculated as the difference between the depreciation assumed for the Capital Indicator and the depreciation that should have applied for the Approved Capital Expenditure; and
  - (iii) a tax depreciation component, calculated as the difference between the tax depreciation assumed for the Capital Indicator and the tax depreciation that should have applied for the Approved Capital Expenditure,
- and will be calculated using the modelling parameters and assumptions used to determine the Reference Tariffs.
- (d) The balance in the Capital Expenditure Carryover Account at the end of each Year will be rolled forward at the Discount Rate.
- (e) The balance in the Capital Expenditure Carryover Account at the end of the Term will be taken into account when determining Reference Tariffs to apply in the next undertaking with the intention of clearing the Capital Expenditure Carryover Account over the term of that next undertaking. In the event there is no next undertaking within one year after the withdrawal or expiry of this Undertaking, the balance in the Capital Expenditure Carryover Account will be recovered from, or returned to, Access Holders (as the case may be) in the form of a single payment following the Terminating Date.

# Schedule F

## Reference Tariff

### 1 General provisions

#### 1.1 Purpose

This **schedule F** will be used for the following purposes:

- (a) Aurizon Network's formulation of Access Charges for a Train Service to which a Reference Tariff applies; and
- (b) where Access Charges, and related provisions, in an Access Agreement that were originally determined based on this **schedule F** or schedule F of an Applicable Undertaking, to allow for the adjustment of those Access Charges, and related provisions, in accordance with that Access Agreement for consistency with this **schedule F** (as amended or replaced from time to time).

#### 1.2 Application of Reference Tariffs

The Reference Tariffs in this **schedule F**:

- (a) apply to coal carrying Train Services from the Commencing Date to the Terminating Date; and
- (b) are based on a Reference Train Service for each Coal System.

#### 1.3 General characteristics of Reference Train Services

The Reference Train Service in respect of the Reference Tariffs:

- (a) **(Commodity)** carries only bulk coal;<sup>6</sup>
- (b) **(Operational characteristics)** meets the following criteria:
  - (i) the criteria listed in **clauses 7.1, 8.1, 9.1, 10.1 and 11.1** for the relevant Coal System in which the Reference Train Service would operate;
  - (ii) complies with the maximum speeds permitted on the Nominated Infrastructure as specified in the relevant Preliminary Information;
  - (iii) complies with Aurizon Network's Rollingstock Interface Standards applicable to the Nominated Infrastructure;

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<sup>6</sup> In defining bulk coal, no differentiation is to be made between coal qualities or types, or between the end use markets of the coal.

- (iv) is otherwise compatible with the Nominated Infrastructure described in the relevant Preliminary Information and requires no additional expenditure by Aurizon Network to implement varied Below Rail controls identified in the IRMP;
  - (v) operates in accordance with nominated sectional running times specified in the relevant Preliminary Information;
  - (vi) operates as an empty Train on the return journey from the relevant Nominated Unloading Facility to the relevant Nominated Loading Facility;
  - (vii) the capital costs incurred by Aurizon Network in relation to providing the Access Rights for the Train Service were included in the calculation of the relevant Reference Tariff;
  - (viii) uses bottom dump wagons with the “KWIK DROP” door operating mechanism; and
  - (ix) uses measures to minimise coal spillage and leakage and coal dust emissions en route and complies with Aurizon Network’s Coal Loss Management Standard as published by Aurizon Network on the Website from time to time;
- (c) **(Below Rail Services)** only requires services from Aurizon Network that are Below Rail Services and that Below Rail Services comprised in Access are provided in accordance with this Undertaking;
- (d) **(Commercial terms of Access)** operates in accordance with a Standard Access Agreement applicable to coal carrying Train Services; and
- (e) **(Train Service Entitlement)** has a Train Service Entitlement:
- (i) based on Trains being available for operation 24 hours per day and 360 days per year; and
  - (ii) specified in terms of Cyclic Traffic which will:
    - (A) operate evenly throughout each monthly and weekly period consistent with the monthly distribution published by Aurizon Network by 30 May prior to the relevant Year;
    - (B) have regard to Planned Possessions and any other matters agreed between Aurizon Network and other service providers in the coal supply chain; and
    - (C) comply with the applicable scheduling procedures as set out in the Network Management Principles.

## 2 Reference Tariff

### 2.1 Composition of Reference Tariff

The Reference Tariff is comprised of:

- (a) a charge in relation to Train Services that have operated calculated in accordance with **clauses 2.2** and, if applicable, **clause 2.3** (including Adjustment Charges); and
- (b) a Take or Pay charge calculated in accordance with **clause 2.4**, with Reference Tariff inputs and, if applicable, System Discounts specific to the relevant Coal System.

### 2.2 Calculations for Reference Train Services

- (a) Subject to **clause 2.3**, a charge for Reference Train Services is calculated as:

$$\left( AT_1 \times \frac{gtk}{1000} \right) + (AT_2 \times rtp) + \left( AT_3 \times \frac{ntk}{1000} \right) + (AT_4 \times nt) + \left( AT_5 \times \frac{egtk}{1000} \right) + \left( EC \times \frac{egtk}{1000} \right) + (QCALev.y \times nt)$$

where:

AT<sub>1</sub> is the incremental maintenance tariff specified as the AT<sub>1</sub> input for the nominated Reference Train Service in **clauses 7.2, 8.2, 9.2, 10.2** and **11.2**, as applicable;

AT<sub>2</sub> is the incremental capacity tariff specified as the AT<sub>2</sub> input for the nominated Reference Train Service in **clauses 7.2, 8.2, 9.2, 10.2** and **11.2**, as applicable;

AT<sub>3</sub> is an allocative tariff specified as the AT<sub>3</sub> input for the nominated Reference Train Service in **clauses 7.2, 8.2, 9.2, 10.2** and **11.2**, as applicable;

AT<sub>4</sub> is an allocative tariff specified as the AT<sub>4</sub> input for the nominated Reference Train Service in **clauses 7.2, 8.2(a), 9.2, 10.2** and **11.2**, as applicable;

AT<sub>5</sub> is the electric access tariff specified as the AT<sub>5</sub> input for the nominated Reference Train Service in **clauses 7.2, 8.2, 9.2, 10.2** and **11.2**, as applicable; and

EC is the electric energy charge which is initially (from the Commencing Date) as specified as the EC input for the nominated Reference Train Service in **clauses 7.2** and **8.2**, as applicable, and after the Commencing Date as otherwise published by Aurizon Network on the Website on or about each 31 May during the Term,

provided that the above calculation is subject to the addition of:

- (i) any applicable Adjustment Charge from time to time (including, if necessary, on a pro rata basis with other Train Services that have the same origin and destination and Access Holder and are run during same billing period, as the nominated Reference Train Service); and
- (ii) any applicable Environment Compliance Charge from time to time.

For clarity, the rtp for a Reference Train Service equals one.

- (b) The amounts of the AT<sub>1</sub>, AT<sub>2</sub>, AT<sub>3</sub>, AT<sub>4</sub>, AT<sub>5</sub>, EC and the QCA Levy inputs (including the System Discounts) specified in **clauses 7.2, 8.2, 9.2, 10.2 and 11.2** and any Adjustment Charge are GST exclusive.<sup>7</sup>
- (c) For the purposes of this **schedule F**, a Train Service is a one way Train Service, that is, the journey from the Nominated Loading Facility to the Nominated Unloading Facility is one Train Service, and the return journey from the Nominated Unloading Facility to the Nominated Loading Facility is a second Train Service.

### 2.3 Calculations for a Cross System Train Service

- (a) For a Cross System Train Service, the Reference Train Service description for each relevant Coal System will be applied to the extent that the Train Service is using that Coal System and the calculation under **clause 2.2** will be adjusted by applying the following:
  - (i) AT<sub>1</sub> will be the AT<sub>1</sub> input for the relevant Reference Tariff for:
    - (A) the Origin System, for the gtk attributable to the Origin System; and
    - (B) the Destination System, for the gtk attributable to the Destination System;
  - (ii) AT<sub>2</sub> will be:
    - (A) where the Train Service operates in the Origin System on capacity constrained Rail Infrastructure identified in **clause 2.3(b)**, the AT<sub>2</sub> input for the relevant Reference Tariff for:
      - (1) the Origin System, for the rtp attributable to the Origin System; and
      - (2) the Destination System, for the rtp attributable to the Destination System; or
    - (B) where **clause 2.3(a)(ii)(A)** does not apply, the AT<sub>2</sub> input for the relevant Reference Tariff for the Destination System;

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<sup>7</sup> An amount for GST will be added to the total calculated Access Charge, in accordance with the provisions of the applicable Access Agreement, at invoicing.

- (iii)  $AT_3$  will be the  $AT_3$  input for the relevant Reference Tariff for:
    - (A) the Origin System, for the ntk attributable to the Origin System; and
    - (B) the Destination System, for the ntk attributable to the Destination System; and
  - (iv)  $AT_4$  will be the  $AT_4$  input for the relevant Reference Tariff for the Destination System;
  - (v)  $AT_5$  and EC will be the  $AT_5$  and EC inputs for the relevant Reference Tariff for the Destination System, for the egtk of the Cross System Train Service whether attributable to the Origin System or Destination System; and
  - (vi) the QCA Levy input for the Destination System.
- (b) For the purposes of **clause 2.3(a)(ii)**, unless otherwise approved by the QCA, the Rail Infrastructure comprising railways between:
- (i) Coppabella and the Hay Point Junction;
  - (ii) Newlands and Abbot Point; and
  - (iii) Burngrove and the port of Gladstone (including domestic coal terminals in the vicinity of Gladstone),
- is regarded as capacity constrained Rail Infrastructure.
- (c) For the purpose of **clause 2.3(a)**, if a Cross System Train Service loads in the Blackwater System and unloads in the Newlands System, then the Goonyella to Abbot Point System is deemed to be the Destination System for that Cross System Train Service.

## 2.4 Calculations for Take or Pay

- (a) The Reference Tariff also includes a Take or Pay charge.
- (b) The Take or Pay charge included in the Reference Tariff is calculated in accordance with:
  - (i) where the Access Agreement, or, for a New Access Agreement, the relevant Old Access Agreement, was executed or renewed:
    - (A) on or after 20 December 2001 but prior to 30 June 2006, Clause 3.2, Part A, Schedule F of the 2001 Undertaking provided that where that calculation refers to the System Gtk, or to gtk in circumstances where that gtk relates to Train Services other than solely those under the relevant Access Agreement, then that System Gtk, and that gtk, exclude any gtk attributable to any Train Service that has the Wiggins Island Coal Terminal as a destination (subject to this **clause 2.4(b)(i)(A)**, references to System Gtk and gtk in this clause having the meaning given in the 2001 Undertaking);

- (B) on or after 30 June 2006 but prior to 23 October 2008, Clause 2.2, Part B, Schedule F of the 2005 Undertaking; or
- (C) on or after 23 October 2008 but prior to 1 October 2010, Clause 2.2, Part B, Schedule F of the 2008 Undertaking; or
- (ii) where **clause 2.4(b)(i)** does not apply, **clauses 2.4(d) to (n)**.
- (c) In relation to Take or Pay charges in the context of an End User Access Agreement, Take or Pay charges will be payable under that End User Access Agreement with that (including in relation to the non-operation of Train Services under any relevant Train Operations Agreement). Take or Pay charges will not be payable to Aurizon Network by a Train Operator under a Train Operations Agreement relevant to that End User.
- (d) Subject to **clauses 2.4(g) to (n)**, Take or Pay charges applicable to an Access Holder will be:
  - (i) determined for each Year;
  - (ii) invoiced for each Year following completion of that Year; and
  - (iii) calculated as the amount which is 100% of the amount calculated as:

$$(AT_2 \times rtp) + \left( AT_3 \times \frac{ntk}{1000} \right) + (AT_4 \times nt)$$

where:

- (A) each of  $AT_2$ ,  $AT_3$  and  $AT_4$  inputs for that Access Holder's Access Charges at the rate applicable in that Year); and
- (B) the rtp, nt and ntk (as applicable) are calculated by:
  - (1) the rtp, nt and ntk (as applicable) that would have been achieved for the relevant Year had the full contracted entitlement been railed for the relevant Train Service; less
  - (2) the rtp, nt and ntk (as applicable) not railed for the relevant Year due to the non operation of Train Services for a Aurizon Network Cause; less
  - (3) the rtp, nt and ntk (as applicable) railed for the relevant Year,

provided always that the amount of Take or Pay for a relevant Year shall not be less than zero.

- (e) To calculate nt and ntk for the purpose of **clause 2.4(d)(iii)(B)**, Aurizon Network will:
  - (i) identify from the Access Agreement the number of Train Paths that would have been utilised had the full contracted entitlement been used; and

- (ii) determine the number of Train Paths that were not utilised due to a Aurizon Network Cause provided that where an Access Holder has more than one Access Agreement for the same origin to destination, Aurizon Network will allocate Train Paths that were not utilised due to Aurizon Network Cause firstly to an Access Agreement of the type referred to under **clause 2.4(b)(i)(A)** before allocating any such Train Paths to other Access Agreements, and convert this to nt and ntk by using the Nominal Train Payload applicable for the relevant Reference Tariff.
- (f) For the purpose of calculating Take or Pay charges:
  - (i) where the rtp for the relevant Train Services under the Train Service Entitlement:
    - (A) equals one, the payload for a loaded Train in respect of that Train Service equals the Nominal Train Payload applicable to the relevant Reference Train Service; or
    - (B) does not equal one, Aurizon Network will calculate the Take or Pay charges in a manner consistent with the relevant Train Service Entitlement; and
  - (ii) the calculation will be based on the origin and destination specified in the relevant Train Service Entitlement (provided that the Nominated Loading Facilities of RG Tanna Terminal and Barney Point will be treated as the same destination for the purposes of such a calculation).

***Take or Pay trigger***

- (g) Take or Pay for a Year shall not be payable for that Year where the System Gtk for that Year exceeds the amount calculated as:
  - (i) 100% of the System Forecast identified for that Year for the relevant Reference Train Service; less
  - (ii) the gtk not achieved due to the non operation of Train Services for Aurizon Network Cause.
- (h) **Clauses 2.4(i), (k) and (m)** only apply where Take or Pay is payable after **clause 2.4(g)** has been applied.

***Mine capping***

- (i) If:
  - (i) Train Services operated in relation to an origin to destination in respect of a person (**End User**) who is either the Customer for those Train Services or the Access Holder for those Train Services (but who has no Customer) under an Access Agreement, exceed the Train Service Entitlement in that Access Agreement (**Exceeded Agreement**); and



- (ii) there is another Access Agreement (**Other Agreement**) with Train Service Entitlements for that same origin to destination and End User that have not been exceeded,

then the Take or Pay liability under the Other Agreement will be reduced by the amount of the additional revenue from Access Charges for AT<sub>2-4</sub> from those excess Train Services under the Exceeded Agreement. For clarity:

- (iii) where the additional revenue is greater than the Take or Pay liability under that Other Agreement, the remaining additional revenue may be used to reduce the Take or Pay liability under another Other Agreement (if applicable);
- (iv) the additional revenue from an Exceeded Agreement can only be used for a reduction of Take or Pay liability under this **clause 2.4(i)** in respect of the Year in which that additional revenue arose and cannot be accrued, rolled over or otherwise used to reduce a Take or Pay liability for any other Year; and
- (v) where there is more than one Other Agreement the reduction to the Take or Pay liability under each Other Agreement will be pro-rated on the basis of the total revenue from AT<sub>2-4</sub> that Aurizon Network is entitled to earn over the relevant Year under each of those Other Agreements assuming Train Services were operated with a System Nominal Train Payload.

