

Schedule E

Regulatory Asset Base

1 Maintenance of Regulatory Asset Base

1.1 Roll forward principles

- (a) On an annual basis, Aurizon Network will roll forward the asset values in its Regulatory Asset Base, applying the following principles:
- (i) the opening asset value, being:
 - (A) for the first Year of the Term, the value in the Regulatory Asset Base at the expiry of the 2010 Undertaking¹; and
 - (B) for each other Year in the Term, the value in the Regulatory Asset Base at the end of the immediately prior Year,will be indexed for the Year using changes in the CPI between the June Quarter of the previous Year and the June Quarter for that Year;
 - (ii) depreciation of the assets will be calculated for the Year using asset lives and a depreciation profile as endorsed by the QCA;
 - (iii) subject to **clause 1.1(b)**, where assets are disposed of during the Year the reasonable market value of the asset (assessed at the time of sale and after deduction of reasonable and prudent costs and expenses of a reasonable and prudent sale process) will be subtracted from the Regulatory Asset Base;
 - (iv) prudent capital expenditure will be added to the Regulatory Asset Base, where that expenditure is accepted into the Regulatory Asset Base by the QCA in accordance with **clause 2**; and
 - (v) the value of the assets in the Regulatory Asset Base will be adjusted in accordance with **clauses 1.2**.

¹ The roll forward of the asset values in the Regulatory Asset Base from the 2010 Undertaking will be submitted to the QCA under the 2010 Undertaking but the QCA consideration of that roll forward will not be finalised until after the Approval Date. As the actual value of assets in the Regulatory Asset Base for the first Year of the Term will not be determined until after the Approval Date, an assumed value of assets in the Regulatory Asset Basis was used for the purposes of this Undertaking including, amongst other matters, for setting Reference Tariffs and System Allowable Revenues. Once the actual opening value of assets in the Regulatory Asset Base for the Term is accepted by the QCA, the Reference Tariffs and System Allowable Revenues will be adjusted based on those actual values.

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(b) The subtraction of an amount referred to in **clause 0** from the value of remaining assets in Regulatory Asset Base will be as determined by the QCA.

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1.2 Adjusting the value of assets in the Regulatory Asset Base

(a) The value of assets contained in the Regulatory Asset Base may be increased by Aurizon Network by including:

- (i) at the end of the Term, the value of intangible assets that were not included in the initial valuation of assets contained in the Regulatory Asset Base; or
- (ii) the Depreciated Optimised Replacement Cost of additional Rail Infrastructure incorporated into the Coal Systems,

provided that the asset value increase has been accepted by the QCA on request by Aurizon Network.

(b) The value of assets contained in the Regulatory Asset Base may be increased by Aurizon Network by including, after the end of the Term, an amount for equity raising costs calculated under **clause 1.5 and accepted by the QCA** provided that the asset value increase has been accepted by the QCA on request by Aurizon Network. The QCA must accept those equity raising costs if they have been calculated in accordance with **clause 1.5**.

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(c) The QCA will not require the value of assets contained in the Regulatory Asset Base to be reduced unless:

(i) the QCA made its decision to accept the relevant capital expenditure into the Regulatory Asset Base on the basis of information provided by Aurizon Network that Aurizon Network knew, or should have known, was false or misleading at the time it provided the information;

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(ii) circumstances arise in the future where demand has deteriorated to such an extent that regulated prices on an unoptimised asset would result in a further decline in demand;

(iii) it becomes clear that there is a possibility of actual (not hypothetical) bypass;

(iv) an [End of Period Assessment] conducted in accordance with this Schedule determines that the Rail Infrastructure has deteriorated by more than would have been the case had good operating practices and prudent and efficient maintenance and asset replacement policies and practices had been pursued; or [Note: Please refer to the QRC's comments about the removal of the Condition Based Assessment and the need for its reinstatement]

(v) the provision of this false or misleading information resulted in a materially different outcome from that which would have occurred if

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the QCA had been provided with information that was not false or misleading.

- (d) Where the QCA requires the value of the assets in the Regulatory Asset Base to be reduced, it must identify those specific assets including the class and location of those assets.
- (e) If the QCA has not notified Aurizon Network of whether it accepts any asset value increase under **clauses 1.2(a) or (b)** (as applicable) within 40 Business Days after receiving a request from Aurizon Network under **clauses 1.2(a) or (b)** (as applicable), then the QCA is taken to have made a determination to accept Aurizon Network's request.
- (f) Subject to **clause 1.2(e)**, if the QCA refuses to accept Aurizon Network's request, then the QCA must notify Aurizon Network of the reasons why that request was not accepted.

