

ABOUT THE FINAL DECISION

This Final Decision is in two volumes. Volume 1 contains an Overview of the QR Draft Undertaking, the decision of the QCA and an annotated version of the Draft Undertaking indicating in respect of each of the elements of the Draft Undertaking the position taken by the QCA. The individual positions identified in the annotated version of the Draft Undertaking contain references to the discussion and analysis, which underpins each position statement. The relevant discussion/analysis is contained either in the Draft Decision (designated “DD”) or the Final Decision (designated “FD”) followed by a number which refers to the page number of the relevant document.

Volume 2 contains the QCA’s detailed consideration of the various matters raised in submissions received by it in response to the Draft Decision issued by it in December 2000. It also identifies the position taken by the QCA following consideration of those submissions.

The Draft Decision on QR’s Draft Undertaking issued by the QCA in December 2000 is incorporated into and should be read in conjunction with this the Final Decision contained in Volumes 1 and 2. In the event of any inconsistency between the content of the Final Decision and the content of the Draft Decision, the content of the Final Decision will prevail.

Volume 1 – Overview & Annotated Draft Undertaking

Overview

Annotated Draft Undertaking

Volume 2 – Final Decision

Executive Summary

Chapter 1	Background	
Chapter 2	Scope & Administration	<i>Part 2</i>
Chapter 3	Ring-Fencing Arrangements	<i>Part 3</i>
Chapter 4	Negotiation Framework	<i>Part 4</i>
Chapter 5	Pricing Principles	<i>Part 5</i>
Chapter 6	Capacity Management	<i>Part 6</i>
Chapter 7	Interface Considerations	<i>Part 7</i>
Chapter 8	Schedule E – Summary of Standard Access Agreement	<i>Schedule E</i>
Chapter 9	Reference Tariff Summary	<i>Schedule G & Rail Tariff Schedule</i>
Chapter 10	Reference Train Service	<i>Schedule G & Rail Tariff Schedule</i>
Chapter 11	Demand Forecasts	<i>Schedule G & Rail Tariff Schedule</i>
Chapter 12	Stand-Alone Costs	<i>Schedule G & Rail Tariff Schedule</i>
Chapter 13	Asset Valuation & Depreciation	<i>Schedule G & Rail Tariff Schedule</i>
Chapter 14	Contributed Assets	<i>Schedule G & Rail Tariff Schedule</i>
Chapter 15	Rate of Return	<i>Schedule G & Rail Tariff Schedule</i>
Chapter 16	Incentive Regulation	<i>Schedule G & Rail Tariff Schedule</i>

Conflict of Interest

In its Draft Decision of December 20, the QCA notified that the Chairman of the QCA, Mr R M Wylie, had disclosed a conflict of interest in respect of the QR Undertaking and, in particular, as to reference tariffs affecting the rail freight costs for the North Goonyella Mine. The conflict arose from the fact that Mr Wylie is the non-Executive Chairman of Thiess Pty Ltd and Deputy Chairman of its holding company Leighton Holdings Limited. Thiess Pty Ltd and another company had in late 2000 purchased the North Goonyella Coal Mine with Thiess Pty Ltd having an initial minority interest of 40% in the mine. In addition Mr Wylie holds shares in Leighton Holdings Limited. Those shares do not constitute a material proportion of his investment portfolio.

The notification contained in the Draft Decision also outlined the basis upon which it was proposed the QCA would manage the conflict of interest. The notice invited interested parties to make any submissions in relation to the matter.

On 20 April 2001, the QCA received the following letter from the Rail Tram and Bus Union :-

The Rail Tram & Bus Union formally objects to any further role in the Queensland Rail Draft Access Undertaking matter by the Chairman of the QCA, Mr R M Wylie, following his disclosure of a conflict of interest in this matter, because of his role as non-executive Chairman of Thiess Pty Ltd and Deputy Chairman of its holding company, Leighton Holdings Limited, and the 40% equity of Thiess Pty Ltd in the North Goonyella Coal Mine.

The RTBU does not believe that the proposed response to Mr Wylie's declaration of a conflict of interest is adequate, since it would allow him to continue to deliberate on the highly contentious issues involved in the QCA Draft Decision on QR's Draft Access Undertaking.

As we have set out in our formal submission to QCA on the Draft Decision, we find that the Draft Decision is highly damaging to QR and to the public interest in QR, and to our members employed in QR. We find that QCA has become an advocate for prospective third party access operators, rather than taking a balanced view of the public interest, QR's interest and any prospective third party operators.

In this context, it is insufficient for Mr Wylie to withdraw from the narrow decision over reference tariffs that directly affect North Goonyella. His interest in this mine is prejudicial to the broader attitude taken by QCA in response to the QR Draft Access Undertaking.

The RTBU has negotiated an extension of the deadline for its submission in response to the Draft Decision to today, April 20, 2001.

On receipt of the above letter, the QCA took advice in respect of the position of Mr Wylie. That advice was to the effect there was no legal need for Mr Wylie to stand aside. The QCA was advised by QR that it wished him to remain involved.

Nevertheless, Mr Wylie decided to stand aside from any further participation in the matter and did so. Mr Wylie reached that decision so as to avoid any potential distraction which his continued involvement may attract. His decision to stand aside, in circumstances where he believed he is not required to, involved balancing the importance of satisfactory completion of the processes relevant to the QR Draft Undertaking, the extent of the potential to disrupt completion of the process by his premature withdrawal and the desirability of avoiding, where reasonably possible, continuation of an issue of controversy.