#### ***Operator capping***

- (j) **Clause 2.4(k):**
  - (i) only applies after **clause 2.4(i)** (if applicable) has been applied; and
  - (ii) must not be applied in a way inconsistent with **clause 2.4(i)** or that results in any additional revenue used to reduce a Take or Pay liability under **clause 2.4(i)** being re-used to reduce any other Take or Pay liability.
- (k) Subject to **clause 2.4(j)**, if:
  - (i) an Operator under an Operator Access Agreement;
  - (ii) an Access Holder under an Access Holder Access Agreement; or
  - (iii) an End User under an End User Access Agreement,executed or renewed after 1 October 2010, has obligations to pay Take or Pay as part of the Access Charges associated with the Train Service Entitlements under that Operator Access Agreement, Access Holder Access Agreement or End User Access Agreement, as applicable, (**Eligible Access Agreement**), then:
  - (iv) subject to **clause 2.4(k)(v)**:
    - (A) where:

- (1) a Train Service Entitlement under any Eligible Access Agreement is part of a Take or Pay Grouping for:
  - in the case of an Operator Access Agreement or an End User Access Agreement, the Operator or Train Operator, as applicable;
  - in the case of an Access Holder Access Agreement, the Access Holder,**(Eligible Operator)**; and
- (2) the Train Services for that Train Service Entitlement exceed that Train Service Entitlement for the relevant Year,

the aggregate Take or Pay liability in relation to that Take or Pay Grouping for the relevant Year will be reduced by the amount of the additional revenue from Access Charges for AT<sub>2-4</sub> in relation to that excess; or

(B) where:

- (1) a Train Service Entitlement under any Eligible Access Agreement is not part of a Take or Pay Grouping for the Eligible Operator (**Ungrouped Train Service Entitlement**); and
- (2) the Train Services for that Ungrouped Train Service Entitlement exceed that Ungrouped Train Service Entitlement for the relevant Year,

the aggregate Take or Pay liability in relation to all of the Ungrouped Train Service Entitlements for the relevant Year will be reduced by the amount of the additional revenue from Access Charges for AT<sub>2-4</sub> in relation to that excess on a pro rated basis based on the Take or Pay liability in relation to each Train Service Entitlement comprised in the Ungrouped Train Service Entitlements; and

- (v) where the Train Service Entitlements for an Eligible Operator to which either **clause 2.4(k)(iv)(A)** or **(B)** apply are given effect through a Train Operations Agreement, the reduction in Take or Pay liability calculated in respect of those Train Services Entitlements under **clause 2.4(k)(iv)(A)** or **(B)**, as applicable:
  - (A) will be allocated to the End User who nominated the relevant Train Operator to utilise those Train Service Entitlements; and
  - (B) will not be allocated to the Train Operator.

For clarity, the use under this **clause 2.4(k)** of any additional revenue for the purpose of a reduction of any Take or Pay liability can only occur in

respect of the Year in which that additional revenue arose and cannot be accrued, rolled over or otherwise used to reduce a Take or Pay liability arising in respect of any other Year.

**System capping**

- (l) **Clause 2.4(m)** only applies after **clauses 2.4(i)** and **(k)** (as applicable) have been applied.
- (m) Subject to **clause 2.4(n)**, and to **clauses 2.4(i)** and **(k)** (where they are applicable) having first been applied, where the Total Actual Revenue for  $AT_{2-4}$  for a Coal System less the aggregate amount of Take or Pay that Aurizon Network is entitled to earn from all Access Agreements in relation to that Coal System executed or renewed on or after 30 June 2006 (other than any new or varied Access Agreement to the extent entered or varied as part of transferring Access Rights from existing Access Agreement in place on the day immediately prior to 30 June 2006 under a provision equivalent to clause 14 (Transfer of Access Rights by Customer) of the Standard Access Agreement (Operator)) **(Total Revenue)** is:
  - (i) greater than or equal to the System Allowable Revenue for  $AT_{2-4}$  in relation to that Coal System, Take or Pay shall not be payable for that Year under Access Agreements in relation to that Coal System executed or renewed on or after 30 June 2006 (other than New Access Agreements entered as part of transferring Access Rights from Access Agreements in place on the day immediately prior to 30 June 2006 under a provision equivalent to clause 14 (Transfer of Access Rights by Customer) of the Standard Access Agreement (Operator)) **(Full Take or Pay Agreements)**; or
  - (ii) less than the System Allowable Revenue for  $AT_{2-4}$  in relation to that Coal System:
    - (A) Aurizon Network will calculate the aggregate amount of Take or Pay that Aurizon Network is entitled to earn from all Full Take or Pay Agreements **(Total Actual Take or Pay)**; and
    - (B) if the Total Actual Take or Pay exceeds the amount by which the System Allowable Revenue for  $AT_{2-4}$  exceeds the Total Revenue for that Coal System **(Maximum Take or Pay Amount)**, then:
      - (1) Aurizon Network will calculate for each relevant Access Holder, the proportion that the Access Holder's Take or Pay amount bears to the Total Actual Take or Pay **(Proportion)**; and
      - (2) each relevant Access Holder's Take or Pay amount will be reduced to equal that Access Holder's Proportion of the Maximum Take or Pay Amount.

- (n) In determining what Aurizon Network would be entitled to earn for the purposes of **clause 2.4(m)**, Aurizon Network is deemed to have contracted on the terms of the relevant Standard Access Agreement (as defined under the Applicable Undertaking) that applied on the date of execution or renewal of an Access Agreement, except for:
  - (i) those Access Agreements which have been altered from that form in accordance with the terms of the relevant Applicable Undertaking, in which case Aurizon Network's entitlement will be calculated in accordance with the terms of such Access Agreements;
  - (ii) a New Access Agreement to the extent entered into as part of transferring Access Rights from an Old Access Agreement executed under the 2001 Undertaking, under a provision equivalent to clause 14 (Transfer of Access Rights by Customer) of the Standard Access Agreement (Operator), which has not been renewed after 30 June 2006, in which case Aurizon Network's entitlement to Take or Pay amounts will be calculated on the basis that Aurizon Network has contracted on the terms of the relevant Standard Access Agreement (as defined under the 2001 Undertaking) that applied on the date of execution of that Old Access Agreement.

### 3 Capital Expenditure Carryover Account adjustments

- (a) Subject to **clauses 3(b)** and **(c)**, on finalisation of the Capital Expenditure Carryover Account balance for the period ending on 30 June 2013, the System Allowable Revenues and Reference Tariffs for the Term will be adjusted by the QCA for the difference between that balance and the forecast balance used for determining the Reference Tariffs.
- (b) Any adjustments by the QCA under **clause 3(a)** will include adjustments necessary to reflect the difference between the assumed opening asset value (and lives) and those accepted by the QCA as part of the first roll-forward of the Regulatory Asset Base including any equity raising costs.
- (c) Where the finalisation of the Capital Expenditure Carryover Account balance does not occur within 12 months after the Approval Date, any adjustments under **clause 3(a)** will only occur in respect of those Years in the Term which are yet to commence.

## 4 Annual review of Reference Tariffs

### 4.1 Requirement for annual review of Reference Tariffs

- (a) Prior to the beginning of each Year during the Term (except for the first Year) the Reference Tariff for each Coal System will be adjusted by

Aurizon Network to reflect the variations to the applicable System Allowable Revenue:

- (i) for the relevant Year due to an adjustment to Second Year System Allowable Revenue under **clause 4.5**; and
  - (ii) for the relevant Year and each subsequent Year during the Term in accordance with **clause 4.1(b)**.
- (b) Aurizon Network will submit to the QCA by 28 February of each Year during the Term:
- (i) a revised System Forecast for each Coal System for the next Year;
  - (ii) details of the methodology, data and assumptions used to estimate the revised System Forecast;
  - (iii) an adjustment to the System Allowable Revenue for each Coal System for the next Year for changes in maintenance costs attributable to the difference between the approved System Forecast and revised System Forecasts calculated as:
    - (A) the System Forecast for that Coal System for that next Year minus the revised System Forecast, under **clause 4.1(b)(i)**, for that Coal System for that next Year; multiplied by
    - (B) the Short Run Variable Maintenance Cost Rate for that next Year,

where the Short Run Variable Maintenance Cost Rate for a Year is as follows:

Year	Short Run Variable Maintenance Cost Rate (\$/000gtk)
2013/14	0.98
2014/15	1.01
2015/16	1.00
2016/17	1.01

and

- (iv) the proposed adjustments, for each Coal System, arising from any difference between the relevant revised System Forecast and the System Forecast used for the purpose of determining the System Allowable Revenue for that Coal System, to:
    - (A) the System Allowable Revenue for the Coal System for each subsequent Year during the Term; and
    - (B) the Reference Tariffs for the Coal System for the next Year.
- (c) If, after receiving a submission under **clause 4.1(b)**, the QCA considers that an error has been made in the proposed revised System Forecast or

adjustments to System Allowable Revenue or Reference Tariffs for a Coal System, then:

- (i) the QCA must notify Aurizon Network by the 1 May of the relevant Year, providing details of the error and how the proposal needs to be amended in order for the QCA to approve it; and
- (ii) after receiving that notice, Aurizon Network must within 10 Business Days either:
  - (A) show why it does not consider that the error has been made; or
  - (B) resubmit a corrected version of the submission.
- (d) The QCA will approve the revised System Forecast, System Allowable Revenues and Reference Tariffs for each Coal System if it considers that the revised System Forecast is reasonable and the consequential adjustments to System Allowable Revenues and Reference Tariffs are calculated properly.
- (e) If Aurizon Network does not make a submission under **clause 4.1(b)** in respect of a Year by 28 February, then no adjustments to the System Forecast, System Allowable Revenues or Reference Tariffs for the relevant Coal System will be made under this **clause 4.1(b)**.
- (f) If Aurizon Network makes a submissions under **clause 4.1(b)** in respect of a Year but the QCA does not approve or refuse to approve that submission (including a resubmission under **clause 4.1(c)(ii)(B)**) by the next 4 July, then the submission (or resubmission) is deemed to have been approved by the QCA.

## **4.2 System Allowable Revenue**

- (a) Subject to **clause 4.2(b)**, the System Allowable Revenue:
  - (i) for  $AT_{2-4}$  in relation to a Coal System for a Year, is the total revenue from  $AT_{2-4}$  arising from all Access Agreements in relation to that Coal System that Aurizon Network is entitled to earn over the relevant Year, as specified in **clauses 7.3, 8.3, 9.3, 10.3 and 11.3 of schedule F**, as applicable, as amended from time to time, and as varied in accordance with this **clause 4 (Approved SAR)**; and
  - (ii) for the  $AT_5$  component of Access Charges in relation to a Coal System for a Year, is the total revenue from the  $AT_5$  component of Access Charges arising from all Access Agreements in relation to that Coal System that Aurizon Network is entitled to earn over the relevant Year, as specified in either **clauses 7.3 and 8.3 of schedule F**, as applicable, as amended from time to time, and as adjusted in accordance with this **clause 4**.

- (b) Unless otherwise agreed with the QCA, when calculating System Allowable Revenue in relation to the Origin System and the Destination System for a Cross System Train Service:
- (i) where the Cross System Train Service commenced on or after the Commencing Date, for the System Allowable Revenue for AT<sub>2-4</sub>:
- (A) the sum of the following components of Access Charges that Aurizon Network would be expected to earn in respect of a forecast Cross System Train Service:
- (1) the AT<sub>2</sub> components calculated based on the relevant Reference Tariff for the Destination System and on **clause 2.3(a)(ii)**; and
- (2) 50% of the AT<sub>3</sub> components calculated based on the relevant Reference Tariff for the Destination System, will be allocated to System Allowable Revenue for the Destination System; and
- (B) all other Access Charges attributable to AT<sub>2-4</sub> which Aurizon Network would be expected to earn in respect of a forecast Cross System Train Service calculated based on the Reference Tariff and on **clause 2.3** will be allocated to the System Allowable Revenue of the Origin System;
- (ii) where the Cross System Train Service commenced prior to the Commencing Date, for the System Allowable Revenue for AT<sub>2-4</sub>:
- (A) an amount based on the following \$/000 ntk rates multiplied by the thousand ntk for the Cross System Train Service attributable to the Destination System will be allocated to the System Allowable Revenue for the Destination System; and

Origin System	Destination System	2013-14	2014-15	2015-16	2016-17
Blackwater	Goonyella	4.60	4.45	4.44	4.45
Goonyella	Blackwater	4.91	4.96	5.30	5.44

- (B) all Access Charges attributable to AT<sub>2-4</sub> which Aurizon Network would be expected to earn in respect of a forecast Cross System Train Service, calculated based on the Reference Tariff and on **clause 2.3**, less the amount allocated to the System Allowable Revenue for the Destination System under **clause 4.2(b)(ii)(A)**, will be allocated to the System Allowable Revenue for the Origin System; and
- (iii) for the System Allowable Revenue for AT<sub>5</sub>, the AT<sub>5</sub> component of Access Charges that Aurizon Network would be expected to earn

in respect of a forecast Cross System Train Service, calculated based on:

- (A) the relevant Reference Tariff and the egtk in the Origin System, will be allocated to the System Allowable Revenue for the Origin System; and
- (B) the relevant Reference Tariff and the egtk in the Destination System, will be allocated to the System Allowable Revenue for the Destination System.

### **4.3 Calculation of Revenue Adjustment Amounts**

#### **Obligation to calculate Revenue Adjustment Amounts and Increments**

- (a) After the end of each Year, Aurizon Network will calculate for that Year:
  - (i) an  $AT_{2-4}$  Revenue Adjustment Amount for each relevant Coal System by subtracting:
    - (A) the Adjusted System Allowable Revenue for  $AT_{2-4}$  (calculated under **clause 4.3(b)**); from
    - (B) the Total Actual Revenue for  $AT_{2-4}$  (calculated under **clause 4.3(c)**),for the relevant Coal System for that Year;
  - (ii) an  $AT_5$  Revenue Adjustment Amount for each relevant Coal System by subtracting:
    - (A) the Adjusted System Allowable Revenue for  $AT_5$  (calculated under **clause 4.3(b)**); from
    - (B) the Total Actual Revenue for  $AT_5$  (calculated under **clause 4.3(f)**),for the relevant Coal System for that Year; and
  - (iii) a performance increment (**Increment**) for each Coal System under **clause 4.4**.

#### **Calculation of Adjusted System Allowable Revenue**

- (b) The Adjusted System Allowable Revenue for  $AT_{2-4}$  or the  $AT_5$  component of Access Charges is the sum of the following components of the applicable System Allowable Revenue (as relevant to the applicable System Allowable Revenue):
  - (i) the component relating to the recovery of Aurizon Network's maintenance costs as adjusted under **clause 4.1(b)(iii)**, adjusted to reflect the difference between:
    - (A) the actual MCI value for the relevant Year; and
    - (B) the forecast MCI value that was used for the purpose of determining the Reference Tariffs for the relevant Year;



- (ii) the component relating to the recovery of Aurizon Network's operating costs, excluding those costs referred to in **clause 4.3(b)(i)**, adjusted to reflect the difference between:
  - (A) the actual CPI value for the relevant Year; and
  - (B) the forecast CPI value that was used for the purpose of determining the Reference Tariffs for the relevant Year;
- (iii) the component relating to the recovery of charges incurred by Aurizon Network from Electricity Retailers in relation to compliance with Environmental Initiatives, adjusted to reflect the difference between:
  - (A) the actual amount of those charges for the relevant Year; and
  - (B) the forecast amounts of those charges that was used for the purpose of determining the Reference Tariffs for the relevant Year;
- (iv) the components relating to the recovery of Aurizon Network's costs associated with the connection of Aurizon Network's electrical traction system to an electricity transmission or distribution network, adjusted to reflect the difference between:
  - (A) the actual costs for the relevant Year; and
  - (B) the forecast costs used for the purpose of determining the Reference Tariffs for the relevant Year;
- (v) the components relating to the recovery of Aurizon Network's operating costs, adjusted to reflect the difference between:
  - (A) the actual cost of audits required under this Undertaking for the relevant Year; and
  - (B) the forecast costs of audits required under this Undertaking used for the purpose of determining the Reference Tariffs for the relevant Year;
- (vi) the components relating to the payment by Aurizon Network of rebates relating to the capital components of Access Charges attributable to the use of all or part of specified assets included in the relevant Coal System (other than under a User Funding Agreement), adjusted to reflect the difference between:
  - (A) the actual payment of rebates made under those agreements for the applicable Coal System assets; and
  - (B) the forecast payments of those rebates used for the purpose of determining the Reference Tariffs for the relevant Year;
- (vii) all components excluding those costs referred to in any of **clauses 4.3(b)(i) to (vi)**; and

- (viii) for an Adjusted System Allowable Revenue for  $AT_{2-4}$ , the amount calculated as:
- (A) the revenue from the  $AT_1$  component of Access Charges that Aurizon Network was forecast to earn for that Year from coal carrying Train Services for the relevant Coal System based on the approved System Forecast and the  $AT_1$  input for the relevant Reference Tariff for that Year; less
  - (B) the actual revenue for the  $AT_1$  component of Access Charges in respect of coal carrying Train Services for the relevant Coal System for that Year.