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1.3 Capital expenditure report

- (a) Unless otherwise agreed between Aurizon Network and the QCA, Aurizon Network will, within [four months] after the end of each Year in the Term, provide to the QCA the following details for capital expenditure in the subject Year that Aurizon Network considers should be included in the Regulatory Asset Base:
 - (i) the name of the project;
 - (ii) whether it is a User Funded Project or an Expansion which will result in a premium being applied; [Please refer to the QRC's pricing principles paper]
 - (iii) the location of the project;
 - (iv) the amount of the capital expenditure; and
 - (v) information:
 - (A) where applicable, to support the QCA's assessment of the prudence of the capital expenditure under **clauses 2 to 5** (except to the extent that the QCA has already accepted that capital expenditure as prudent in scope, standard or cost); and
 - (B) to the extent that the capital expenditure is taken to be prudent in scope because of acceptance by Interested Participants under **clause 8.10** of this Undertaking:
 - (1) evidence that a vote under **clause 8.10** of this Undertaking has occurred and the result for that vote; and
 - (2) an audit certificate in respect of whether the vote conducted under **clause 8.10** of this Undertaking is in all material respects compliant with **clause 8.10** of this Undertaking.

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- (b) If the information set out in a report provided to the QCA under this **clause 1.3** is insufficient, the QCA may request additional relevant information in accordance with **clause 2.3(b)**.
- (c) Information provided to the QCA under this **clause 1.3** (including in response to a request under **clause 2.3(b)**):
 - (i) will be accompanied by a statement signed by Aurizon Network's Executive Officer confirming that information is, in all material respects, correct; and
 - (ii) must be kept confidential and not published by the QCA except to the extent that Aurizon Network agrees otherwise.

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1.4 Regulatory Asset Base roll forward report to the QCA

- (a) Unless otherwise agreed between Aurizon Network and the QCA, to the extent that the QCA, under **clause 2.2**, has accepted the capital expenditure in the report under **clause 1.3** into the Regulatory Asset Base, Aurizon Network will provide to the QCA Aurizon Network's roll-forward of the Regulatory Asset Base under **clause 1.1**, subject to **clause 1.2**, including details of:
 - (i) the opening value of the Regulatory Asset Base for the relevant Year;
 - (ii) indexation of the Regulatory Asset Base;
 - (iii) depreciation of the Regulatory Asset Base;
 - (iv) capital expenditure that is included in the Regulatory Asset Base;
 - (v) disposals and transfers from the Regulatory Asset Base; and
 - (vi) the closing value of the Regulatory Asset Base for the relevant Year (which will be the opening value of the Regulatory Asset Base for the following Year),

separately reported for each Coal System, each Reference Tariff, each User Funded Project and for any relevant group of Access Holder paying a premium in accordance with [Please refer to the QRC's Pricing Principles socialisation paper].

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- (b) Information provided to the QCA under this **clause 1.4**:
 - (i) will be accompanied by a statement signed by Aurizon Network's Executive Officer confirming that information is, in all material respects, correct;
 - (ii) must be kept confidential and not published by the QCA except to the extent that Aurizon Network agrees otherwise; and
 - (iii) must be based on the roll forward principles in **clause 1.1**.

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1.5 Equity raising costs

- (a) After the end of the Term, Aurizon Network will calculate an amount for equity raising costs in relation to capital expenditure projects occurring

during the Term where the capital expenditure for that project has been accepted as prudent by the QCA, having regard to:

- (i) the aggregate of the Adjusted System Allowable Revenue determined over the Term under **clause 4.3(b) of schedule F**, excluding any Revenue Adjustment Amounts, over the Term;
- (ii) the Approved Capital Expenditure amounts over the Term;
- (iii) the tax depreciation that should have applied for the Approved Capital Expenditure (which must be the same as that used in **clause 7(c)(iii)** to calculate the tax depreciation component for the Capital Expenditure Carryover Account);
- (iv) the tax payable based on the tax depreciation that should have applied for the Approved Capital Expenditure excluding imputation; and
- (v) the following parameters²:
 - (A) dividend reinvestment of 30%;
 - (B) dividend reinvestment plan cost of 1% of the total dividends reinvested;
 - (C) dividend imputation payout ratio of 70%; and
 - (D) seasoned equity raising cost of 3% of total external equity requirements,

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to the extent that Aurizon Network can demonstrate that the need to raise new equity was reasonably required having regard to maintaining the debt percentage of the Regulatory Asset Base over the Term that has been assumed in the Approved WACC.

