

File Ref: 675900

25 November 2013

Mr Glen Dawe
Chief Executive Officer
Queensland Rail Ltd
GPO Box 1429
BRISBANE QLD 4001

Dear Mr Dawe

Final Approval – Queensland Rail’s Draft Amending Access Undertaking – Extension of Termination Date

On 21 November 2013, the Queensland Competition Authority (QCA) made a final decision to approve Queensland Rail's draft amending access undertaking to extend the term of the 2008 access undertaking (the Extension DAAU). This Extension DAAU provides that the 2008 access undertaking's termination date will be the earlier of:

- (a) 30 June 2014; or
- (b) the date at which the QCA approves the June 2013 draft access undertaking (DAU), which is envisaged to replace the 2008 access undertaking.

Context

Queensland Rail's 2008 access undertaking was due to expire on 31 December 2013. On 5 November 2013, the QCA received from Queensland Rail, under section 142 of the *Queensland Competition Authority Act 1997* (QCA Act), a DAAU seeking to extend the termination date of its current 2008 undertaking to 30 June 2014.

In June 2013, Queensland Rail submitted a voluntary draft access undertaking (the June 2013 DAU) to replace its 2008 access undertaking. This submission included, for the first time, proposed tariffs for western system coal services. Given stakeholders only recently provided comments on the June 2013 DAU, it will not be approved by the QCA before 31 December 2013.

Stakeholder Consultation

On 6 November 2013, the QCA published the Extension DAAU on its website and invited stakeholders to comment. In response, the QCA received a submission from New Hope Group.

While New Hope did not oppose the Extension DAAU, it said it was disappointed Queensland Rail's June 2013 DAU would not be approved before the 2008 access undertaking was due to expire. New Hope said the western system tariffs proposed in the June 2013 DAU, and the interim tariffs escalated by the consumer price index on 1 July 2013, were excessive and unsustainable. New Hope considered this placed western system miners at a competitive disadvantage relative to other coal supply chains.

The QCA’s approach

In considering this issue, the QCA has had regard to its statutory assessment criteria, Queensland Rail’s submission, and New Hope’s response. The QCA gave particular attention to whether the proposed DAAU appropriately balanced the interests of Queensland Rail, access seekers and users (sections 138(2)(b) and (e)) and provided parties with regulatory certainty (section 138(2)(h)). Also, the QCA noted that there were no applicable access codes or rulings in effect under division 7A of Part 5 of the QCA Act, which it is required to take into consideration when making this decision.

Having had regard to all factors required to be considered, the QCA approved the Extension DAAU on 21 November 2013. Accordingly, the 2008 undertaking now terminates on the earlier of 30 June 2014 or the date at which the QCA approves the June 2013 DAU (which is anticipated to be the replacement undertaking).

Copies of this decision, the DAAU and related documents are available on the QCA’s website at <http://www.qca.org.au/rail/QLDRail/Nov13ExtDAAU/>.

Yours sincerely



Paul Bilyk
Director Rail and Ports