

11 August 2014



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

Dear Malcolm

### **Aurizon Network Pty Ltd 2013 Draft Access Undertaking (2013DAU) - Resubmission**

Aurizon Network is pleased to submit Draft Access Undertaking (**2014DAU**) to the Queensland Competition Authority (QCA) for due consideration. The 2014DAU will replace the withdrawn 2013DAU and will be effective for the period between 1 July 2013 and 30 June 2017.

The 2014 Draft Access Undertaking includes:

- Volume 1 - Access Underaking and Schedules
- Volume 2 – Standard User Funding Agreement
- Volume 3 – Other Standard Agreements

The Supporting Volumes 1 to 4 submitted to the QCA on 30 April 2013 remain and support the 2014 DAU. These supporting materials include the original pricing and revenue positions that were not withdrawn.

#### *Reason for Resubmission*

Following the submission of Aurizon Network's 2013 Draft Access Undertaking (2013DAU) on 30 April 2013, Aurizon Network, the Queensland Resources Council (QRC), its individual members and train operators engaged in an extensive negotiation process in an attempt to address the key concerns and issues.

Given the scope of the changes to the 2013DAU, and in consultation with impacted parties, it has been agreed that that the QCA should consider a revised draft amending undertaking in the form of the 2014DAU for approval to replace the 2010 Access Undertaking.

The 2014DAU is the result of extensive consultation and negotiations with industry participants over a 15 month period in relation to positions reflected in the 2013DAU.

The attached 2014DAU reflects Aurizon Network's position on the outcome of the negotiated changes to the 2013DAU. In large parts, the 2014DAU adopts the positions argued for by industry participants, whilst in other parts it reflects Aurizon Network's preferred position after consideration of the position proposed by industry. With the exception of excluding the withdrawal of the Electric Traction Pricing in Blackwater (AT5) position, the 2014DAU does not seek to alter the Reference Tariff position reflected in the 2013DAU.

As the QCA is aware, we have sought to engage with QCA officers through the consultation process with industry. Aurizon Network is confident that through the process of broad consultation, the 2014DAU addresses all of the matters that the QCA must be satisfied about under section 138(2) of the QCA Act and that the QCA will be able to gain efficiencies in its consultation process with industry as required by section 138(3)(c) of the QCA Act.

### Background – Consultation

A detailed consultation process has continued alongside the formal regulatory process, commencing prior to the initial submission on 30 April 2013.

A summary of the consultation process is outlined below:



Figure 1 – Regulatory and Consultation process

In early April 2013, prior to the submission, the QCA facilitated a public forum that included representatives from the QRC and Aurizon Network. This forum was a precursor to the initiation of a structured engagement process, comprised of a series of presentations introducing components of the submitted 2013DAU.

The presentation series consisted of topics including Pricing, Revenue Management, Capacity and Ringfencing/Other compliance issues. The intention of the presentation-series, was to proactively brief industry on the contents of the submitted 2013DAU and identify any contentious issues alongside the formal regulatory process. These presentations provided Aurizon Network with an opportunity to address key issues and concerns both at the presentations and afterwards through the provision of set of questions and answers to the QRC, its individual members and above rail operators.

In late July 2013, a 2013DAU Industry Steering Committee was established and provided a valuable forum for stakeholders to address the initial concerns raised during the presentation series and establish the structure and scope for future engagements.

An outcome of the 2013DAU Industry Steering Committee was to establish work streams between Aurizon Network and Industry representatives. The purpose of these workstreams had changed from provision of information to the negotiation of key issues. These work streams also allowed all participants to inform their October 2013 responses to the QCA on the previously submitted 2013DAU. In parallel to the work streams, Aurizon Network commenced voluntarily drafting amendments to the submitted 2013DAU<sup>1</sup>.

During this time, the QCA acknowledged and confirmed its awareness of the ongoing negotiations with stakeholders. The QCA advised that it wanted to provide parties with 'clear air' to complete these negotiations while commencing a series of 'exploratory sessions' with Aurizon Network on a range of 2013DAU matters<sup>2</sup>.