(b) The amount calculated in **clause 1.5(a)** will be allocated amongst the Coal Systems, **each Reference Tariff, each User Funded Project and for any relevant group of Access Holder paying a premium in accordance with [Please refer to the QRC's Pricing Principles socialisation paper]** on a pro rated basis by reference to the Approved Capital Expenditure over the Term that will, subject to the QCA's acceptance, be applied in determining the Reference Tariff for that Coal System, **each Reference Tariff, each User Funded Project and for any relevant group of Access Holder paying a premium in accordance with [Please refer to the QRC's Pricing Principles socialisation paper]** for the next regulatory period.

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1.6 Maintenance standards

Aurizon Network must, at all times during the Term, maintain the Rail Infrastructure in a condition which is fit for the purpose of provision of

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² These parameters are consistent with those relied upon by the AER, as referred to in its Final Decision on the Powerlink Transmission Determination (April 2012) at 2012-13 to 2016 -17.

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contracted Train Service Entitlements to Access Holders. [Note: This was an obligation contained in item 1.5 of Schedule A of UT3.]

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2 Acceptance of capital expenditure into the Regulatory Asset Base by the QCA

2.1 Overview

- (a) This **clause 2** refers to various determinations that the QCA may be requested to make in order for capital expenditure to be included in the Regulatory Asset Base.
- (b) These determinations may be made:
- (i) in response to a report provided to it under **clause 1.3**; or
 - (ii) in some instances, in advance of the capital expenditure being incurred – for example, regarding the prudence of scope of a capital expenditure project.
- (c) Aurizon Network **must** seek the QCA's acceptance of prudence of scope (**clause 3**). Aurizon Network may seek acceptance of **the prudence of scope of works** through a vote of Interested Participants under **clause 8.10** of this Undertaking. If such a vote is successful, then the QCA must accept the outcome of that vote. If such a vote is unsuccessful, Aurizon Network is not prevented from seeking the QCA's acceptance of that matter or a future vote.
- (d) Certain decisions may only be made by the QCA including:
- (i) acceptance of the prudence of cost of a capital expenditure project (**clause 5**);
 - (ii) acceptance of the prudence of standard of works of a capital expenditure project (**clause 4**); and
 - (iii) acceptance of an Asset Management Plan (**clause 2.4**) or a procurement strategy (**clause 6.1**).

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2.2 Acceptance of capital expenditure into the Regulatory Asset Base by the QCA

- (a) The QCA will determine what capital expenditure should be accepted into Aurizon network's Regulatory Asset Base. The QCA's prior approval is not required for any capital expenditure.
- (b) The QCA will accept capital expenditure in the report provided to the QCA under **clause 1.3** into the Regulatory Asset Base if that capital expenditure:
- (i) either:
 - (A) is or has been accepted as:

- (1) prudent in scope in accordance with **clause 3** or **clause 8.10** of this Undertaking;
 - (2) prudent in the standard of works in accordance with **clause 4** or **clause 8.10** of this Undertaking; and
 - (3) prudent in cost in accordance with **clause 5**; or
- (B) is prudent and is for a Concept Study, Pre-feasibility Study, Feasibility Study or other study in connection with a potential capital expenditure project (or any precursor to a capital expenditure project); and
- (ii) has been incurred and either the capital expenditure project has been commissioned or formally discontinued.
- (c) A vote by Interested Participants in respect of the cost allocation principles for the purposes of developing a proposed Reference Tariff variation under **clause 6.2.4(a)(iv)(A)** of this Undertaking is not a vote in relation to the prudence of scope, standard of works or cost for the relevant capital expenditure project.
- (d) Aurizon Network does not have an obligation to construct or fund a capital expenditure project as a result of seeking or obtaining any acceptance of the scope, standard or cost of a capital expenditure project under this **clause 2, clause 3, 4 or 5**.
- (e) The QCA must notify Aurizon Network in writing if it accepts capital expenditure into the Regulatory Asset Base.
- (f) If the QCA is considering refusing to accept all or part of any capital expenditure into the Regulatory Asset Base:
- (i) the QCA must give Aurizon Network a draft of the QCA's decision (including a statement of reasons including the way it considers the capital expenditure should be adjusted);
 - (ii) Aurizon Network may, within 20 Business Days after being given that draft decision (or such longer period as agreed by the QCA), revise the capital expenditure and/or provide additional information supporting its view that the capital expenditure or the revised amount should be included in the Regulatory Asset Base; and
 - (iii) the QCA must consider that revision and/or additional information when deciding whether to accept or refuse to accept the capital expenditure into the Regulatory Asset Base.
- Nothing in this **clause 2.2** prevents the QCA from carrying out a public consultation process.
- (g) If the QCA refuses to accept all or part of any capital expenditure into the Regulatory Asset Base, the QCA must give Aurizon Network a notice of the QCA's decision (including a statement of reasons and the clear