**Calculation of Total Actual Revenue for  $AT_{2-4}$**

- (c) The Total Actual Revenue for  $AT_{2-4}$  is the sum of:
- (i) total revenue from  $AT_{2-4}$  for coal carrying Train Services that operated on the Coal System in the Year that Aurizon Network would have earned (regardless of what it actually earned or collected) if that revenue were calculated consistent with the following:
    - (A) for a Train Service that is:
      - (1) consistent with the relevant Reference Train Service; and
      - (2) is not a Cross System Train Service,the  $AT_2$ ,  $AT_3$  and  $AT_4$  components of the relevant Reference Tariff for that Coal System;
    - (B) for a Cross System Train Service that is consistent with the relevant Reference Train Service (to the extent that it is using that Coal System), that part of the  $AT_2$ ,  $AT_3$  and  $AT_4$  components of the relevant Reference Tariff relating to that Coal System allocated consistently with the method used in the calculation of the relevant System Allowable Revenue under **clause 4.2(b)**;
    - (C) for a Train Service that varies from the Reference Train Service due to it not complying with:
      - (1) **clause 1.3(b)(v)**, the  $AT_2$  component of the Access Charge (where the Access Charge varies from the Reference Tariff under **clause 6.2.2(d)** of this Undertaking) and the  $AT_3$  and  $AT_4$  components of the relevant Reference Tariff; or
      - (2) any other part of **clause 1.3(b), (d) or (e)** (other than **clause 1.3(b)(v)** – with which it complies), the  $AT_2$ ,  $AT_3$  and  $AT_4$  components of the relevant Reference Tariff; or

- (D) for a Train Service where the QCA has otherwise approved an Access Charge that differs from the relevant Reference Tariff, the amount of the AT<sub>2</sub>, AT<sub>3</sub> and AT<sub>4</sub> components of the relevant Access Charge;
- (ii) the amount of any Take or Pay amounts and, subject to **clause 4.3(d)**, Relinquishment Fees and Transfer Fees which Aurizon Network would be entitled to be paid in relation to Access Agreements for coal carrying Train Services on the Coal System (or, for a Cross System Train Service, to the extent attributable to the Coal System) calculated on the basis that Aurizon Network is deemed to have contracted on the terms of the relevant Standard Access Agreement (as defined under the Applicable Undertaking) that applied on the date of execution or renewal of an Access Agreement, except for:
  - (A) those Access Agreements which have been altered from the relevant Standard Access Agreement in accordance with the relevant Applicable Undertaking, for which Aurizon Network's entitlement to Take or Pay amounts, Relinquishment Fees or Transfer Fees will be calculated in accordance with the terms of those Access Agreements; and
  - (B) a New Access Agreement (other than an End User Access Agreement) to the extent entered into as part of transferring Access Rights from an Old Access Agreement executed under the 2001 Undertaking, under provisions consistent with those in clause 14 (Transfer of Access Rights by Customer) of the Standard Access Agreement (Operator), which has not been renewed after 30 June 2006, for which Aurizon Network's entitlement to Take or Pay amounts, Relinquishment Fees and Transfer Fees will be calculated on the basis that Aurizon Network has contracted on the terms of the relevant Standard Access Agreement (as defined under the 2001 Undertaking) that applied on the date of execution of that Old Access Agreement; and
- (iii) any revenue from AT<sub>2-4</sub> that Aurizon Network would have been entitled to earn under an Access Agreement in relation to the applicable Coal System during the relevant Year but for Aurizon Network's breach of that Access Agreement or negligence in the provision of Below Rail Services to the extent that such events of breach or negligence resulted in the non-provision of 10% or more of the total number of Train Services for any single origin-destination pair during the relevant Year (provided that, where Access Rights are held by an End User, the 10% threshold is measured across the number of Train Services for each single origin to destination pair under that End User Access Agreement, not any relevant Train Operations Agreement),

less any interest comprised in those amounts representing interest paid or payable to Aurizon Network in relation to Access Charges (including any Adjustment Charges).

- (d) Subject to the QCA's approval, Aurizon Network may reduce the amount of any Relinquishment Fee or Transfer Fee used to calculate Total Actual Revenue for a Year if its inclusion will have a material effect on the AT<sub>2-4</sub> Revenue Adjustment Amount.
- (e) If Aurizon Network reduces the amount of any Relinquishment Fee or Transfer Fee under **clause 4.3(d)**, then the amount of the reduction must be carried forward to a following Year, including a return on capital amount, calculated by reference to the Discount Rate over the period starting on the first day of the Year in which the Relinquishment Fee or Transfer Fee is received and ending on the first day of the Year in which the Relinquishment Fee or Transfer Fee is included in the calculation of Total Actual Revenue.

#### **Calculation of Total Actual Revenue for the AT<sub>5</sub> component of Access Charges**

- (f) The Total Actual Revenue for the AT<sub>5</sub> component of Access Charges is the sum of:
  - (i) total revenue from the AT<sub>5</sub> component of Access Charges arising from all Access Agreements in relation to coal carrying Train Services for the Coal System that Aurizon Network has actually earned over the relevant Year (whether or not actually collected by Aurizon Network), calculated using:
    - (A) for a Train Service for which **clause 6.5.1(c)** of this Undertaking applies, the amount of the AT<sub>5</sub> component of the relevant Access Charges; or
    - (B) if **paragraph (A)** does not apply, the AT<sub>5</sub> component of the relevant Reference Tariff; and
  - (ii) any revenue from the AT<sub>5</sub> component of Access Charges that Aurizon Network would have been entitled to earn under an Access Agreement in relation to the Coal System during the relevant Year but for Aurizon Network's breach of that Access Agreement or negligence in the provision of Below Rail Services to the extent that such events of breach or negligence resulted in the non-provision of 10% or more of the total number of Train Services for any single origin-destination pair during the relevant Year (provided that, where Access Rights are held by an End User, the 10% threshold is measured across the number of Train Services for each single origin to destination pair under that End User Access Agreement, not any relevant Train Operations Agreement),

less any interest comprised in those amounts representing interest paid or payable to Aurizon Network in relation to Access Charges (including any Adjustment Charges).

#### **Approval of Revenue Adjustment Amounts and Increments**

- (g) Aurizon Network will submit to the QCA by 30 September after the end of each Year of the Term details of the methodology, data and assumptions used to calculate the Revenue Adjustment Amounts and Increments for that Year under this **clause 4.3** and **clause 4.4** provided that if, in that September, Adjustment Charges have not yet been approved relating to the relevant Year, then Aurizon Network is only required to submit the relevant information within 30 days after those Adjustment Charges have been approved.
- (h) The QCA may give Aurizon Network a written notice requiring Aurizon Network to submit the Revenue Adjustment Amounts and Increments, if Aurizon Network fails to do so under **clause 4.3(g)**.
- (i) The QCA may grant Aurizon Network an extension of the time for submitting, or resubmitting, the Revenue Adjustment Amounts and Increments if:
  - (i) Aurizon Network provides a written request to the QCA for an extension of time; and
  - (ii) the extension of time is reasonable or necessary.

If an extension of time is granted, Aurizon Network will submit the Revenue Adjustment Amounts and Increments within the time specified by the QCA.
- (j) The QCA may calculate Revenue Adjustment Amounts and Increments that are consistent with the requirements specified in this **clause 4.3**:
  - (i) if Aurizon Network does not comply with a notice from the QCA under **clause 4.3(h)** or **4.3(m)(ii)**; or
  - (ii) if the QCA, under **clause 4.3(m)(ii)**, refuses to approve the Revenue Adjustment Amounts and Increments resubmitted by Aurizon Network.
- (k) Where Aurizon Network submits the Revenue Adjustment Amounts and Increments under **clause 4.3(g)**, the QCA may, to the extent it considers it appropriate to do so:
  - (i) publish details of the Revenue Adjustment Amounts and Increments; and
  - (ii) invite and consider comments from Access Holders and Access Seekers regarding the Revenue Adjustment Amounts and Increments.

To the extent that such comments are provided, the QCA must give Aurizon Network a reasonable period to respond to those comments.

- (l) The QCA will approve any Revenue Adjustment Amounts and Increments if the QCA is reasonably satisfied that they have been calculated in accordance with this **clause 4.3** or **clause 4.4**, as applicable.
- (m) If the QCA:
  - (i) approves the Revenue Adjustment Amounts and Increments, the QCA will give Aurizon Network a notice in writing stating the reasons for the QCA's decision; or
  - (ii) refuses to approve the Revenue Adjustment Amounts and Increments, the QCA will give Aurizon Network a notice in writing:
    - (A) stating the reasons for its refusal and the way in which it considers that the Revenue Adjustment Amounts and Increments should be amended; and
    - (B) requiring Aurizon Network to amend the Revenue Adjustment Amounts and Increments in that way and to resubmit the Revenue Adjustment Amounts and Increments to the QCA within 30 days after Aurizon Network receives that notice.
- (n) Aurizon Network must comply with a notice under **clause 4.3(m)(ii)**.
- (o) The QCA may approve Revenue Adjustment Amounts and Increments resubmitted by Aurizon Network or developed by the QCA under **clause 4.3(j)**, if it is satisfied that they:
  - (i) are consistent with the matters specified under **clause 4.3(l)**; and
  - (ii) if a notice has been issued under **clause 4.3(m)(ii)**, have been amended or developed in accordance with that notice.
- (p) Despite any other provision of this Undertaking, to the extent that:
  - (i) Adjustment Charges have been approved for a Year;
  - (ii) Aurizon Network is entitled or obliged to recover or reimburse those Adjustment Charges from or to Access Holders;
  - (iii) Aurizon Network is obliged under this Undertaking to calculate Revenue Adjustment Amounts in respect of that Year; and
  - (iv) in recovering or reimbursing the Adjustment Charges, the Adjustment Charges are included in an invoice relating to a billing period in the Year in which the relevant Revenue Adjustment Amounts are required to be calculated,

then, the Total Actual Revenue for AT<sub>2,4</sub> or AT<sub>5</sub> for each relevant Coal System for that Year and the Year in which the relevant Revenue Adjustment Amounts are required to be calculated must be adjusted to take account of the Adjustment Charges (but excluding the interest component of those Adjustment Charges).

#### 4.4 Calculation of Increment

For the purpose of **clause 4.3(a)(iii)**, the Increment for a Coal System will be the sum of the following:

- (a) where in any month in the relevant Year the number of coal carrying Train Services operating on the relevant Coal System exceeds 110% of the coal carrying Train Services for that Coal System that are entitled to be operated in accordance with the existing Access Rights granted for that Coal System (and, for clarity, excluding any right to operate Ad Hoc Train Services), the revenue from Access Charges paid for Train Services that operated on the relevant Coal System on any day in the relevant month that were not included in the DTP for that day when that DTP was initially scheduled; and
- (b) where for the relevant Coal System:
  - (i) the Total Actual Revenue for  $AT_{2-4}$  is greater than the System Allowable Revenue for  $AT_{2-4}$  for the Coal System; and
  - (ii) the QCA is reasonably satisfied that the difference between the Total Actual Revenue for  $AT_{2-4}$  and the System Allowable Revenue for  $AT_{2-4}$  for the Coal System (**Difference**) has, in whole or part, arisen as a direct result of whole of coal chain activities or initiatives of Aurizon Network (or its contractors) which have increased the efficiency of the Below Rail network,

that part of the Difference, as determined by the QCA taking into account the extent to which the Difference has in whole or part arisen as a direct result of the whole of coal chain activities or initiatives of Aurizon Network (or its contractors),

provided that the aggregate of the amounts determined under **clauses 4.4(a) and (b)** for a Coal System must not exceed an amount equal to 2% of the System Allowable Revenue for  $AT_{2-4}$  for that Coal System.

#### 4.5 Revenue adjustment

- (a) Where a Revenue Adjustment Amount has been approved by the QCA under **clause 4.3**:
  - (i) the equivalent System Allowable Revenue to that used in the calculation of that Revenue Adjustment Amount for the relevant Coal System for the Year after the Year in which that Revenue Adjustment Amount was calculated (that is, the **Second Year System Allowable Revenue**) will be adjusted in accordance with this **clause 4.5**; and
  - (ii) the System Allowable Revenue for all subsequent Years will also be adjusted to reflect the actual change in the MCI and CPI as used in the calculation of the approved Revenue Adjustment Amount.

- (b) A Second Year System Allowable Revenue will be adjusted as follows:
  - (i) for an AT<sub>2-4</sub> Revenue Adjustment Amount, by subtracting from the relevant Second Year System Allowable Revenue:
    - (A) that AT<sub>2-4</sub> Revenue Adjustment Amount less the amount of the relevant Increment; and
    - (B) a return on capital amount, calculated by reference to the Discount Rate as applied to the AT<sub>2-4</sub> Revenue Adjustment Amount over the period starting on the first day of the Year in which the Revenue Adjustment Amount is calculated and ending on the last day of the Year following that Year; and
  - (ii) for an AT<sub>5</sub> Revenue Adjustment Amount, by subtracting from the relevant Second Year System Allowable Revenue:
    - (A) that AT<sub>5</sub> Revenue Adjustment Amount; and
    - (B) a return on capital amount, calculated by reference to the Discount Rate as applied to the AT<sub>5</sub> Revenue Adjustment Amount over the period starting on the first day of the Year in which the Revenue Adjustment Amount is calculated and ending on the last day of the Year following that Year.
- (c) Where a Second Year System Allowable Revenue is adjusted under this **clause 4.5**, Aurizon Network will vary the relevant Reference Tariffs as part of the adjustment of the relevant Reference Tariff under **clause 4.1(a)**.

#### **4.6 Amendments to calculation and application of Increment**

- (a) Aurizon Network may submit amendments to the calculation of the Increment under **clause 4.4 (Increment Amendment)** to the QCA including to increase the proportion of the System Allowable Revenue at risk or to apply additional Increments to different Coal Systems.
- (b) The QCA may publish details of Aurizon Network's Increment Amendment and invite and consider comments from stakeholders.
- (c) The QCA must take into account the following factors when deciding whether to approve Aurizon Network's proposed Increment Amendment whether the proposed variation is consistent with:
  - (i) the Undertaking;
  - (ii) the pricing principles in section 168A of the Act;
  - (iii) Aurizon Network's legitimate business interests; and
  - (iv) the interests of Access Holders, Access Seekers and, if applicable, Customers.
- (d) If the QCA approves an Increment Amendment:
  - (i) the QCA will give Aurizon Network a notice in writing stating the reasons for the QCA's decision;



- (ii) unless otherwise requested by Aurizon Network and approved by the QCA, **clause 4.4** will be taken to be amended in accordance with that Increment Amendment with effect from 1 July of the Year following the Year in which the variation was submitted; and
- (iii) Aurizon Network must:
  - (A) publish details of the Increment Amendment on the Website; and
  - (B) notify Access Holders and Access Seekers for coal carrying Train Services of the Increment Amendment.
- (e) If the QCA refuses to approve an Increment Amendment:
  - (i) the QCA must give Aurizon Network a notice in writing stating the reasons for its refusal and the way in which the QCA considers that the variation should be amended; and
  - (ii) Aurizon Network may choose whether to resubmit a revised Increment Amendment.