<sup>1</sup> [http://www.qca.org.au/getattachment/a5be1563-3378-423c-99cf-e2fb8305505b/Aurizon-Network-Response-\(Nov-13\).aspx](http://www.qca.org.au/getattachment/a5be1563-3378-423c-99cf-e2fb8305505b/Aurizon-Network-Response-(Nov-13).aspx)

<sup>2</sup> <http://www.qca.org.au/getattachment/4a7c9a99-8be1-4951-a21e-68f7500db6bb/Correspondence-re-2013-DAU-Assessment-Process-Foll.aspx>

Aurizon Network also presented a 'UT4 package offer' to industry in December 2013, in an attempt to move discussions and negotiations forward. While the substantive elements of this offer were rejected, it did create an opportunity for further development work between Aurizon Network and Industry.

In early 2014, direct negotiations commenced with Asciano and the QRC, focusing upon:

- Part 3 – Ringfencing
- Part 6 - Pricing Principles;
- Part 8 – Network development and Expansions; and
- Part 10 – Reporting

The aim of the direct negotiations was to clarify Asciano's and the QRC's responsive submissions in October 2013 and January 2014 to the 2013DAU and subsequently continue negotiations on individual policy positions. The negotiations also revisited positions on which consensus did not exist and resulted in socialised revised drafting with all relevant parties.

A specific Maintenance - Rail Working Group was also established to provide further information to industry on Aurizon Network's delivery of maintenance activities. The Maintenance - Rail Working Group objectives included the provision of additional information on the development and execution of the maintenance activities that is not already provided for within the Access Undertaking reporting framework. Aurizon Network remains committed to the Maintenance - Rail Working Group forum over the next few months with a view to establishing a permanent process to provide interested stakeholders with significantly greater transparency over Aurizon Network's maintenance strategies and performance.

#### *Components of this 2014DAU Submission*

Aurizon Network confirms the following documents are included within the 2014DAU submission:

| Access Undertaking                                    | Schedule   | Agreements  |
|---|--|---|
| Part 1 – Preamble                                     | A – Preliminary, Additional and Capacity Information | Studies Funding Agreement                               |
| Part 2 – Intent and Scope                             | B- Access Application information requirements       | Standard Rail Connection Agreement                      |
| Part 3 – Ringfencing                                  | C- Operating Plan Requirements                       | Operator Access Agreement                               |
| Part 4 – Negotiation Framework                        | D – Ultimate Company Holding Deed                    | Access Holder Access Agreement                          |
| Part 5 – Access Agreements                            | E – Regulatory Asset Base                            | Alternative Form of Access – End User Access Agreement  |
| Part 6 – Pricing Principles                           | F – Reference Tariffs                                | Alternative Form of Access – Train Operations Agreement |
| Part 7 – Available Capacity allocation and Management | Schedule G - Network Management Principles           |   |
| Part 8 – Network Development and Expansions           | Schedule H – Explanatory Diagrams and Flowcharts     |   |
| Part 9 - Connecting Private Infrastructure            | Schedule I – Confidentiality Agreement               |   |
| Part 10 – Reporting                                   |  |   |
| Part 11 – Dispute Resolution and Decision Making      |  |   |
| Part 12 – Definitions and Interpretations             |  |   |

Figure 2 – Components of the 2014DAU submission

Aurizon Network has also provided 'marked-up' versions of the documentation listed in figure 2. The base content for the 'mark-up' is the submitted 2013DAU and all amendments since then have been tracked as mark-ups.

The explanatory material<sup>3</sup>, specifically volumes 1-4 submitted as part of the 2013DAU remain relevant and should be read in conjunction with 2014DAU.

These volumes are summarised as:

- Volume 1 – Overview and Summary
- Volume 2 – The 2013 Undertaking Proposal
- Volume 3 – Maximum Allowable Revenue and Reference Tariffs
- Volume 4 – Maintenance Submission

To the extent of an inconsistency between the volumes and 2014DAU, the 2014DAU prevails.

A full traceability matrix outlining the change in positions from the submitted 2013DAU, including all changes resulting from the QCA facilitated consultations and from negotiations with industry participants has been included as Appendix A. Additionally, a document summarizing the key changes from the submitted 2013DAU has also been provided as Appendix B. These documents should assist the QCA and industry participants to follow the timeline, nature and intent of all changes from the 2013DAU.

In total, the resubmitted documentation extends to over approximately 3000 pages. Aurizon Network acknowledges that when the 2013DAU was submitted, the amount of material to review was a contentious issue with stakeholders. The clean 2014DAU, schedules and agreements combined, covers approximately 1300 pages, with the remaining balance being supplied to support, justify and provide transparency around the changes to drafting.

