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25 May 2023

Mr George Passmore  
Queensland Competition Authority  
145 Ann Street  
Brisbane Queensland 4001  
(Submitted via QCA's online submissions portal)

Dear Mr Passmore

### **Aurizon Network April 2023 Newlands – GAPE Pricing**

1. The QCoal Group (**QCoal**) welcomes the opportunity to make a submission on Aurizon Network's (**Aurizon**) new DAAU dealing with Newlands GAPE Pricing, the April 2023 Newlands-GAPE Pricing DAAU (**April 2023 DAAU**).
2. QCoal has made submissions on Aurizon's previous DAAU on this subject (**November 2022 Submission**) and the QCA's December 2022 Preliminary Considerations paper on Aurizon's September 2022 DAAU (**Preliminary Considerations**).
3. Aurizon states in its April 2023 DAAU that '*Stakeholders have been consulted on the development of this April 2023 DAAU*' this 'consultation was limited to Aurizon providing to stakeholders its proposed changes, the basis of those changes being primarily the QCA's Preliminary Considerations. Stakeholders were not provided with a copy of the April 2023 DAAU, redacted or otherwise, until its submission to the QCA.
4. Our responses to the proposed amendment elements (broadly grouped) of the April 2023 DAAU are set out below.
5. Inclusion of deferred capital into the Newlands System reference Tariff

QCoal does not support Aurizon's proposal to include an initial amount of \$46.2 million of deferred Newlands System Infrastructure Enhancement (NSIE) costs into the Newlands system Reference Tariff from 1 June 2023 and then a further \$32.7 million from 1 July 2024.

In its 2 September 2022 GAPE and Newlands Pricing Draft Amending Access Undertaking, (**September 2022 DAAU**) Aurizon proposed the inclusion of approximately \$46.9 million of deferred Newlands System Infrastructure Enhancement (NSIE) costs into the Newlands system Reference Tariff. Aurizon set out its rationale for that figure, including that the inclusion of \$46.9 million had stakeholder support, a fact acknowledged by the QCA in its Preliminary Considerations.<sup>2</sup> Aurizon stated in its previous engagements with stakeholders<sup>3</sup>, that it determined this amount having regard to how these (same) costs are accounted for in the GAPE commercial Arrangements. No verification or detailed explanation of the amounts claimed by Aurizon has ever been given. Customers are at a

<sup>1</sup> Aurizon Network, April 2023 Newlands GAPE Pricing DAAU, 6 April 2023, page 4

<sup>2</sup> QCA, GAPE and Newlands Pricing DAAU Preliminary Considerations December 2022, page 7

<sup>3</sup> Aurizon, "Alignment of the Regulatory framework with the GAPE Access Arrangements". 22 August 2022

significant disadvantage in this regard because they are simply not in possession or able to obtain the information necessary to perform this task themselves.

Aurizon Network now, on the basis of the language of the Preliminary Considerations, and despite the consensus position on this element having been achieved in the September 2022 DAAU, seeks to recover more of the NSIE from Newlands customers. This is despite the commercial arrangements it has in place with GAPE customers, and its recovery of some of the same NSIE costs from GAPE customers. QCoal reiterates its November 2022 Submission, that Aurizon does not need to be compensated for the deferment of the recovery of the NSIE costs from Newlands customers because:

1. it has suffered no loss from that deferral, and
2. it has already recovered a portion of these costs from GAPE customers and may continue to recover these costs from GAPE customers (to the extent they are not included in the Newlands system) over time.

Further QCoal reiterates its November 2022 Submission<sup>4</sup>, that Aurizon should not, consistent with the Pricing Principles of Part 6 of the Access Undertaking, and on both an ethical and economic basis, recover the same costs twice. Recognising the revenue Aurizon has already recovered under the GAPE arrangements is not 'resolving matters' or disputes arising under a commercial arrangement. Rather recognising this revenue and determining the value of this revenue is simply consistently applying regulatory pricing principles to a regulated asset in circumstances where Aurizon is seeking to circumvent those principles by assertions of confidential commercial arrangements. The proper application of regulatory pricing principles means that the allocation of capital cannot be done independent of the identification of the sources of the revenue earned as a result of that capital expenditure. Accordingly, allocation of the NSIE capital expenditure cannot be done entirely independent of or divorced from the allocation of revenue earned from those same assets. This necessarily means that the revenue earned under the GAPE commercial arrangements must be taken into account.