## 5 Reference Tariff variations

### 5.1 Obligation to submit Reference Tariff variations

- (a) Aurizon Network:
  - (i) may submit a Reference Tariff variation to the QCA, where Aurizon Network considers that the variation will promote efficient investment by either Aurizon Network or another person in the coal transport supply chain; or
  - (ii) will submit a Reference Tariff variation to the QCA, subject to **clause 5.6**:
    - (A) within 60 days after:
      - (1) Aurizon Network becomes aware that an Endorsed Variation Event has occurred or a Review Event has occurred or will occur; or
      - (2) a written notice being given to Aurizon Network by the QCA under **clause 5.1(b)**; or
    - (B) by 28 February prior to each Year of the Term, in accordance with **clause 4.1(a)** (if applicable).
- (b) The QCA may give Aurizon Network a written notice requiring Aurizon Network to submit a Reference Tariff variation if Aurizon Network fails to submit a Reference Tariff variation within 60 days, subject to **clause 5.6**, after the QCA determines, and notifies Aurizon Network, that an Endorsed Variation Event has occurred.

- (c) The QCA may develop a Reference Tariff variation that is consistent with the requirements specified in this **clause 5**:
  - (i) if Aurizon Network does not comply with a written notice given by the QCA under **clause 5.1(b)** or **clause 5.5(e)(ii)** for it to submit, or resubmit, a Reference Tariff variation; or
  - (ii) if the QCA refuses to approve a Reference Tariff variation resubmitted by Aurizon Network in accordance with a notice given by the QCA under **clause 5.5(e)(ii)**.
- (d) A Reference Tariff variation under this **clause 5** will include a revised System Forecasts and System Allowable Revenues to the extent applicable to that Reference Tariff variation.

## 5.2 Endorsed Variation Events

The occurrence of any of the following events is an Endorsed Variation Event:

- (a) a Change in Law or a Change in Relevant Taxes occurs, that either alone or in combination with all other Changes in Law or Changes in Relevant Taxes that have occurred since the Commencing Date, would cause a change in the costs reflected in the AT<sub>3</sub>, AT<sub>4</sub>, and/or AT<sub>5</sub> input of the relevant Reference Tariff of greater than 2.5% excluding the impact of any Change in Law or Change in Relevant Taxes that have previously resulted in a variation of the Reference Tariff;
- (b) a change in the pricing of one or more Distribution Entities and/or Transmission Entities that, either alone or in combination with all other changes in the pricing of relevant Distribution Entities and/or Transmission Entities that have occurred since the Commencing Date and that have not previously resulted in a variation of the Reference Tariff, would cause a change in the costs reflected in the AT<sub>5</sub> input of the relevant Reference Tariff of greater than 2.5%; or
- (c) the QCA Levy input of a relevant Reference Tariff is reviewed (taking into account any over or under recovery of fees via the QCA Levy component of Access Charges in the previous Year) following the QCA's announcement of its fees for the provision of regulatory services for the rail industry.

## 5.3 Review Events

The occurrence of any of the following events is a Review Event:

- (a) where Aurizon Network's maintenance costs have been prudently and efficiently incurred, but are greater than its maintenance cost allowance, which has caused, or will cause, a change in the costs reflected in the AT<sub>3</sub>, AT<sub>4</sub> and/or AT<sub>5</sub> inputs of a Reference Tariff of greater than 2.5%;
- (b) a change in Aurizon Network's maintenance practices, reasonably requested by an Access Holder or Customer subsequent to the Commencing Date, which has caused, or will cause a net change in the costs attributable solely to the change in maintenance practice reflected

in the AT<sub>3</sub>, AT<sub>4</sub> and/or AT<sub>5</sub> inputs of the relevant Reference Tariff, of greater than 2.5% excluding the impact of:

- (i) any change in maintenance practices that have previously resulted in a variation of the Reference Tariff since the Approval Date; and
  - (ii) any adjustment to the Reference Tariff to reflect changes in the MCI;
- (c) where Aurizon Network through a competitive process, has engaged or otherwise appointed a Third Party, or an Aurizon Party (on arms-length terms), to perform any maintenance activities and the cost to Aurizon Network of performing those maintenance activities through that Third Party or Aurizon Party (as applicable) exceeds, or will exceed, the maintenance costs allowance for those activities included in the AT<sub>3</sub>, AT<sub>4</sub> and/or AT<sub>5</sub> inputs of the relevant Reference Tariff by more than 2.5%;
- (d) where:
- (i) part of the Rail Infrastructure is used solely to connect an Access Holder or Customer's single loading facility to a Coal System;
  - (ii) a discount applies to the relevant Reference Tariff in respect of that Access Holder's or Customer's use of that part of the Rail Infrastructure to offset a rebate that would otherwise be payable by Aurizon Network to that Access Holder or Customer; and
  - (iii) another Customer connects a loading facility to that part of the Rail Infrastructure;
- (e) a Force Majeure Event – of the type set out in either **paragraph (e), (l)** or **(m)** of the definition of that term – affecting Aurizon Network to the extent that Aurizon Network has incurred or will incur additional Incremental Costs of greater than \$1 million that have not previously resulted in a variation of the relevant Reference Tariff;
- (f) an increase in the number of contracted coal carrying Train Services using Rail Infrastructure between Burngrove and Minerva;
- (g) the acceptance by Interested Participants through a vote under **clause 8.10**, or the QCA, of the cost allocation principles that Aurizon Network will apply to a variation of a Reference Tariff;
- (h) where a material change occurs in the assumed forecast contracted volumes relevant to an existing Capital Indicator; or
- (i) any other material change in circumstances that Aurizon Network can reasonably demonstrate may give rise to a need to vary the relevant Reference Tariff,

in respect of which Aurizon Network has given written notice to the QCA of Aurizon Network's intention to propose a variation to that Reference Tariff under this **clause 5**.

## 5.4 Requirements for submissions

Where Aurizon Network submits a Reference Tariff variation, the variation must:

- (a) nominate the Reference Tariff to be varied;
- (b) include details of the methodology, data and assumptions used to vary the Reference Tariff;
- (c) for a variation under **clause 5.1(a)(i)**, include information on:
  - (i) the matters set out in **clause 6.3** (Pricing limits) of this Undertaking; and
  - (ii) why Aurizon Network considers that the variation of the Reference Tariff will promote efficient investment by either Aurizon Network or another person in the coal transport supply chain; and
- (d) for a variation in respect of an Endorsed Variation Event or a Review Event, evidence that the Endorsed Variation Event or Review Event has occurred or will occur.

## 5.5 Approval process

- (a) The QCA may publish details of Aurizon Network's proposed Reference Tariff variation and invite and consider comments from stakeholders regarding the proposed variation.
- (b) The QCA must give Aurizon Network a reasonable opportunity to respond to any comments from stakeholders that the QCA considers regarding the proposed variation. The QCA must consider all such responses from Aurizon Network.
- (c) The QCA must take into account the following factors when deciding whether to approve Aurizon Network's proposed Reference Tariff variation:
  - (i) whether the proposed variation of the Reference Tariff is consistent with:
    - (A) this Undertaking;
    - (B) the pricing principles in section 168A of the Act;
    - (C) Aurizon Network's legitimate business interests; and
    - (D) the interests of Access Holders, Access Seekers and, if applicable, Customers;
  - (ii) for a variation in respect of an Endorsed Variation Event, whether the proposed variation is consistent with the change in the forecast cost resulting from the Endorsed Variation Event (including incremental maintenance and incremental capital costs), calculated as if all other assumptions originally used for the determination of Reference Tariffs are held constant;

- (iii) for a variation in respect of a Review Event, whether the proposed variation:
    - (A) is consistent with the change in the cost resulting from or that will result from the Review Event; and
    - (B) reflects the impact of the relevant Review Event on the financial position of Aurizon Network (including the impact of incremental maintenance and incremental capital costs);
  - (iv) for a variation in respect of either an Endorsed Variation Event or a Review Event, whether the proposed variation has been calculated as if all other Reference Tariffs were also being recalculated due to the Endorsed Variation Event or Review Event (as applicable); and
  - (v) to the extent that the Reference Tariff variation includes revised System Forecasts or System Allowable Revenue, the revised System Forecast is reasonable and the consequential adjustments to System Allowable Revenues are calculated properly.
- (d) If the QCA approves a Reference Tariff variation:
- (i) the QCA will give Aurizon Network a notice in writing stating the reasons for the QCA's decision;
  - (ii) the Reference Tariff variation will apply:
    - (A) if the variation arose as a result of an Endorsed Variation Event:
      - (1) from the first day of the month immediately following the date of the occurrence of the Endorsed Variation Event; or
      - (2) where the date of the occurrence of the Endorsed Variation Event is the first day of a month, from that date; or
    - (B) if the variation arose as a result of an adjustment of Reference Tariffs under **clause 4.1**, from 1 July of the Year following the Year in which the variation was submitted; and
  - (iii) Aurizon Network must:
    - (A) publish details of the Reference Tariff variation on the Website; and
    - (B) advise Access Holders and Access Seekers, in respect of the relevant Reference Train Service, of the Reference Tariff variation.
- (e) If the QCA refuses to approve a Reference Tariff variation, the QCA must give Aurizon Network a notice in writing:
- (i) stating the reasons for its refusal and the way in which the QCA considers that the variation should be amended; and

- (ii) if that variation was required to be submitted by Aurizon Network under this **clause 5** in respect of an Endorsed Variation Event, requiring Aurizon Network to vary the Reference Tariff in the way the QCA considers it appropriate and resubmit the variation to the QCA within 20 Business Days after Aurizon Network receiving the notice, subject to **clause 5.6**.
- (f) Aurizon Network must comply with a notice given under **clause 5.5(e)(ii)**.
- (g) When considering whether to approve a resubmitted Reference Tariff variation or a Reference Tariff variation developed by the QCA under **clause 5.1(c)**, the QCA must take into account:
  - (i) the matters specified under **clause 5.5(c)** (as applicable); and
  - (ii) if applicable, whether the variation has been amended or developed in accordance with the QCA's prior decision (if any) to refuse to approve the relevant Reference Tariff variation.
- (h) For the purposes of **clause 5.1**:
  - (i) a Reference Tariff variation submitted by Aurizon Network or developed by the QCA under **clause 5.1** must include a review of System Allowable Revenue and System Forecast to the extent applicable to that variation; and
  - (ii) the QCA in approving a variation of a Reference Tariff must also approve the corresponding variation of the applicable System Allowable Revenue and System Forecast.

## 5.6 Extensions of time

- (a) The QCA may grant Aurizon Network an extension of the time for submitting, or resubmitting, a Reference Tariff variation if:
  - (i) Aurizon Network provides a written request to the QCA for an extension of time which includes the reasons why Aurizon Network requires the extension of time; and
  - (ii) the extension of time is reasonable or necessary.
- (b) If the QCA grants Aurizon Network an extension of time under **clause 5.6(a)**, Aurizon Network must submit or resubmit the Reference Tariff variation within the time specified by the QCA.

## 6 Adjustment Charges

### 6.1 Calculation of Adjustment Charges

- (a) If:
  - (i) this Undertaking specifies that a Reference Tariff is applicable or effective from a date prior to the date on which that Reference Tariff was approved by the QCA; or

- (ii) a variation of a Reference Tariff is applicable or effective from a past date,

Aurizon Network is entitled to recover from or will reimburse to, as applicable, each relevant Access Holder (or, where an Access Holder is an End User and the End User and its Train Operator(s) each pay a component of the Access Charges, the End User and each relevant Train Operator) the amount (**Adjustment Amount**) which is the sum of:

- (iii) the aggregate of the differences, for each relevant Access Holder for each calendar month (or part thereof) since the date on which the Reference Tariff or the variation of the Reference Tariff was to apply or take effect (**Effective Date**) until the date on which that Reference Tariff was approved by the QCA or the variation of the Reference Tariff was made, as applicable, between:
  - (A) the Access Charges paid or payable by that Access Holder in respect of the Train Services operated by or for that Access Holder during that calendar month (or part thereof); and
  - (B) the Access Charges that would have been paid or payable by that Access Holder in respect of those Train Services if the Access Charges were calculated in accordance with the Reference Tariff or the variation of the Reference Tariff referred to in **clause 6.1(a)(i) or (ii)** on and from the Effective Date; and
- (iv) the aggregate of the interest calculated in accordance with **clause 6.1(c)** in respect of the amount of each difference comprising the amount calculated in accordance with **clause 6.1(a)(iii)**,

by making adjustments to the Access Charges (**Adjustment Charge**) payable by Access Holders (or, where an Access Holder is an End User and the End User and its Train Operator(s) each pay a component of the Access Charges, the End User and each relevant Train Operator) so as to recover or reimburse, as applicable, the Adjustment Amount (subject to the provisions of this Undertaking). To the extent that the Access Holder has not paid the original Access Charge to which an Adjustment Charge relates, then the Adjustment Charge may be set off against the amount payable by the Access Holder.

- (b) Where the Access Holder is an End User and the End User and its Train Operator(s) each pay a component of the Access Charges, the Adjustment Amount to be recovered from or reimbursed to (as applicable) the End User and its Train Operator(s) will be in proportion to the components of the Access Charges paid or payable by the End User and its Train Operator(s), determined as a percentage of the total Access Charges.

- (c) The interest referred to in **clause 6.1(a)(iv)** must be calculated:
- (i) in respect of the amount of each difference comprising the amount calculated under **clause 6.1(a)(iii)**;
  - (ii) on the basis that the interest:
    - (A) accrues and is charged from day to day; and
    - (B) is capitalised at the end of each month and will thereafter itself bear interest;
  - (iii) at the rate equal to, for interest accruing in a month:
    - (A) the mid-point of the one month Bank Bill Swap Rate as published by the Australian Financial Markets Association (or its successor) for the Business Day immediately prior to the 21<sup>st</sup> day of the previous month; or
    - (B) if that rate is no longer published, the rate will be an appropriate equivalent rate determined by Aurizon Network, acting reasonably; and
  - (iv) for the period commencing on the date when the Access Charges used to calculate the applicable difference in accordance with **clause 6.1(a)(iii)(A)** were due and payable and ending on the date when the Adjustment Charge is to be due and payable,
- provided that if Aurizon Network is required to reimburse an Adjustment Charge, then no interest will be calculated to the extent that the Access Holder has not paid the original Access Charge to which the Adjustment Charge relates.

## 6.2 Approval of Adjustment Charges

- (a) Aurizon Network:
- (i) may, if it submits a Reference Tariff variation under **clause 5.1** and that variation is proposed to apply or take effect on a date prior to the date on which the QCA will approve the variation; or
  - (ii) must, if:
    - (A) the QCA approves a Reference Tariff variation under **clause 5.1** and that variation applies or takes effect on a date prior to the date on which the QCA approves the variation (and subject to **clause 6.2(a)(i)**); or
    - (B) this Undertaking specifies that a Reference Tariff is applicable or effective from a date prior to the date on which that Reference Tariff was approved by the QCA,submit to the QCA proposed Adjustment Charges.