#### *Standard User Funding Agreement (SUFA)*

The 2013 SUFA Draft Amending Access Undertaking (SUFA 2013 DAAU) is currently being assessed by the QCA as part of the 2010 Access Undertaking. Aurizon Network confirms that it will not be developing an amended suite of SUFA documentation or framework as part of the 2014DAU and expects the current SUFA negotiations and any subsequent approved documentation to be incorporated into an approved Access Undertaking. The drafting included within this submission confirms our intention.

#### *Funding Requirements*

The 2014DAU contains expansion drafting that confirms Aurizon Network will fund expansions at its own discretion. Aurizon Network confirms that this statement is intended to reflect the principle that Aurizon Network will provide a degree of voluntary funding commitment. Aurizon Network will redraft this clause to provide a more specific level of funding commitment once the QCA's revenue decision has been assessed and Aurizon Networks ability to fund such expansions has been considered.

Aurizon Network is continuing to work with industry to resolve a small number of additional matters, and when resolved, Aurizon Network will submit an amendment to the 2014 Access Undertaking once approved. An example of this is the position being negotiated with industry over short-term capacity transfers. These matters do not affect the current workability of the 2014DAU and are not, in Aurizon Network's view, an impediment to the QCA approving the 2014DAU as submitted.

<sup>3</sup> [http://www.qca.org.au/Rail/Aurizon/Intro-to-Aurizon/2013-Draft-Access-Undertaking/In-Progress/2013-Aurizon-Network-Draft-Access-Undertaking//File-List?cat=2013-DAU-Explanatory-Material-\(April-2013\)&num=6](http://www.qca.org.au/Rail/Aurizon/Intro-to-Aurizon/2013-Draft-Access-Undertaking/In-Progress/2013-Aurizon-Network-Draft-Access-Undertaking//File-List?cat=2013-DAU-Explanatory-Material-(April-2013)&num=6)

To further assist the QCA, Aurizon Network confirms that in parallel to the submission of the 2014DAU, Aurizon Network has provided Asciano, Aurizon Operations and the QRC with a complete version of the 2014DAU documentation and supporting material (in electronic format).

#### *2014DAU Commencement Timings*

Aurizon Network remains cognisant of the requirement of the QCA to carry out an appropriate level and period of consultation in accordance with the requirements of the QCA Act. Aurizon Network will provide its ongoing support to the QCA to meet its obligations and provide a timely decision upon the 2014DAU.

The QCA has advised Aurizon Network that it is likely to split its Revenue and Policy decision as outlined in Figure 3 below:

| Task  | Dates             |
|---|-------------------|
| 2013 SUFA DAAU Draft Decision   | September 2014    |
| UT4 Draft Decision on maximum allowable revenue (MAR) only                  | September 2014    |
| UT4 Draft Decision (on policy and pricing principles)                       | Mid December 2014 |
| 2013 SUFA DAAU Final Decision   | February 2015     |
| UT4 Final Decision on policy, pricing and MAR                               | May 2015          |
| UT4 Final Approval (including finalisation of transitional pricing matters) | By 30 June 2015   |
| UT4 Commences   | July 2015         |

*Figure 3: QCA indicative approval timeline*

As outlined earlier, Aurizon Network has not amended its Reference Tariff position from the submitted 2013DAU (excluding AT<sub>5</sub>). This provides assurance to the QCA that the recommendations from its consultants completed in January 2014 on these pricing elements are still valid and that the subsequent industry submissions received are still relevant.

Aurizon Network will continue to engage with the QCA and industry stakeholders through to the approval of the 2014DAU to determine their concerns, clarify positions and, where appropriate, develop revised drafting. Furthermore, if required, Aurizon Network will provide a supplementary submission to reflect any agreed amendments or clarifications with Stakeholders to the QCA during this period. Any negotiation needs to be considerate of the regulatory process and subsequent effect on approval timings.

Since the approval of the 2010 Access Undertaking, Aurizon has transformed, rebuilt and re-shaped the business to have a stronger focus upon our customers. Aurizon Network remains committed to working with its customers on the 2014DAU to create a sustainable future through the provision of a streamlined access framework within the Central Queensland Coal Network.

Yours sincerely



Alex Kummant  
Executive Vice President Network