We repeat also that even though Aurizon volunteered in its initial DAAU to remove \$47.9 million from the Newlands RAB roll-forward from 1 July 2023, this may or may not be the appropriate value to account for any duplicate recovery of revenue by Aurizon from GAPE customers. As set out above QCoal, and indeed all other stakeholders do not have sufficient transparency of information to be in a position to verify the figures Aurizon refers to in section 6 of the April 2023 DAAU. In fact, the explanation of much of this section is confusing and very difficult to follow, let alone verify. This is made virtually impossible given the extensive redactions in Section 6. This is why QCoal submitted in its November 2022 Submission, that the QCA must review and verify the relevant amount to ensure that there is no double recovery by Aurizon.<sup>5</sup> We repeat that submission.

In its April 2023 DAAU Aurizon Network states that the amount claimed corresponds to the '*earliest practical date the deferred capital component of the NSIE could have been reflected in a Newlands Reference Tariff*'.<sup>6</sup> Customers have no means of verifying this is in fact the case. Aurizon has never been required to verify the amount claimed as NSIE. This amounts also excludes the revenue Aurizon has earned through the GAPE

<sup>4</sup> QCoal submission, Aurizon Network GAPE and Newlands Pricing Draft Amending Access Undertaking, 2 November 2022, paras 22 – 23.

<sup>5</sup> Ibid para 24.

<sup>6</sup> Aurizon Network, (1) page 11.

arrangements on the deferred amount. In making this submission Aurizon clearly seeks to imply that Customers have not been adversely impacted by the delayed inclusion of the NSIE. This is not in fact correct. The implications of the delayed inclusion of the NSIE are set out in the November 2022 Submission<sup>7</sup>.

QCoal therefore does not support the inclusion of both an initial amount of \$46.2 million and then a further \$32.7 million of deferred Newlands System Infrastructure Enhancement (NSIE) costs into the Newlands system Reference Tariff but will support, on the basis set out in its November 2022 Submission<sup>8</sup> an amount of \$46.2 million of deferred NSIE costs being included in the Newlands system Reference Tariff.

6. Implementing Contract volume-based tariffs for the Newlands system tariff and allowing further fee free relinquishments and contracting of any Relinquished capacity.

a) Contract Volume Based Tariffs

As a principle QCoal supports contract-based tariffs, however, as set out in QCoal's Previous Submissions<sup>9</sup>, where a substantial Existing Capacity Deficit (**ECD**) exists, customers with contracted capacity that is not capable of being delivered should not have to pay (Take or Pay charges) for that undeliverable capacity. The circumstances for the introduction of contract volume-based tariffs into each rail system must be carefully considered. Aurizon's own analysis involves not only the Newlands system but also the GAPE system<sup>10</sup>. This in and of itself supports the view that contract pricing should not be introduced in the Newlands system alone but should only be considered if it is introduced into the broader CQCN system.

Aurizon's reasons for the adoption of contract volume-based tariffs in the Newlands system are primarily centred around *'ensuring there are incremental contract tonnes attributable to the incremental revenue associated with the inclusion of the deferred NSIE outcomes'*<sup>11</sup>. The validity of this depends entirely upon the assumption that forecast volumes are significantly less than contract which may or may not be the case in the Newlands system. In fact, FY23 actual volumes are expected to exceed contract volumes<sup>12</sup>. The major driver for this change in tariff determination may not in fact exist.

Whilst the QCA in its Primary considerations, repeated and supported in Aurizon's April 2023 DAAU<sup>13</sup> that *"access holders could manage their risk from contract volume-based pricing though short term transfers or the opportunity to relinquish rights on a fee-free basis"* overlapping contractual arrangements prevent some stakeholders from managing their risk in this way. Again, commercial arrangements cannot be divorced from regulatory arrangements, particularly in the case of the GAPE project given Aurizon's analysis clearly shows that capacity utilisation in the GAPE system has direct impacts on utilisation of capacity in the Newlands system.<sup>14</sup>

<sup>7</sup> QCoal (3), paras 45-52

<sup>8</sup> Ibid, paras 24-25

<sup>9</sup> Ibid, para 26 – 29

<sup>10</sup> Aurizon (1), page 21

<sup>11</sup> Ibid page 18.