- (b) Where Aurizon Network submits proposed Adjustment Charges to the QCA under **clause 6.2(a)**:
- (i) Aurizon Network's submission must, without limitation:
    - (A) identify, subject to **clause 6.3(a)**, the Access Holders in respect of whom the proposed Adjustment Charges are to be applied;
    - (B) set out the proposed Adjustment Charges for each Access Holder including details of how those proposed Adjustment Charges were calculated;
    - (C) indicate the billing period(s) in respect of which the proposed Adjustment Charges are to be applied; and
    - (D) if applicable, how the proposed Adjustment Charges are to be allocated for the purposes of calculations under **clause 4.3**;
  - (ii) if the QCA considers it appropriate, the QCA may publish details of Aurizon Network's submission of proposed Adjustment Charges and invite and consider comments from stakeholders regarding the proposed Adjustment Charges; and
  - (iii) the QCA must approve:
    - (A) the Access Holders in respect of whom the Adjustment Charges are to apply;
    - (B) the Adjustment Charges that are to apply to each Access Holder;
    - (C) the billing period(s) in respect of which the Adjustment Charges will be applied; and
    - (D) if applicable, how the Adjustment Charges must be allocated for the purposes of calculations under **clause 4.3**,

if the proposed Adjustment Charges submitted by Aurizon Network (excluding any interest component) constitute no more of a recovery or no less of a reimbursement of any under or over recovery of Access Charges by Aurizon Network that relate to each Access Holder, and any interest component was calculated under **clause 6.1(c)(iii)(B)**.
- (c) Aurizon Network must comply with an approval of the QCA given under **clause 6.2(b)(iii)** or **6.2(f)** including in applying the Adjustment Charge approved for each Access Holder to the calculation of Access Charges payable by that Access Holder.

- (d) If the QCA refuses to approve Aurizon Network's submission for an Adjustment Charge, the QCA must give Aurizon Network a notice in writing:
  - (i) stating the reasons for its refusal and the way in which the QCA considers the proposed Adjustment Charge should be amended so as to constitute (excluding any interest component) no more of a recovery or no less of a reimbursement of any under or over recovery of Access Charges by Aurizon Network that relate to each Access Holder; and
  - (ii) requiring Aurizon Network to vary the proposed Adjustment Charge in the way the QCA considers it appropriate and resubmit the amended proposal to the QCA within 30 days of Aurizon Network receiving the notice.
- (e) Aurizon Network must comply with a notice given under **clause 6.2(d)**.
- (f) The QCA must approve a resubmitted proposal for Adjustment Charges, if the resubmitted proposal has been amended or developed in accordance with the QCA's notice given under **clause 6.2(d)** and the QCA is satisfied that the proposed Adjustment Charges resubmitted by Aurizon Network (excluding any interest component) constitute no more of a recovery or no less of a reimbursement of any under or over recovery of Access Charges by Aurizon Network that relate to each Access Holder.

### **6.3 Application to Access Holders**

- (a) An Adjustment Charge may only apply to an Access Holder (**New Access Holder**) that did not run, or cause a Train Operator to run, the Train Services to which that Adjustment Charge relates (**Past Train Services**) if:
  - (i) the Access Holder who ran the Past Train Services no longer has (or, at the time when the Adjustment Charges are to be applied, will have ceased to have) a rail haulage agreement with the Customer for the Past Train Services in respect of Train Services with the same origin and destination as the Past Train Services;
  - (ii) the New Access Holder has a rail haulage agreement with the Customer referred to in **clause 6.3(a)(i)** (including that Customer's successors and assigns) in respect of Train Services with the same origin and destination as the Past Train Services or the New Access Holder was that Customer (or is that Customer's successor or assign); and
  - (iii) the New Access Holder has been granted Access Rights with the same origin and destination as the Past Train Services.
- (b) No Adjustment Charge will apply to an Access Holder who ran the Past Train Services if that Access Holder has, at the time when the Adjustment Charges are to be applied, ceased to have a rail haulage

agreement with the Customer for the Past Train Services (including that person's successors and assigns) in respect of Train Services with the same origin and destination as the Past Train Services provided that with the cessation of that rail haulage agreement, the applicable Access Rights were either relinquished or expired.

- (c) The calculation of Access Charges under an Access Agreement must be reviewed and varied to provide for the payment of Adjustment Charges in respect of the relevant Access Holder including:
- (i) that the Access Charges payable by the Access Holder must include any applicable Adjustment Charge from time to time in relation to or in connection with any variation of a Reference Tariff that applies or takes effect on a past date or any Reference Tariff that this Undertaking states is applicable or effective from a past date; and
  - (ii) that an Adjustment Charge must be applied to the calculation of the amount of the invoice for charges payable by the Access Holder under the Access Agreement for the relevant billing period.

## 7 Blackwater System

### 7.1 Additional Reference Train Service criteria

In addition to **clause 1.3**, the Reference Train Service to which this **clause 7** applies must also satisfy the following criteria:

- (a) **(Coal System)** operates in the Blackwater System;
- (b) **(Operational characteristics)** meets the following criteria:
  - (i) a maximum length (including the locomotive/s)<sup>8</sup> of 1709 metres, unless operating from Minerva where it will be 1240 metres;
  - (ii) a maximum axle load of 26.5 tonne for a wheel configuration consistent with M220<sup>9</sup> loading, or otherwise generates a loading equivalent to M220, except that Train Services operating from Minerva will have a maximum axle load of 20 tonne – with loading in excess of this maximum axle load dealt with in accordance with the relevant Load Variation Table;
  - (iii) uses electric traction, except operating from Rolleston or Minerva where it will only use diesel traction; and
  - (iv) has a Nominated Separation Time over the Constrained Section of no greater than 20 minutes;

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<sup>8</sup> This Train length comprises the following: static train length (which is the straight addition of individual Rollingstock lengths) plus an allowance of 2% of this static train length for train handling accuracy and for slack movement in drawgear (includes free slack in the drag box, compression of the draftgear, clearance/free slack due to coupler wear and pin clearance at the yoke).

<sup>9</sup> As specified in the ANZRC Railway Bridge Design Manual 1974.

- (c) **(Conditions of Access)** has:
- (i) a Below Rail Transit Time in its Access Agreement that is determined as the sum of the nominated section running times for the Nominated Infrastructure (as included in the relevant Preliminary Information) plus a factor of 27%; or
  - (ii) if a Train Service varies from those section running times, but is otherwise subject to this **schedule F**, a Below Rail Transit Time that is determined as the sum of the nominated section running times for the Nominated Infrastructure (as included in the relevant Access Agreement) plus a factor of 27%;
- (d) **(Loading Facilities)** uses the following Nominated Loading Facilities and does not exceed the following Loading Times:

Nominated Loading Facilities <sup>10</sup>	Loading Time (hours) per return trip
Boonal	4.6
Boorgoon	3.8
Curragh	3.3
Ensham	3.2
German Creek	3.0
Gregory	2.8
Kestrel (Gordonstone)	3.3
Kinrola	3.15
Koorilgah	5.0
Minerva	2.3
Oaky Creek	2.6
Rolleston	2.2
Yongala	4.2

- (e) **(Unloading Facilities)** uses the following Nominated Unloading Facilities and does not exceed the following Unloading Times:

Nominated Unloading Facilities <sup>11</sup>	Unloading Time (hours) per return trip
Barney Point	5.0
Cement Australia	6.0

<sup>10</sup> Diagrams showing the location of the Nominated Loading Facilities for a nominated Reference Train Service are included in the Preliminary Information for the relevant Coal System.

<sup>11</sup> Diagrams showing the location of the Nominated Unloading Facilities for a nominated Reference Train Service are included in the Preliminary Information for the relevant Coal System.

Comalco Refinery	4.0
Gladstone Power Station	3.3
Golding/RG Tanna Terminal	2.6
Queensland Alumina Ltd (QAL) <sup>12</sup>	8.9
Stanwell Power Station	2.3
Wiggins Island Coal Export Terminal	1.5 <sup>13</sup>

(f) **(Dwell Period)** has Dwell periods not exceeding the following:

	Dwell period (hours)per return trip
Inclusive of Train examination	9.2
Excluding Train examination	3.2

## 7.2 Reference Tariff inputs

(a) Subject to **clause 7.2(c)**, the Reference Tariff inputs inclusive of revenue cap adjustments for 2011/12 and 2012/13 are:

Reference Tariff input	2013/14 (\$)	2014/15 (\$)	2015/16 (\$)	2016/17 (\$)
AT <sub>1</sub>	0.94	0.96	0.99	1.01
AT <sub>2</sub>	5,030	5,156	5,285	5,417
AT <sub>3</sub>	6.20*	5.81*	6.49*	6.58*
AT <sub>4</sub>	2.09	1.97	2.18	2.20
AT <sub>5</sub>	2.75	2.97	3.04	3.12
EC	0.68	0.68	0.68	0.69
QCA Levy	0.02992	0.03067	0.03143	0.03222

\* This amount must be adjusted by subtracting the System Discount under **clause 7.2(b)** where the System Discount, applies to the relevant Train Service.

<sup>12</sup> The Unloading Time for the QAL refinery represents the time the Train Service is off the Rail Infrastructure on the relevant Private Infrastructure.

<sup>13</sup> For services from the North Coast Line 0.7 hours.

- (b) The System Discounts for Train Services to or from Nominated Loading Facilities or Nominated Unloading Facilities are:

Nominated Unloading Facilities	System Discount (\$/ntk)			
	2013/14	2014/15	2015/16	2016/17
Stanwell Power Station	2.04	2.03	2.27	2.30

- (c) The Reference Tariff inputs referred to below in relation to a Nominated Loading Facility replace the equivalent Reference Tariff inputs in **clause 7.2(a)** for any Train Service using that Nominated Loading Facility:

Nominated Loading Facility	Reference Tariff input	2013/14 (\$)	2014/15 (\$)	2015/16 (\$)	2016/17 (\$)
Rolleston	AT <sub>3</sub>	1.05*	1.40*	2.22*	2.59*
	AT <sub>4</sub>	0.41	0.58	0.92	1.08
Minerva	AT <sub>3</sub>	4.63*	4.37*	4.90*	4.95*
	AT <sub>4</sub>	1.86	1.78	1.99	2.02

\* This amount must be adjusted by subtracting any System Discount under **clause 7.2(b)** where the System Discount applies to the relevant Train Service.

- (d) The nominal train payload for:
- (i) a Train Service (other than a Cross System Train Service) to which the Reference Tariff in this **clause 7** applies; or
  - (ii) a Cross System Train Service where the Destination System is the Blackwater System,
- is an nt of 8,211 tonnes.

### 7.3 System Forecast and System Allowable Revenues

Year	System Gtk (,000 gtk)	System Allowable Revenue – AT <sub>2-4</sub> (\$)	System Allowable Revenue – AT <sub>5</sub> (\$)
2013/14 <sup>^</sup>	30,117,969	260,617,122	57,580,088
2014/15	33,985,924	291,356,364	78,926,290
2015/16	37,876,747	368,538,915	100,668,352
2016/17	41,168,179	417,058,319	112,288,992

<sup>^</sup> Includes the impact of the 2011/12 revenue cap adjustment.

## Monthly System Forecasts for 2001 Undertaking Access Agreements\*

Month	System GtK (,000 gtk)	Month	System GtK (,000 gtk)
Jul-13	2,644,511	Jul-14	2,984,137
Aug-13	2,673,258	Aug-14	3,016,576
Sep-13	2,489,136	Sep-14	2,808,808
Oct-13	2,621,044	Oct-14	2,957,656
Nov-13	2,430,950	Nov-14	2,743,149
Dec-13	2,354,822	Dec-14	2,657,244
Jan-14	2,355,576	Jan-15	2,658,095
Feb-14	2,125,614	Feb-15	2,398,600
Mar-14	2,458,645	Mar-15	2,774,401
Apr-14	2,522,091	Apr-15	2,845,995
May-14	2,662,900	May-15	3,004,888
Jun-14	2,779,424	Jun-15	3,136,376

\* These forecasts are the 'System Forecasts' of gtk for the purposes of Access Agreements, and New Access Agreements where the relevant Old Access Agreement was, executed or renewed during the term of the 2001 Undertaking including in relation to the calculation of VTP and IATP for Take or Pay charges. These System Forecasts are a monthly version of the Yearly System Forecast for the purpose of 2001 Undertaking based Access Agreements. However, these monthly System Forecasts do not include volume forecasts for Train Services unloading at the Wiggins Island Coal Export Terminal.

## 8 Goonyella System

### 8.1 Additional Reference Train Service criteria

In addition to **clause 1.3**, the Reference Train Service to which this **clause 8** applies must also satisfy the following criteria:

- (a) **(Coal System)** operates in the Goonyella System;
- (b) **(Operational characteristics)** meets the following criteria:
  - (i) a maximum length (including the locomotive/s)<sup>14</sup> of 2082 metres;

<sup>14</sup> This Train length comprises the following: static train length (which is the straight addition of individual Rollingstock lengths) plus an allowance of 2% of this static train length for train handling accuracy and for slack movement in drawgear (includes free slack in the drag box, compression of the draftgear, clearance/free slack due to coupler wear and pin clearance at the yoke).

- (ii) a maximum axle load of 26.5 tonne for a wheel configuration consistent with M220<sup>15</sup> loading, or otherwise generates a loading equivalent to M220 – with loading in excess of this maximum axle load dealt with in accordance with the relevant Load Variation Table;
  - (iii) uses electric traction; and
  - (iv) has a Nominated Separation Time over the Constrained Section of no greater than 20 minutes;
- (c) **(Conditions of Access)** has:
- (i) a Below Rail Transit Time in its Access Agreement that is determined as the sum of the nominated section running times for the Nominated Infrastructure (as included in the relevant Preliminary Information) plus (+) a factor of 23%; or
  - (ii) if a Train Service varies from those section running times, but is otherwise subject to this **schedule F**, a Below Rail Transit Time that is determined as the sum of the nominated section running times for the Nominated Infrastructure (as included in the relevant Access Agreement) plus a factor of 23%;
- (d) **(Loading Facilities)** uses the following Loading Facilities and does not exceed the following Loading Times:

Nominated Loading Facilities <sup>16</sup>	Loading Time (hours) per return trip
Blair Athol	3.1
Burton	3.8
Carborough Downs	3.5
German Creek	2.9
Goonyella	3.9
Hail Creek	4.1
Isaac Plains	3.9
Lake Vermont	3.0
Macarthur (Coppabella)	3.9
Millennium	3.0
Moorvale	3.9
Moranbah North	3.6
North Goonyella	4.3

<sup>15</sup> As specified in the ANZRC Railway Bridge Design Manual 1974.

<sup>16</sup> Diagrams showing the location of the Nominated Loading Facilities for a nominated Reference Train Service are included in the Preliminary Information for the relevant Coal System.



Norwich Park	3.9
Oaky Creek	3.8
Peak Downs	4.2
Riverside	3.0
Saraji	4.4
South Walker Creek	3.8

- (e) **(Unloading Facilities)** uses the following Nominated Unloading Facilities and does not exceed the following Unloading Times:

Nominated Unloading Facilities <sup>17</sup>	Unloading Time (hours) per return trip
Dalrymple Bay	Pit 1 – 2.5 Pit 2 – 2.5 Pit 3 – 2.0
Hay Point	2.8

- (f) **(Dwell Period)** has Dwell periods not exceeding the following:

	Dwell period (hours)per return trip
Inclusive of Train examination	8.8
Excluding Train examination	1.8

## 8.2 Reference Tariff inputs

- (a) Subject to **clause 8.2(b)**, the Reference Tariff inputs inclusive of revenue cap adjustments for 2011/12 and 2012/13 are:

Reference Tariff input	2013/14 (\$)	2014/15 (\$)	2015/16 (\$)	2016/17 (\$)
AT <sub>1</sub>	0.65	0.67	0.68	0.70
AT <sub>2</sub>	2,488	2,550	2,614	2,679
AT <sub>3</sub>	6.29	5.95	5.83	5.77
AT <sub>4</sub>	1.32	1.25	1.22	1.21
AT <sub>5</sub>	2.86	2.28	2.30	2.33
EC	0.68	0.68	0.68	0.69
QCA Levy	0.02992	0.03067	0.03143	0.03222

<sup>17</sup> Diagrams showing the location of the Nominated Unloading Facilities for a nominated Reference Train Service are included in the Preliminary Information for the relevant Coal System.

