

3 July 2019

Mr Charles Millstead
Chief Executive Officer
Queensland Competition Authority
Level 27 145 Ann Street
Brisbane Q4001

Dear Mr Millstead,

Aurizon Network UT5 Draft Amending Access Undertaking

Thank-you for the opportunity to provide comment on Aurizon Network's Draft Amending Access Undertaking to its current access undertaking (UT5 DAAU). New Hope Group (New Hope) is not presently an Access Holder in the Central Queensland System but is a joint venture participant with low tonnage projects in this region and as such has an active interest in ensuring that amendments to UT5 do not have the consequence of creating barriers to entry or inappropriate impositions on low tonnage operations. New Hope is not a party to the UT5 undertaking and has not taken an active role in detailed negotiations in relation to the proposed amendments. As such we rely on the Queensland Competition Authority (QCA) to conduct a thorough investigation into the impact of the proposed amendments on both access seekers and access holders with lower levels of access rights.

New Hope is supportive of the goal of promoting the economically efficient operation and use of Aurizon Network's rail infrastructure. We however, have a number of questions in relation to the UT5 DAAU:

- The overall structure of the UT5 DAAU effectively sees coal producers pay an uplifted return to Aurizon Network in exchange for, among other things, coal producers taking over modelling and reporting functions through the establishment of the Independent Expert. This creates a question for New Hope as it potentially attracts additional costs for below rail services in that:
 - Aurizon Network receives an increase in its Weighted Average Cost of Capital which will lift overall access charges;
 - Coal producers will also have to directly or indirectly fund the establishment and operation of the Independent Expert; and

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- Depending on the modelling outcomes delivered by the Independent Expert, there is increased risk that there may be a requirement for additional capital expenditure on below rail infrastructure, which will also have the end effect of increasing access charges if this capital expenditure is included in Aurizon Network's Regulated Asset Base.

Accordingly New Hope's over-arching query is whether the nature of the bargain agreed under the UT5 DAAU has the effect of potentially imposing unquantified additional costs onto the below rail component of the supply chains that operate within the Central Queensland region. In particular, these additional costs may pose a disproportionate risk to new projects which are more sensitive than existing established operations to additional fixed costs. Is the QCA satisfied that the magnitude of this potential increase in costs is understood and in overall terms can be considered to be economically efficient and consistent with the objectives of the Queensland Competition Authority Act, 1997?

- Are there any competition law concerns which arise in relation to the setting up, establishment and operation of the Rail Industry Group and Independent Expert? New Hope is supportive of efforts to improve supply chain performance, but cognisant that it is critical that such efforts recognise and manage the sensitivities associated with competitors interacting. By way of comparison, but noting that arrangements differ in a number of respects, New Hope is aware that an authorisation has been sought and granted by the Australian Competition and Consumer Council in relation to the arrangements that relate to the Hunter Valley Coal Chain Coordinator. New Hope has only peripheral knowledge of the details of the UT5 DAAU and is not a signatory to the deed of implementation and therefore seeks confirmation from the QCA that it has reviewed these arrangements and does not have any competition concerns;
- As an access seeker that is planning to only produce modest volumes of coal, New Hope is also concerned as to how the Rail Industry Group and arrangements contemplated in the deed of implementation will impact access seekers and smaller users. Specific concerns include whether the costs associated with the setting up and operation of the Independent Expert will be efficient and how voting rights will be exercised to ensure that the interests of smaller users and access seekers are not adversely affected. As noted above in the case of the costs of the Independent Expert, New Hope's concern is that, if these costs are not equitably distributed, additional costs may raise the barriers to entry for new or smaller mines by detrimentally affecting the economics of those projects disproportionately to existing large scale users. It is New Hope's understanding that it is proposed that access seekers will not have voting rights. This is potentially a matter of concern. Smaller producers are also likely to only have a very limited ability to influence voting. There is a risk that larger producers acting in parallel may exercise voting rights in such a way to have de facto control over matters such as modelling inputs, operational methodologies and maintenance strategies that favours large producers with a portfolio of mines, over smaller producers;

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- Further as an access seeker, New Hope is concerned as to how expansion processes that have been triggered already will interact with subsequent processes to address any latent capacity deficits. There is a risk that existing expansion processes will be slowed or overtaken by these processes which will have the effect of advancing the interests of existing users ahead of access seekers. New Hope has a general concern that expansion processes run the risk of failing to distinguish between those entities which have approvals in place or are materially advanced in obtaining approvals, relative to parties who are considering projects at a conceptual level. The risk is that access seekers that have well developed projects may be bundled together with proponents of speculative projects or projects that have limited probability of development. This results in expansion processes often considering unrealistically large expansion pathways which delays or prevents the development of mature projects. Access processes can be distorted when access seekers are ranked not on objective measures of project development, but rather on the timing of the first access request. This delays or prevents genuine projects from proceeding and allows speculative behaviour to interfere with the efficient expansion of infrastructure chains. While the UT5 DAAU is not intended to deal specifically with the above concern, there appears an increased risk that expansion processes may be impacted by parallel processes to address any latent capacity shortfalls.

Fundamentally New Hope is supportive of the UT5 DAAU arrangement as a means of settling long standing conflict between infrastructure chain stakeholders. Our queries raised above are focused on ensuring equitable treatment of smaller producers and access seekers.

Should you wish to clarify any aspect of this letter, please contact Alistair Baben der Erde on telephone 0406 770 113.

Yours faithfully

NEW HOPE GROUP LTD

Sam Fisher

Executive General Manager Marketing and External Affairs

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