<sup>12</sup> Ibid, Fig 1, page 9.

<sup>13</sup> Ibid, page 19

<sup>14</sup> Ibid page 21

QCoal again strongly submits that contract volume-based tariffs should only be introduced for the Newlands system if, and when, it is introduced into the broader QCN.

b) Fee-free relinquishments

QCoal supports offering Newlands customers a further opportunity to relinquish TSEs without incurring a relinquishment fee, whether tariffs are to be determined on Aurizon's proposed contract volume basis or the current forecast traffic basis.

QCoal however does not support Aurizon's proposal that "*notification of intention to relinquish must be made on or before the nominated date which will reflect the due date of submissions in response to the QCA Draft decision on the April 2023 DAAU*"<sup>15</sup>, for the reasons set out in its November 2022 Submission <sup>16</sup>

c) Contracting of relinquished capacity

Aurizon has proposed that relinquished capacity be available to Access Seekers subject to conditions. QCoal does not support this proposal.

Aurizon has stated that "*the purpose of the relinquishment under this DAAU is not to reduce the ECD*" <sup>17</sup>. QCoal considers that Aurizon's proposal, if approved would be a lost opportunity for a costless transitional arrangement to reduce the ECD and increase the deliverable network capacity. It should not be inferred from the fact that this activity has not yet been proposed as a transitional arrangement that it is not in fact a valid transitional arrangement. Reducing the ECD through voluntary relinquishments should be considered by relevant stakeholders, including the Independent Expert (IE). This is especially relevant as the currently proposed transitional arrangements are not widely supported by customers.

QCoal suggests that prior to the QCA making a determination on this, it engages with the IE about whether relinquishments ought to be considered as a transitional arrangement for the Newlands/GAPE (and other) system(s).

7. Allocating Asset Replacement and Renewals expenditure on the shared Newlands corridor

As noted in the QCA's Preliminary Considerations the causation-based methodology for allocating costs and future allocation of system Allowable Revenue was supported by all stakeholders, QCoal continues to support this element of the April 2023 DAAU.

8. Modifying GAPE Reference Train Service definition

In principle QCoal supports the removal of barriers to the transfer of capacity where it can improve efficiency and increase utilisation of assets. However, where capacity is constrained, as is the case in the Newlands and GAPE systems, transferring contracted capacity from Access Holders that are underutilising their capacity to Access Seekers that may be more likely to utilise capacity, only contributes to poor service delivery for other Access Holders. Until the ECD in the Newlands is significantly reduced, or eliminated, Aurizon's proposal has the potential to further compromise opportunities for Access Holders to be able to utilise their contracted capacity.

<sup>15</sup> Aurizon (1) Table 5 page 32.

<sup>16</sup> QCoal (3), para 75

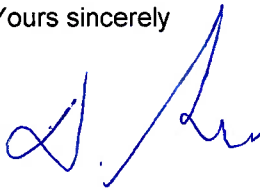
<sup>17</sup> Aurizon (1) Page 23

QCoal therefore does not support Aurizon's proposal to amend the GAPE Reference Train Service Criteria.

9. Application of PIC Discounts to GAPE and Newlands Reference Tariffs.

QCoal supports this element of the April 2023 DAAU. As noted in both the QCA's Preliminary Considerations <sup>18</sup> and in QCoal's Previous Submission <sup>19</sup> there is no differentiation in service offering between Newlands originating services and GAPE services, therefore consistent with clause 6.3.1(e) of the Access Undertaking, the PIC discount should apply to the reference tariff which is the highest on a \$/ntk basis, which is the GAPE tariff.

Yours sincerely



Deborah Silver  
Manger Infrastructure

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<sup>18</sup> QCA (2) page 8

<sup>19</sup> QCoal, (3) para 13,19.