- (b) The Reference Tariff inputs referred to below in relation to a Nominated Loading Facility replace the equivalent Reference Tariff inputs in **clause 8.2(a)** for any Train Service using that Nominated Loading Facility:

Nominated Loading Facility	Reference Tariff input	2013/14 (\$)	2014/15 (\$)	2015/16 (\$)	2016/17 (\$)
Hail Creek	AT <sub>3</sub>	2.11	2.01	2.02	2.05
	AT <sub>4</sub>	0.44	0.42	0.42	0.43
	AT <sub>5</sub>	1.79	1.28	1.33	1.39
Isaac Plains	AT <sub>3</sub>	2.59	2.47	2.46	2.49
	AT <sub>4</sub>	0.54	0.52	0.52	0.52
	AT <sub>5</sub>	2.30	1.75	1.79	1.83
Carborough Downs	AT <sub>3</sub>	3.85	3.66	3.62	3.62
	AT <sub>4</sub>	0.81	0.77	0.76	0.76
	AT <sub>5</sub>	2.49	1.93	1.96	2.00
Millennium	AT <sub>3</sub>	2.99	2.86	2.85	2.88
	AT <sub>4</sub>	0.63	0.60	0.60	0.60
	AT <sub>5</sub>	2.57	2.01	2.04	2.08
South Walker Creek	AT <sub>3</sub>	5.55	5.25	5.14	5.10
	AT <sub>4</sub>	1.16	1.10	1.08	1.07
	AT <sub>5</sub>	2.41	1.86	1.89	1.93
Moorvale	AT <sub>3</sub>	5.58	5.29	5.19	5.15
	AT <sub>4</sub>	1.17	1.11	1.09	1.08
	AT <sub>5</sub>	2.69	2.13	2.15	2.19

- (c) The nominal train payload for:
- (i) a Train Service (other than a Cross System Train Service) to which the Reference Tariff in this **clause 8** applies; or
  - (ii) a Cross System Train Service where the Destination System is the Goonyella System,
- is an nt of 10,055 tonnes.

### 8.3 System Forecast and System Allowable Revenues

Year	System Gtk (,000 gtk)	System Allowable Revenue – AT <sub>2-4</sub> (\$)	System Allowable Revenue – AT <sub>5</sub> (\$)
2013/14 <sup>^</sup>	32,649,600	294,450,889	90,103,753
2014/15	35,622,580	307,689,585	78,318,791
2015/16	37,444,831	320,042,557	83,048,259
2016/17	39,077,779	333,053,970	88,062,810

<sup>^</sup> Includes the impact of the 2011/12 revenue cap adjustment.

#### Monthly System Forecasts for 2001 Undertaking Access Agreements\*

Month	System Gtk (,000 gtk)	Month	System Gtk (,000 gtk)
Jul-13	2,878,736	Jul-14	3,140,866
Aug-13	2,898,606	Aug-14	3,162,545
Sep-13	2,909,598	Sep-14	3,174,538
Oct-13	2,926,580	Oct-14	3,193,066
Nov-13	2,772,941	Nov-14	3,025,437
Dec-13	2,618,202	Dec-14	2,856,608
Jan-14	2,606,125	Jan-15	2,843,431
Feb-14	2,147,509	Feb-15	2,343,056
Mar-14	2,361,479	Mar-15	2,576,509
Apr-14	2,759,895	Apr-15	3,011,203
May-14	2,911,029	May-15	3,176,099
Jun-14	2,858,899	Jun-15	3,119,223

\* These forecasts are the 'System Forecasts' of gtk for the purposes of Access Agreements, and New Access Agreements where the relevant Old Access Agreement was, executed or renewed during the term of the 2001 Undertaking including in relation to the calculation of VTP and IATP for Take or Pay charges. These System Forecasts are a monthly version of the Yearly System Forecast for the purpose of 2001 Undertaking based Access Agreements.

## 9 Moura System

### 9.1 Additional Reference Train Service criteria

In addition to **clause 1.3**, the Reference Train Service to which this **clause 9** applies must also satisfy the following criteria:

- (a) **(Coal System)** operates in the Moura System;
- (b) **(Operational characteristics)** meets the following criteria:
  - (i) a maximum length (including the locomotive/s)<sup>18</sup> of 1000 metres;
  - (ii) a maximum axle load of 26.5 tonne for a wheel configuration consistent with M220<sup>19</sup> loading, or otherwise generates a loading equivalent to M220 – with loading in excess of this maximum axle load dealt with in accordance with the relevant Load Variation Table; and
  - (iii) uses diesel traction;
- (c) **(Conditions of Access)** has:
  - (i) a Below Rail Transit Time in its Access Agreement that is determined as the sum of the nominated section running times for the Nominated Infrastructure (as included in the relevant Preliminary Information) plus a factor of 30%; or
  - (ii) if a Train Service varies from those section running times, but is otherwise subject to this **schedule F**, a Below Rail Transit Time that is determined as the sum of the nominated section running times for the Nominated Infrastructure (as included in the relevant Access Agreement) plus a factor of 30%;
- (d) **(Loading Facilities)** uses the following Nominated Loading Facilities and does not exceed the following Loading Times:

Nominated Loading Facilities <sup>20</sup>	Loading Time (hours) per return trip
Baralaba	4.9
Boundary Hill	3.4
Dunn Creek (Callide)	4.2
Moura	3.6

<sup>18</sup> This Train length comprises the following: static train length (which is the straight addition of individual Rollingstock lengths) plus an allowance of 2% of this static train length for train handling accuracy and for slack movement in drawgear (includes free slack in the drag box, compression of the draftgear, clearance/free slack due to coupler wear and pin clearance at the yoke).

<sup>19</sup> As specified in the ANZRC Railway Bridge Design Manual 1974.

<sup>20</sup> Diagrams showing the location of the Nominated Loading Facilities for a nominated Reference Train Service are included in the Preliminary Information for the relevant Coal System.

- (e) **(Unloading Facilities)** uses the following Nominated Unloading Facilities and does not exceed the following Unloading Times:

Nominated Unloading Facilities <sup>21</sup>	Unloading Time (hours) per return trip
Barney Point	3.1
Cement Australia	4.3
Comalco Refinery	4.0
Gladstone Power Station	3.3
Golding/RG Tanna Terminal	1.5
Queensland Alumina Ltd (QAL) <sup>22</sup>	8.9

- (f) **(Dwell Period)** has Dwell periods not exceeding the following:

	Dwell period (hours)per return trip
Inclusive of Train examination	6.2
Excluding Train examination	3.2

## 9.2 Reference Tariff inputs

- (a) The Reference Tariff inputs inclusive of revenue cap adjustments for 2011/12 and 2012/13 are:

Reference Tariff input	2013/14 (\$)	2014/15 (\$)	2015/16 (\$)	2016/17 (\$)
AT <sub>1</sub>	1.75	1.79	1.83	1.88
AT <sub>2</sub>	612	628	643	659
AT <sub>3</sub>	8.88	10.85	11.51	10.64
AT <sub>4</sub>	1.46	1.85	1.96	1.81
QCA Levy	0.02992	0.03067	0.03143	0.03222

- (b) The nominal train payload for:
- (i) a Train Service to which the Reference Tariff in this **clause 9** applies; or

<sup>21</sup> Diagrams showing the location of the Nominated Unloading Facilities for a nominated Reference Train Service are included in the Preliminary Information for the relevant Coal System.

<sup>22</sup> The Unloading Time for the QAL refinery represents the time the Train Service is off the Rail Infrastructure on the relevant Private Infrastructure.

(ii) a Cross System Train Service where the Destination System is the Moura System,

is an nt of 6,269tonnes.

### 9.3 System Forecast and System Allowable Revenues

Year	System Gtk (,000 gtk)	System Allowable Revenue – AT <sub>2-4</sub> (\$)
2013/14 <sup>^</sup>	3,438,649	39,108,076
2014/15	3,832,505	52,846,513
2015/16	3,653,129	53,309,907
2016/17	3,965,176	54,058,052

<sup>^</sup> Includes the impact of the 2011/12 revenue cap adjustment.

#### Monthly System Forecasts for 2001 Undertaking Access Agreements\*

Month	System Gtk (,000 gtk)	Month	System Gtk (,000 gtk)
Jul-13	299,649	Jul-14	333,970
Aug-13	287,722	Aug-14	320,677
Sep-13	272,614	Sep-14	303,839
Oct-13	283,745	Oct-14	316,244
Nov-13	286,517	Nov-14	319,334
Dec-13	268,721	Dec-14	299,500
Jan-14	285,670	Jan-15	318,390
Feb-14	272,293	Feb-15	303,481
Mar-14	288,713	Mar-15	321,782
Apr-14	290,676	Apr-15	323,969
May-14	304,258	May-15	339,108
Jun-14	298,071	Jun-15	332,212

\* These forecasts are the 'System Forecasts' of gtk for the purposes of Access Agreements, and New Access Agreements where the relevant Old Access Agreement was, executed or renewed during the term of the 2001 Undertaking including in relation to the calculation of VTP and IATP for Take or Pay charges. These System Forecasts are a monthly version of the Yearly System Forecast for the purpose of 2001 Undertaking based Access Agreements.

## 10 Newlands System

### 10.1 Additional Reference Train Service criteria

In addition to **clause 1.3**, the Reference Train Service to which this **clause 10** applies must also satisfy the following criteria:

- (a) **(Coal System)** operates in the Newlands System;
- (b) **(Operational characteristics)** meets the following criteria:
  - (i) a maximum length (including the locomotive/s)<sup>23</sup> of 1402 metres;
  - (ii) a maximum axle load of 26.5 tonne for a wheel configuration consistent with M220<sup>24</sup> loading, or otherwise generates a loading equivalent to M220 – with loading in excess of this maximum axle load dealt with in accordance with the relevant Load Variation Table; and
  - (iii) uses diesel traction;
- (c) **(Conditions of Access)** has:
  - (i) a Below Rail Transit Time in its Access Agreement that is determined as the sum of the nominated section running times for the Nominated Infrastructure (as included in the relevant Preliminary Information) plus a factor of 60%; or
  - (ii) if a Train Service varies from those section running times, but is otherwise subject to this **schedule F**, a Below Rail Transit Time that is determined as the sum of the nominated section running times for the Nominated Infrastructure (as included in the relevant Access Agreement) plus a factor of 60%;
- (d) **(Loading Facilities)** uses the following Nominated Loading Facilities and does not exceed the following Loading Times:

Nominated Loading Facilities <sup>25</sup>	Loading Time (hours) per return trip
McNaughton	2.5
Newlands	1.8
Sonoma	2.4

<sup>23</sup> This Train length comprises the following: static train length (which is the straight addition of individual Rollingstock lengths) plus an allowance of 2% of this static train length for train handling accuracy plus 125mm per vehicle for slack movement in drawgear (includes free slack in the drag box, compression of the draftgear, clearance/free slack due to coupler wear and pin clearance at the yoke).

<sup>24</sup> As specified in the ANZRC Railway Bridge Design Manual 1974.

<sup>25</sup> Diagrams showing the location of the Nominated Loading Facilities for a nominated Reference Train Service are included in the Preliminary Information for the relevant Coal System.

- (e) **(Unloading Facilities)** uses the following Nominated Unloading Facilities and does not exceed the following Unloading Times:

Nominated Unloading Facilities <sup>26</sup>	Unloading Time (hours) per return trip
Abbot Point	1.6

- (f) **(Dwell Period)** has Dwell periods not exceeding the following:

	Dwell period (hours)per return trip
Inclusive of Train examination	6.4
Excluding Train examination	2.4

## 10.2 Reference Tariff inputs

- (a) Subject to **clause 10.2(b)**, the Reference Tariff inputs inclusive of revenue cap adjustments for 2011/12 and 2012/13 are:

Reference Tariff input	2013/14 (\$)	2014/15 (\$)	2015/16 (\$)	2016/17 (\$)
AT <sub>1</sub>	1.82	1.86	1.91	1.96
AT <sub>2</sub>	6,976	7,150	7,329	7,512
AT <sub>3</sub>	4.05	5.25	4.83	3.63
AT <sub>4</sub>	0.12	0.00	0.00	0.00
QCA Levy	0.02992	0.03067	0.03143	0.03222

- (b) The Reference Tariff inputs referred to below in relation to a Nominated Loading Facility replace the equivalent Reference Tariff inputs in **clause 10.2(a)** for any Train Service using that Nominated Loading Facility:

Nominated Loading Facility	Reference Tariff input	2013/14 (\$)	2014/15 (\$)	2015/16 (\$)	2016/17 (\$)
Sonoma	AT <sub>3</sub>	1.84	2.89	2.35	1.32
	AT <sub>4</sub>	0.12	0.00	0.00	0.00

- (c) The nominal train payload for:
- (i) a Train Service (other than a Cross System Train Service) to which the Reference Tariff in this **clause 10** applies; or

<sup>26</sup> Diagrams showing the location of the Nominated Unloading Facilities for a nominated Reference Train Service are included in the Preliminary Information for the relevant Coal System.



- (ii) a Cross System Train Service where the Destination System is the Newlands System,

is an nt of 6,871 tonnes.

### 10.3 System Forecast and System Allowable Revenues

Year	System Gtk (,000 gtk)	System Allowable Revenue – AT <sub>2-4</sub> (\$)
2013/14 <sup>^</sup>	3,255,724	39,299,966
2014/15	3,413,741	43,437,203
2015/16	3,596,255	46,303,534
2016/17	3,950,946	49,045,747

<sup>^</sup> Includes the impact of the 2011/12 revenue cap adjustment.

#### Monthly System Forecasts for 2001 Undertaking Access Agreements\*

Month	System Gtk (,000 gtk)	Month	System Gtk (,000 gtk)
Jul-13	290,726	Jul-14	304,836
Aug-13	299,278	Aug-14	313,804
Sep-13	285,659	Sep-14	299,523
Oct-13	251,275	Oct-14	263,471
Nov-13	293,766	Nov-14	308,024
Dec-13	258,157	Dec-14	270,687
Jan-14	279,271	Jan-15	292,825
Feb-14	193,359	Feb-15	202,744
Mar-14	254,766	Mar-15	267,131
Apr-14	269,575	Apr-15	282,659
May-14	287,604	May-15	301,562
Jun-14	292,289	Jun-15	306,475

\* These forecasts are the 'System Forecasts' of gtk for the purposes of Access Agreements, and New Access Agreements where the relevant Old Access Agreement was, executed or renewed during the term of the 2001 Undertaking including in relation to the calculation of VTP and IATP for Take or Pay charges. These System Forecasts are a monthly version of the Yearly System Forecast for the purpose of 2001 Undertaking based Access Agreements.

# 11 Goonyella to Abbot Point System

## 11.1 Additional Reference Train Service criteria

In addition to **clause 1.3**, the Reference Train Service to which this **clause 11** applies must also satisfy the following criteria:

- (a) **(Coal System)** operates in the Goonyella to Abbot Point System;
- (b) **(Operational characteristics)** meets the following criteria:
  - (i) a maximum length (including the locomotive/s)<sup>27</sup> of 1402 metres;
  - (ii) a maximum axle load of 26.5 tonne for a wheel configuration consistent with M220<sup>28</sup> loading, or otherwise generates a loading equivalent to M220 – with loading in excess of this maximum axle load dealt with in accordance with the relevant Load Variation Table; and
  - (iii) uses diesel traction.
- (c) **(Conditions of Access)** has:
  - (i) a Below Rail Transit Time in its Access Agreement that is determined as the sum of the nominated section running times for the Nominated Infrastructure (as included in the relevant Preliminary Information) plus a factor of 60%; or
  - (ii) if a Train Service varies from those section running times, but is otherwise subject to this **schedule F**, a Below Rail Transit Time that is determined as the sum of the nominated section running times for the Nominated Infrastructure (as included in the relevant Access Agreement) plus a factor of 60%;
- (d) **(Loading Facilities)** uses the following Nominated Loading Facilities and does not exceed the following Loading Times:

Nominated Loading Facilities <sup>29</sup>	Loading Time (hours) per return trip
Riverside	3.0
Peak Downs	3.0
Lake Vermont	2.04 (estimate) <sup>30</sup>
Blair Athol (Clermont)	2.04 (estimate) <sup>30</sup>

<sup>27</sup> This Train length comprises the following: static train length (which is the straight addition of individual Rollingstock lengths) plus an allowance of 2% of this static train length for train handling accuracy plus 125mm per vehicle for slack movement in drawgear (includes free slack in the drag box, compression of the draftgear, clearance/free slack due to coupler wear and pin clearance at the yoke).

