

30 April 2015

Dr Malcolm Roberts
Chairman
Queensland Competition Authority
Level 27
124 Ann Street
BRISBANE Q 4000

Malcolm.roberts@qca.org.au

Dear Malcolm,

Extension of Queensland Rail Access Undertaking New Hope submission

Thank-you for the opportunity to provide comments on Queensland Rail's recent Draft Amending Access Undertaking ("DAAU") which seeks to extend the term of the 2008 Undertaking ("AU2008") to the earlier of 30 June 2016 and the date of approval of a replacement undertaking ("AU1").

Subject to our comments below, New Hope's preference, given that AU1 will not be in place on 1 July 2015, is that the extension DAAU be approved. However, New Hope considers that some form of true-up should apply in regard to tariffs paid from 1 July 2013 onwards, either in the form of an Adjustment Charge as originally indicated by Queensland Rail, or by "having regard to" over-recovery of revenue in the current period when setting future reference tariffs as allowed for under Section 168A Pricing Principles of the QCA Act.

We consider that this issue should be resolved as part of the process of developing / approving the new undertaking, rather than being addressed as part of the process of extending AU2008. This is on the basis that the further extension of AU2008 does not prejudice the position of any party in regard to this issue. However, in the event that the QCA considers that the decision to extend AU2008 in any way prejudices our position in regard to this issue, then we encourage the QCA to prepare a discussion paper explaining this view, and seeking further submissions.

As background, Queensland Rail's covering letters to the QCA in regard to the extensions have dealt with this issue in different ways:

The covering letters of 7th May 2013, 4th November 2013 and 5th May 2014, regarding the extensions of AU2008 to 31 December 2013, 30 June 2014 and 31 December 2014 respectively, explained that the tariffs which would be applied for the extension period

were “transitional” and that “the adjustment charge provisions in AU1 will allow the reference tariff to be backdated to 1 July 2013 upon the approval of AU1”. New Hope supported those extensions on that basis.

The covering letter of 5 November 2014, accompanying the extension to 30 June 2015, did not specifically address this issue, although the draft of AU1 which Queensland Rail had lodged for approval at that time did provide for backdating, and it was in this context that the extension was approved.

The covering letter of 7 April 2014, in regard to the current DAAU, does not address this issue.

Thank-you for seeking feedback.

Yours faithfully,
NEW HOPE GROUP

Sam Fisher
General Manager Marketing and Logistics

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