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identification of the capital expenditure project and the capital expenditure to which its decision relates).

(h) If Aurizon Network does not obtain the QCA's acceptance of any matters under **clauses 3 to 5** in relation to a capital expenditure project at any time, this does not affect its right to seek any such acceptance under **clauses 3 to 5** or **clause 8.10** of this Undertaking at a later time.

(i) If:

(i) Aurizon Network has obtained:

(A) the QCA's acceptance for any matter under **clauses 3 to 5** or

(B) Interested Participants' acceptance for any matter under **clause 8.10** of this Undertaking; and

(ii) a material change subsequently occurs in respect of that matter **(including a change in scope or standard)**,

Aurizon Network **must (to the extent it wishes to include those costs in the Regulatory Asset Base)** seek the QCA's acceptance in respect of that change under the relevant process set out in **clauses 3 to 5** or, alternatively, where **clause 2.2(i)(i)(B)** applies, the process set out in **clause 8.10** of this Undertaking.

(j) For the avoidance of doubt, the Capital Indicator does not imply any acceptance by the QCA of that level of capital expenditure into the Regulatory Asset Base.

2.3 Assessing prudence of capital expenditure

For the purposes of **clauses 3 to 5**:

(a) the QCA must:

(i) in assessing whether capital expenditure is prudent:

(A) only consider information available, or **which would have been obtained by an infrastructure manager exercising Good Engineering Practices**, to Aurizon Network at the time of making the investment decision; and

(B) as it considers necessary, take advice from independent advisors using appropriate benchmarks and experience provided that it gives Aurizon Network a copy of that advice **no later than with its notice under clause 2.3(a)(ii)**;

(C) **consider other information provided by stakeholders as a part of a public consultation process; and**

(ii) give Aurizon Network a notice of any determination that it makes under **clauses 3, 4 or 5** (as applicable) and, if that determination is a refusal to accept anything (in whole or part), that notice must state the reasons for that refusal;

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- (b) the QCA may request additional information from Aurizon Network that is reasonably required to make any determination under **clauses 3.4 or 5** (as applicable) after receiving the request from Aurizon Network to make such a determination under **clauses 3.4 or 5** (as applicable);
- (c) Aurizon Network must respond to a request by the QCA under **clause 2.3(b)** within 30 Business Days after receiving that request; and
- (d) if the QCA has not notified Aurizon Network of any determination that it is required to make under **clauses 3.4 or 5** (as applicable) within 45 Business Days after:
 - (i) where the QCA has not made a request under **clause 2.3(b)** receiving a request from Aurizon Network under **clauses 3.4 or 5** (as applicable) to make such a determination; or
 - (ii) where the QCA has made a request under **clause 2.3(b)** receiving additional information from Aurizon Network reasonably required to make any determination under **clauses 3.4 or 5** (as applicable) as requested by the QCA,

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then the QCA is taken to have made a determination to accept Aurizon Network's request. *[Note: The QRC notes that a number of timeframes are imposed on the QCA which if not complied with result in a deemed approval. The QRC is not supportive of this approach.]* Asset Management Plan