<sup>28</sup> As specified in the ANZRC Railway Bridge Design Manual 1974.

<sup>29</sup> Diagrams showing the location of the Nominated Loading Facilities for a nominated Reference Train Service are included in the Preliminary Information for the relevant Coal System.

<sup>30</sup> This is an estimate of loading time for this Loading Facility. Aurizon will review this loading time in accordance with the relevant Access Agreement. A variation from the loading time will not result in the Train Service being considered not to be a Reference Train Service until after the loading time is reviewed in accordance to the relevant Access Agreement.

- (e) **(Unloading Facilities)** uses the following Nominated Unloading Facilities and does not exceed the following Unloading Times:

Nominated Unloading Facilities <sup>31</sup>	Unloading Time (hours) per return trip
Abbot Point	2.05

- (f) **(Dwell Period)** has Dwell periods not exceeding the following:

	Dwell period (hours)per return trip
Inclusive of Train examination	7.35 per consist every 20 days
Excluding Train examination	1.35

## 11.2 Reference Tariff inputs

- (a) The Reference Tariff inputs inclusive of revenue cap adjustments for 2011/12 and 2012/13 are:

Reference Tariff input	2013/14 (\$)	2014/15 (\$)	2015/16 (\$)	2016/17 (\$)
AT <sub>1</sub>	1.46	1.50	1.54	1.58
AT <sub>2</sub>	6,976	7,150	7,329	7,512
AT <sub>3</sub>	1.61	1.42	1.36	1.35
AT <sub>4</sub>	3.48	2.41	2.14	1.86
QCA Levy	0.02992	0.03067	0.03143	0.03222

- (b) The nominal train payload for:
- (i) a Train Service to which the Reference Tariff in this **clause 11** applies; or
  - (ii) a Cross System Train Service where the Destination System is the Goonyella to Abbot Point System,  
is an nt of 6,871 tonnes.

<sup>31</sup> Diagrams showing the location of the Nominated Unloading Facilities for a nominated Reference Train Service are included in the Preliminary Information for the relevant Coal System.

### 11.3 System Forecast and System Allowable Revenues

Year	System Gtk (,000 gtk)	System Allowable Revenue – AT <sub>2-4</sub> (\$)
2013/14	11,051,057	123,980,118
2014/15	13,317,088	124,577,747
2015/16	14,432,770	126,951,186
2016/17	15,512,057	129,481,818

# Schedule G

## Principles for pricing of electric traction services in the Blackwater System

### 1 Introduction

This Schedule sets out the principles which will govern the arrangements for pricing of electric traction services in the Blackwater system, and recovery by Aurizon Network of electric system costs.

Aurizon Network's Access Undertaking (effective at the relevant time) will be amended as necessary to implement the principles in this Schedule.

### 2 General Principles

- (a) The power system upgrade to the Blackwater electric system was approved by the QCA under Aurizon Network's Access Undertaking approved on 23 October 2008.
- (b) Aurizon Network is entitled to recover its investment in the Blackwater Electric System (**Blackwater Electric System Costs**), which includes:
  - (i) Amounts payable to Powerlink for the Blackwater Electric System including metering charges;
  - (ii) Depreciation charge on Blackwater Electric System Costs;
  - (iii) Rate of return on the Blackwater Electric System Costs at the regulatory Weighted Average Cost of Capital (**WACC**);
  - (iv) Maintenance and operational costs incurred by Aurizon Network for the Blackwater Electric System other than those paid to Powerlink; and
  - (v) Escalation of maintenance overheads via the Maintenance Cost Index (**MCI**) methodology.
- (c) All Access Holders [utilising the Blackwater system] should contribute to Aurizon Network's recovery of the Blackwater Electric System Costs.
- (d) In the event that Aurizon Network does not, at the AT5 tariffs approved by the QCA, recover its Blackwater Electric System Costs over the regulatory period commencing [upon the approval of Aurizon Network's next Access Undertaking] (**Pricing Period**), it will defer full recovery of the Blackwater Electric System Costs across the period commencing upon the approval of Aurizon Network's subsequent Access Undertaking (**Adjustment Period**). Any shortfall in the recovery of Aurizon Network's

Blackwater Electric System Costs in the Pricing Period will be recovered from all Access Holders [utilising the Blackwater system] in the Adjustment Period.

- (e) In the event that Aurizon Network, at the AT5 tariffs approved by the QCA, recovers revenue in excess of its Blackwater Electric System Costs over the Pricing Period, it will return any over-recovery of Blackwater Electric System Costs to Access Holders [utilising the Blackwater system], during the Adjustment Period.
- (f) Electric energy (**EC**) costs will continue to be treated as a separate tariff component, not subject to the arrangements set out in this Schedule.

### 3 Pricing of electric traction services

- (a) The electric access tariff (**AT5**) will be a fixed tariff component, levied on the basis of electric gross tonne kilometres attributable to the relevant train service (**egtk**), representing the present value of the Blackwater Electric System Costs over the Pricing and Adjustment Periods.
- (b) In calculating AT5, the following assumptions will be adopted:
  - (i) utilisation of the Blackwater Electric System is 85% of the total gross tonne kilometres attributable to all contracted train services for which electric traction services are available (**maximum feasible egtk**);
  - (ii) maximum feasible egtk will include committed future electrification projects; and
  - (iii) forecast costs for committed future electrification projects will be taken into account in calculating electric system costs.

# Schedule H

## Network Management Principles

### 1 Interpretation

In this **schedule H**, a reference to an Access Holder excludes an End User and includes a Train Operator.

### 2 Train Service Entitlements

Train Service Entitlements:

- (a) for the same types of traffics, will be defined using consistent terminology,<sup>32</sup> and
- (b) will be expressed in terms that can be interpreted for the development of a Master Train Plan (MTP), an Intermediate Train Plan (ITP), where necessary, and a Daily Train Plan (DTP).

### 3 Master Train Plan principles

#### 3.1 Purpose and form of the MTP

- (a) The purpose of the MTP is to demonstrate how Aurizon Network plans to deliver Train Service Entitlements in each Coal System, having regard to Planned Possessions, Existing Capacity and other relevant characteristics of each Coal System.
- (b) The MTP will be in a form that is readily convertible to a DTP and indicates the capability of Aurizon Network to deliver Train Service Entitlements in each Coal System given other activities on the relevant Rail Infrastructure. The MTP will separately identify where applicable:
  - (i) for Cyclic Traffics, the System Paths allocated to Cyclic Traffics, where such Train Paths reflect the Existing Capacity required for the maximum level of operation for relevant Train Service Entitlements, but may not necessarily reflect the particular Train Paths that those Train Services will operate on;
  - (ii) for Timetabled Traffics, the particular Train Paths allocated in accordance with the Train Service Entitlements; and
  - (iii) time allocated for Planned Possessions.

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<sup>32</sup> For example, Timetabled Traffics may be defined in terms of a path between certain locations, on particular days, and at particular times. Cyclic Traffics may be defined in terms of a number of train paths per specified period of time.

### 3.2 Updating the MTP

- (a) Aurizon Network will update the MTP when Aurizon Network considers it necessary to do so in accordance with **clause 3.3** and, in any event, no less than once each Year.
- (b) Aurizon Network will notify relevant Access Holders and Infrastructure Service Providers of any modifications to the MTP at least 30 days prior to the commencement of the modification and make available to the relevant Access Holders and Infrastructure Service Providers an updated MTP once it has been finalised.

### 3.3 Modifying the MTP

- (a) The MTP may be modified by Aurizon Network in accordance with any of **clauses 3.3(b), (c) and (d)**. For clarity, so long as a modification can be made in accordance with one of **clauses 3.3(b), (c) or (d)**, it is not necessary for each of those clauses to be complied with in respect of that modification.
- (b) Aurizon Network may make modifications to the MTP on a case-by-case basis without the need for consultation where:
  - (i) an Access Holder notifies Aurizon Network that it wishes to make a long-term Train Service Time Change, provided:
    - (A) that change:
      - (1) is within the scope of its Train Service Entitlement; and
      - (2) does not result in any other Access Holder's scheduled Train Service/s not being met, or a Planned Possession not being met; and
    - (B) the Access Holder has given Aurizon Network reasonable prior notice of that change having regard to the necessary process to be complied with, and factors to be considered, by Aurizon Network including Aurizon Network's obligations under **clause 3.2(b)**;
  - (ii) a Planned Possession is cancelled;
  - (iii) a new or additional Train Service Entitlement has been created, through the signing of an Access Agreement, or the negotiation of a variation to an Access Agreement, provided that the new or varied Train Service Entitlement does not result in any other Access Holder's scheduled Train Service/s not being met, or a Planned Possession not being met; or
  - (iv) an Access Holder's Access Agreement allows Aurizon Network to alter the Access Holder's Train Service Entitlement – for example, by resuming Access Rights through a capacity resumption process.



- (c) Aurizon Network may make modifications to the MTP, on a case-by-case basis after consulting with any Access Holders whose Train Service/s or Train Service Entitlements are affected by the proposed modification to the MTP, and/or with Infrastructure Service Providers if the proposed modification affects a Planned Possession, where:
  - (i) Aurizon Network notifies all affected Access Holders that it wishes to make a long-term Train Service Time Change, provided that change:
    - (A) is within the scope of the relevant Access Holders' Train Service Entitlement/s; and
    - (B) is intended to accommodate:
      - (1) the creation of a new or varied Train Service Entitlement, through the signing of an Access Agreement, or the negotiation of a variation to an Access Agreement, where that new or varied Train Service Entitlement cannot otherwise be reasonably accommodated on the MTP;
      - (2) the creation of new Planned Possessions or the modification of existing Planned Possessions; or
      - (3) any other Operational Constraint affecting the MTP; and
    - (C) where it results in any existing Access Holder's Train Service Entitlement not being met, is only made with the agreement of that existing Access Holder (such agreement not to be unreasonably withheld); or
  - (ii) Aurizon Network notifies all affected Access Holders, within the time period specified in each affected Access Holder's Access Agreement, of a long-term Train Service Time Change for the purpose of carrying out Major Periodic Maintenance provided that, where that change is not within the scope of an Access Holder's Train Service Entitlement, Aurizon Network has used reasonable endeavours to mitigate the impact on that Access Holder. Any limitations (if any) on Aurizon Network's ability to exercise this right will be specified in individual Access Agreements.
- (d) Aurizon Network may make modifications to the MTP where Aurizon Network and all affected Access Holders, agree. Aurizon Network will invite all Access Holders whose Train Service Entitlements are affected by the proposed modification to the MTP to consider the modification in an appropriate forum (which may include a face to face meeting, a telephone conference or any other forum that provides the affected Access Holders with a reasonable opportunity to participate). Each affected Access Holder will be provided with a copy of the proposed

changes seven days prior to the scheduled consideration of the modification in the forum.

- (e) Aurizon Network will consult with any Infrastructure Service Providers who Aurizon Network considers may be affected by any modification to the MTP that is proposed to be agreed under **clause 3.3(d)** or **3.3(d)**.

## 4 Intermediate Train Plan principles

- (a) An ITP is an intermediate scheduling step in progressing from the MTP to the DTP. Aurizon Network will consider Planned Possessions, the Train Paths and the System Paths detailed in the MTP, Train Service Entitlements and Train Orders when developing an ITP for the Relevant Period.
- (b) Train Orders for an ITP must, unless otherwise advised by Aurizon Network, be submitted to Aurizon Network:
  - (i) in the manner and timeframe specified within the relevant System Rules; or
  - (ii) if there are no relevant System Rules, before 1200 hours on the Wednesday immediately prior to the period for which an ITP is to be prepared.
- (c) Aurizon Network will plan Cyclic Traffics in the ITP in accordance with the relevant System Rules. If the process of planning Cyclic Traffics in the ITP involves the allocation of a Contested Train Path between Access Holders for Cyclic Traffic, Aurizon Network:
  - (i) may require a meeting of all affected Access Holders; and
  - (ii) will use the decision making process in **clause 8** to allocate the Contested Train Path.
- (d) Aurizon Network will notify relevant Access Holders and Infrastructure Service Providers of the ITP once it is finalised by Thursday 1600 hours unless otherwise stated in the System Rules.

## 5 Daily Train Plan principles

### 5.1 Purpose and form of a DTP

A DTP indicates all scheduled Train Services and Planned Possessions, for a particular day, in a form that indicates the time/distance (location) relationship of all activities on that part of the Rail Infrastructure to which the DTP relates.

### 5.2 Scheduling and notification of a DTP

Aurizon Network will schedule a DTP at least one Business Day prior to the day to which the DTP relates (**Day of Operation**), and provide all relevant Access Holders and Infrastructure Service Providers with a copy of the DTP within the same timeframe.

### 5.3 Scheduling a DTP in variation to the ITP

- (a) A DTP may be scheduled in variation to the ITP in accordance with the timeframes specified in the System Rules.
- (b) If there are no relevant System Rules or the System Rules do not specify timeframes for scheduling a DTP in variation to the ITP, the DTP will be scheduled in variation to the ITP where at least two Business Days prior to the Day of Operation:
  - (i) an Access Holder notifies Aurizon Network that it wishes to make a short-term Train Service Time Change at which its Train Services, as scheduled in the ITP, operate, whether or not within the scope of its Train Service Entitlement, provided that change does not result in any other Access Holder's scheduled Train Services, or a Planned Possession, not being met;
  - (ii) Aurizon Network receives a request from an Access Holder to run an additional Train Service which is within the scope of their Train Service Entitlement or an Ad Hoc Train Service, provided that the Ad Hoc Train Service would not result in any Access Holder's scheduled Train Services, or a Planned Possession, not being met;
  - (iii) a Planned Possession is cancelled;
  - (iv) Aurizon Network notifies all affected Access Holders that it wishes to make a short-term Train Service Time Change at which any scheduled Train Service/s operate, provided that:
    - (A) the change is intended to accommodate:
      - (1) the modification of an existing Planned Possession;
      - (2) the creation of an Urgent Possession; or
      - (3) any other Operational Constraint affecting the DTP; and
    - (B) either:
      - (1) the change is within the scope of the relevant Access Holders' Train Service Entitlements; or
      - (2) where the change results in an Access Holder's Train Service Entitlement not being met, that Access Holder has consented to the change (which consent must not to be unreasonably withheld or delayed);
  - (v) Aurizon Network requests a short-term Train Service Time Change at which any scheduled Train Services operate, whether or not within the scope of the applicable Access Holders' Train Service Entitlements, for the purpose of accommodating an Emergency Possession; or
  - (vi) Aurizon Network and all affected Access Holders agree.

- (c) Aurizon Network may schedule the DTP in variation to the ITP:
  - (i) under any of **clauses 5.3(b)(i) to (iii)**, without the need for consultation;
  - (ii) under **clauses 5.3(b)(iv) or (v)**, after consulting with any affected Access Holders; or
  - (iii) under **clause 5.3(b)(vi)**, after:
    - (A) inviting relevant affected Access Holders to consider the modification in an appropriate forum (which may include a face to face meeting, a telephone conference or any other forum that provides the affected Access Holders with a reasonable opportunity to participate), that occurs at least 36 hours prior to the Day of Operation; and
    - (B) providing those affected Access Holders with a copy of the proposed modification at least 12 hours prior to the forum.

#### **5.4 Variations to a DTP after it is scheduled**

- (a) Once the DTP is scheduled, variations to the DTP may only be made by Aurizon Network where any one or more of the following apply:
  - (i) before the Day of Operation, Aurizon Network receives a request from an Access Holder to run an additional Train Service which is within the scope of their Train Service Entitlement or an Ad Hoc Train Service, provided that the Ad Hoc Train Service would not result in any existing Access Holder's scheduled Train Services not being met, or a Possession (whether a Planned Possession, Emergency Possession or Urgent Possession) not being met;
  - (ii) before the relevant Train Service commences, an Access Holder notifies Aurizon Network that it wishes to make a change to the times at which its Train Service operates, provided that change is:
    - (A) within the scope of the Access Holder's Train Service Entitlement; and
    - (B) does not result in any other Access Holder's scheduled Train Service not being met or a Possession (whether a Planned Possession, Emergency Possession or Urgent Possession) not being met; or
  - (iii) before the relevant Train Service commences, Aurizon Network notifies the Access Holder that an Emergency Possession is required.
- (b) Aurizon Network may vary the DTP under **clause 5.4(a)** without the need for consultation.
- (c) Other than as detailed in this **clause 5.4**, once the DTP is scheduled, any changes to the plan will be reflected as deviations from the DTP, not variations to the scheduled DTP. Deviations to the DTP may occur on

the Day of Operation under **clause 7** including in the event of Out-Of-Course Running. Those deviations will occur according to the Train Control Principles in **clause 7**.

## **5.5 Application of a DTP to performance targets**

The DTP will represent the expected train operation performance target over its period and will be used as base information for performance monitoring, including for the purposes of the annual operational data report under **clause 10.1.5** of this Undertaking (for example, in applying the Allotted Time Threshold).

## **6 Effect of cancellations on other Access Agreement obligations**

The cancellation of a Train Service or Train Services in accordance with the Network Management Principles does not necessarily excuse either Aurizon Network or an Access Holder from other Access Agreement obligations relating to the conduct in question.

## **7 Train Control principles**

### **7.1 Objective of Train Control**

A fundamental objective of Train Control is to facilitate the safe running of Train Services, and the commencement and completion of Planned Possessions, Emergency Possessions and Urgent Possessions, as scheduled in the DTP.

### **7.2 Effect of deviations from DTP on Day of Operation**

The ability of Aurizon Network or an Access Holder to deviate from the DTP on the Day of Operation, as specified below, does not necessarily excuse either Aurizon Network or the Access Holder from any other Access Agreement obligations relating that deviation.

### **7.3 General principles**

- (a) The following general principles apply to Access Holders, Train Controllers and Aurizon Network (as applicable):
  - (i) the Access Holders and Train Controllers will ensure that operational safety is maintained through compliance with the Safeworking Procedures, the Safety Standards, Rollingstock Interface Standards (subject to any Approved Derogation) and applicable IRMPs and, where applicable, EIRMRS;
  - (ii) Access Holders will ensure that Above Rail issues, including Train crewing, locomotive and wagon availability and loading and unloading requirements, are appropriately managed to ensure that such issues do not prevent the DTP from being met; and
  - (iii) Aurizon Network will manage the Rail Infrastructure based on agreed entry/exit times as specified in the DTP with the objective

of managing Trains according to their schedule for on time exit, not contributing to late running and, if a Train is running late, making up time and holding the gain where reasonably possible.

- (b) The handling of Out-Of-Course Running is dependent on the particular circumstances of a rail corridor, including the traffic type using the corridor. The management of Out-Of-Course Running will be conducted so as not to unfairly disadvantage one Access Holder over another, and as a result, the identity of an Access Holder will not of itself be a legitimate basis for Train Controllers to alter a scheduled Train Service.

#### **7.4 Application of traffic management decision making matrix**

- (a) The traffic management decision making matrix in **clause 9** will be provided to assist Train Controllers in the resolution of disputes in accordance with the general Train Control Principles under **clause 7.3**.
- (b) Subject to **clause 7.4(c)**, where the operation of a Train Service differs from the DTP, Train Controllers will apply the traffic management decision making matrix in **clause 9** for the purposes of Train Control.
- (c) Aurizon Network may depart from the traffic management decision making matrix in **clause 9** in the period following a Network Incident, or a Force Majeure Event which materially affects Aurizon Network's ability to achieve the DTP, for the purpose of:
  - (i) maximising the throughput of Trains on the Rail Infrastructure; and
  - (ii) restoring normal operations on the Rail Infrastructure,provided that Aurizon Network complies with this **clause 7** and uses reasonable endeavours to return to normal Train Control procedures for resolving conflicts that arise from Out-Of-Course Running as soon as reasonably practical after the occurrence of the Network Incident or Force Majeure Event (as applicable).

#### **7.5 Provision of information to Access Holders**

Aurizon Network will provide Access Holders with:

- (a) real time Train Control information that indicates actual running of that Access Holder's Train Services against the relevant DTP;
- (b) subject to reasonable terms and conditions, access to Train Control diagrams that indicate actual running of that Access Holder's Train Services against the relevant DTP; and
- (c) information about the type of Train Services (for example, non-coal freight, passenger or coal Train Services) operated by other Access Holders on the same network to assist Access Holders to determine whether the Train Controller is applying the principles in this **schedule H** in a consistent manner between Access Holders.

## 8 Contested Train Path decision making process

### 8.1 Purpose

The purpose of this **clause 8** is to outline the principles that Aurizon Network will have regard to when allocating a Contested Train Path to an Access Holder for the purpose of developing the ITP (under **clause 4**) with the objective of ensuring:

- (a) Aurizon Network meets its contractual obligations with Access Holders; and
- (b) Access Holders are not unfairly differentiated between in respect of the use of their Train Service Entitlement.

### 8.2 TSE Reconciliation Report

- (a) For the purpose of the planning and scheduling of Train Orders , after the end of each Relevant Period, Aurizon Network will provide a report (**TSE Reconciliation Report**) to each Access Holder which identifies as at the end of that Relevant Period, in respect of that Access Holder's Train Service Entitlement under which Train Services were entitled to operate during that Relevant Period:
  - (i) the extent to which the Train Service Entitlement:
    - (A) was used in the Relevant Period;
    - (B) has been used in the relevant Access Provision Period to date; and
    - (C) has been used in the relevant Year to date,for each origin to destination pair of the Train Service Entitlement; and
  - (ii) the remaining balance of the Train Service Entitlement for:
    - (A) the relevant Access Provision Period; and
    - (B) the relevant Year,for each origin to destination pair of the Train Service Entitlement.
- (b) For the purpose of **clause 8.2(a)(i)**, the extent to which a Train Service Entitlement was or has been used in respect of a particular origin to destination pair will be calculated as the greater of:
  - (i) the number of the Train Services operated in accordance with the Train Service Entitlement for that origin to destination pair for the relevant period; and
  - (ii) the number of Train Paths scheduled for Train Services in accordance with Train Service Entitlement for that origin to destination pair for the relevant period.

- (c) The principles used to determine the number of Train Paths scheduled or operated for the purpose of **clause 8.2(b)** include the following:
- (i) The point at which a schedule for Train Services is considered final will be:
    - (A) as specified in the System Rules; or
    - (B) if the System Rules do not specify that point or there are no applicable System Rules, Train Paths are taken to be scheduled when the ITP is finalised as per **clause 4(d)**.
  - (ii) The number of Train Paths scheduled will be reduced by the number of scheduled Train Paths not provided due to Aurizon Network Cause in the period to which the schedule applies as per **clause 8.2(c)(i)**.
  - (iii) If:
    - (A) an Access Holder submits Train Orders for less than its Train Service Entitlement for a particular origin to destination pair as set out in the MTP for a Relevant Period ("First Entitlement"); and
    - (B) that Access Holder also submits Train Orders for a different Train Service Entitlement for a particular origin to destination pair for a Relevant Period in excess of its Train Service Entitlement for that origin destination pair as set out in the MTP ("Additional Path based on Pooled Entitlement"),

and the path is allocated to the Additional Path based on Pooled Entitlement, that path will be deemed to be scheduled and operated against the First Entitlement.
  - (iv) Where the scheduled time of the Train Path is varied in accordance with **clause 5**, that variation is not taken to involve the scheduling of more than one Train Path unless, for clarity, that variation is a cancellation of the Train Path in which case (subject to **clause 8.2(c)(ii)**) the Train Service Entitlement is taken to be operated in respect of that cancelled Train Path.
  - (v) To the extent an Access Agreement requires Aurizon Network to provide to an Access Holder a reasonable alternative Train Path or to determine whether infrastructure has not been made available due to Aurizon Network Cause, a Train Path will be deemed to be a reasonable alternative Train Path where it is within the same period to which the schedule applies.
- (d) The remaining balance of a Train Service Entitlement, as amended from time to time, for a particular origin to destination pair for an Access Provision Period under **clause 8.2(a)(ii)(A)** is calculated as:
- (i) the number of Train Paths for that origin to destination pair for that Access Provision Period that Aurizon Network is obliged to make



available during that Access Provision Period in accordance with the Train Service Entitlement (including as amended from time to time) as set out in the MTP; less

- (ii) the Train Service Entitlement for a particular origin to destination pair used in the Access Provision Period to date (determined in accordance with **clause 8.2(a)(i)(B)**).
- (e) The remaining balance of a Train Service Entitlement, as amended from time to time, for a particular origin to destination pair for the relevant Year under **clause 8.2(a)(ii)(B)** is calculated as:
  - (i) the number of Train Paths for that origin to destination pair for that Year that Aurizon Network is obliged to make available during that Year in accordance with the Train Service Entitlement (including as amended from time to time) as set out in the MTP; less
  - (ii) the Train Service Entitlement for a particular origin to destination pair used in the Year to date (determined in accordance with **clause 8.2(a)(i)(C)**).

### **8.3 Contested Train Path principles**

- (a) Aurizon Network will determine which Access Holder is allocated a Train Path that is a Contested Train Path, using the following principles in order of precedence:
  - (i) The Access Holder whose request for the Contested Train Path is within the scope of its individual Train Service Entitlement for an origin to destination pair as set out in the MTP.
  - (ii) Where the relevant Access Holders agree amongst themselves who should be allocated the Contested Train Path, the Contested Train Path will be allocated as agreed by the Access Holders.
  - (iii) The Access Holder whose request for the Contested Train Path is within the scope of its relevant Train Service Entitlement adjusted for Aurizon Network Cause as follows:
    - (A) the Train Paths finally scheduled, in accordance with **clause 8.2(c)(i)**, for which Train Services did not operate due to Aurizon Network Cause Year to date; less
    - (B) the greater of:
      - (1) zero; and
      - (2) the relevant Train Service Entitlement used for Year to date less Train Service Entitlement set out in the MTP Year to date.
  - (iv) The Access Holder whose request for the Contested Train Path is within the scope of its Train Service Entitlements for the relevant Coal System as set out in the MTP, for that Access Holder's pool of mainline paths, subject to the availability of Existing Capacity

where the mainline paths are those Train Paths which include Rail Infrastructure:

- (A) between Coppabella and Jilalan;
  - (B) between Burngrove and Parana;
  - (C) between Collinsville and Pring; or
  - (D) between Byelle junction and Boundary Hill junction.
- (v) The Access Holder whose request for the Contested Train Path will have the least capacity impact on the relevant Coal System. For example, for competing requests in excess of the MTP allocation for the Train Service Entitlement due to a change of origin. The request where the new origin is on the same branch line, would take precedent over the request where the new origin is on a different branch line.
- (vi) Aurizon Network may allocate the Train Path to an Access Holder where, based on the MTP, Aurizon Network will not meet the Train Service Entitlement for that Access Holder in a future Access Provision Period due to a Planned Possession.
- (vii) The Access Holder who is most behind for the relevant Access Provision Period, by calculating as a percentage the Train Service Entitlement for the relevant origin to destination pair used in the Access Provision Period to date as per **clause 8.2(a)(i)(B)** plus the remaining balance of the Train Service Entitlement for that origin to destination pair for the Access Provision Period as set out in the MTP compared against the Train Service Entitlement for that origin to destination pair for that Access Provision Period as set out in the MTP at the commencement of the Access Provision Period or as amended from time to time.
- (viii) The Access Holder who is most behind for the relevant Year, by calculating as a percentage the Train Service Entitlement for the relevant origin to destination pair used in the Year to date as per **clause 8.2(a)(i)(C)** plus the remaining balance of the Train Service Entitlement for that origin to destination pair for the Year as set out in the MTP compared against the Train Service Entitlement for that origin to destination pair for that Year as set out in the MTP at the commencement of the Year or as amended from time to time.
- (ix) Where the application of above principles does not result in a determination by Aurizon Network as to which requested Train Service is to be scheduled, Aurizon Network will unilaterally determine which Train Service is scheduled, and will keep a record of that decision and the reasoning behind that decision. Aurizon Network will seek to ensure that, over time, no Access Holder is favoured over another and, where possible, if one Access Holder is favoured this time, taking into account the Train Service

Entitlement held by an Access Holder, next time they are not favoured. In other words, if one Access Holder has an entitlement to 10 Train Services per week, and another Access Holder has an entitlement to 20 Train Services per week, then it could not be said that favouritism was shown to the second Access Holder if they received priority over the first Access Holder on two out of three consecutive occasions.

- (b) Aurizon Network will advise each party of the Contested Train Path decision and the principle that determined the result.

## 9 Traffic management decision making matrix

For the purposes of the traffic management decision making matrix below the meaning of **On Time**, **Ahead** and **Late** are determined by the scheduling of Train Paths in the DTP. For example, if a Train is travelling in accordance with the DTP path allocated to it, it is running **On Time**.

		Train A – Current Status			
		Train A	Train Running “On Time”	Train Running “Ahead”	Train Running “Late”
	Train B	Objective	On Time Exit	On Time Exit	<ol style="list-style-type: none"> <li>1. Lose no more time</li> <li>2. Make up time</li> <li>3. Hold the gain</li> </ol>
Train B – Current Status	Train Running “On Time”	On Time Exit	Scheduled Cross	A or B Rule 2	B Rule 3
	Train Running “Ahead”	On Time Exit	A or B Rule 2	A or B Rule 2	B Rule 3
	Train Running “Late”	<ol style="list-style-type: none"> <li>1. Lose no more time</li> <li>2. Make up time</li> <li>3. Hold the gain</li> </ol>	A Rule 1	A Rule 1	A or B Rule 4

**Rule 1:** Train B may be given priority on condition Train A will still meet its “On Time” objective, or as permitted by rules 5, 6, 7 and 8.

**Rule 2:** Both Trains must meet their “On Time” objective.

**Rule 3:** Train A may be given priority on condition Train B will still meet its “On Time” objective, or as permitted by rules 5, 6, 7 and 8.

**Rule 4:** Priority may be given to the Train where performance indicates it will lose least or no more time and even make up time and hold the gain, or as permitted by rules 5, 6, 7 and 8.

- Rule 5:** Passenger and livestock Trains may be given priority over other Trains if the Train Controller reasonably believes that this is consistent with the objectives of the Trains in question, as specified in the Train Service Entitlement/s for those Trains and/or the requirements of a Passenger Priority Obligation.
- Rule 6:** Where a Train is running “Late” due to a Below Rail Delay, it may be given preference over other Trains if the Train Controller reasonably believes that this is consistent with the critical objectives of the Trains in question, and that it will result in less aggregated consequential delays to other Trains than otherwise would be the case.
- Rule 7:** Where a Train Controller has to decide which of two Trains to give priority to, and both of those Trains are operated by the same Access Holder, the Train Controller may ask the Access Holder how it would prefer the Trains to be directed and, provided that taking the Access Holder’s preferred course of action does not adversely affect the Train Services of any other Access Holder, the Train Controller will follow the Access Holder’s request.
- Rule 8:** Where a Train Controller has to decide which of two Trains to give priority to, and those Trains are operated by different Access Holders, one may be given preference over the other if the Train Controller reasonably believes that this is consistent with meeting the coal supply objective(s) detailed in the System Rules.