- (a) Aurizon Network **must** prepare a proposed **asset management plan** describing the standards that Aurizon Network will apply in determining whether to incur capital expenditure by replacing assets within the Regulatory Asset Base rather than maintaining those assets and submit that proposed **asset management plan** to the QCA for acceptance **(on approval by the QCA being the "Assess Management Plan")**.
- (b) Aurizon Network may amend the Asset Management Plan from time to time, but if Aurizon Network wishes to do so it must provide any proposed amendments to the Asset Management Plan to the QCA for acceptance. **Aurizon Network must update the Asset Management Plan not less than annually. Such update must be approved by the QCA.**
- (c) If the QCA is considering refusing to accept a proposed Asset Management Plan or Asset Management Plan amendments (as applicable) **(Proposal)**:
 - (i) the QCA must give Aurizon Network a draft of the QCA's decision (including a statement of reasons including the way it considers the Proposal should be adjusted);
 - (ii) Aurizon Network may, within 20 Business Days after being given that draft decision (or such longer period as agreed by the QCA), revise the Proposal and/or provide additional information supporting its view that the Proposal or the revised Proposal should be accepted by the QCA; and

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(iii) the QCA must consider that revision and/or additional information when deciding whether to accept or refuse to accept the Proposal.

Nothing in this clause 2.4 prevents the QCA carrying out a public consultation process.

(d) If the QCA refuses to accept the Proposal, the QCA must give Aurizon Network a notice of the QCA's decision (including a statement of reasons).

(e) For the purpose of this **clause 2.4**:

(i) the QCA may request additional information from Aurizon Network that is reasonably required to make any determination under this **clause 2.4**;

(ii) Aurizon Network must respond to a request by the QCA under **clause 2.4(e)(i)**, within 30 Business Days after receiving that request; and

(iii) if the QCA has not notified Aurizon Network of any determination that it is required to make under this **clause 2.4** within 30 Business Days after:

(A) where the QCA has not made a request under **clause 2.4(e)(i)**, receiving a request from Aurizon Network under to make such a determination under this **clause 2.4**; or

(B) where the QCA has made a request under **clause 2.4(e)(i)**, receiving additional information from Aurizon Network reasonably required to make any determination under this **clause 2.4** as requested by the QCA,

3 the QCA is taken to have accepted the Asset Management Plan. [See note above] Prudency of scope

3.1 Assessment of prudency of scope

- (a) Assessing the prudency of scope of works for a capital expenditure project involves assessing whether the works are reasonably required.
- (b) The QCA's acceptance of the prudency of scope for a capital expenditure project may be requested at any time including prior to the capital expenditure being incurred.

3.2 Process for acceptance of prudency of scope

- (a) Aurizon Network may request the QCA to, and the QCA will, accept the scope of a capital expenditure project as prudent if it is Customer or Access Holder specific capital expenditure and the scope of the capital expenditure has been accepted by that Customer or Access Holder.

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(b) If ~~clause 3.2(a)~~, does not apply or acceptance is not sought or obtained under ~~clause 3.2(a)~~, Aurizon Network must request the QCA's acceptance of the scope of a capital expenditure project as prudent in accordance with ~~clause 3.2(c)~~.

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(c) If a request is made under ~~clause 3.2(b)~~, the QCA will accept the scope of a capital expenditure project as prudent if it is demonstrated to the QCA's reasonable satisfaction, having regard to the factors set out in ~~clause 3.2(d)~~, that:

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(i) where the expenditure for the capital expenditure project has already been incurred, Aurizon Network had reasonable grounds for proceeding with the capital expenditure project given the circumstances relevant at the time the investment decision was made; or

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(ii) where the expenditure for the capital expenditure project has not already been incurred, reasonable grounds exist for proceeding with the capital expenditure project.

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(d) The factors that the QCA will have regard to for the purposes of ~~clause 3.2(c)~~ are:

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(i) any relevant Network Development Plan;

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(ii) the need to accommodate what is reasonably required to comply with Access Agreements;

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(iii) the extent of Reasonable Demand, and the need for new capital expenditure projects to accommodate that demand;

(iv) the age and condition of existing assets, the need for asset replacement capital expenditure projects and the extent of consistency with the Asset Management Plan;

(v) Aurizon Network's legislative and tenure requirements, including relating to rail safety, workplace health and safety and environmental requirements;

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(vi) the outcomes of consultation (if any), about the capital expenditure project, with Access Seekers and Access Holders whose Access Charges (or likely Access Charges) would be affected by including the amount of capital expenditure for the capital expenditure project into the Regulatory Asset Base;

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(vii) the Asset Management Plan; and

(viii) Good Engineering Practices.

3.3 Excluded capital expenditure

(a) If:

(i) the capital expenditure for a capital expenditure project has been incurred by Aurizon Network; and

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(ii) the QCA, in assessing the prudence of scope of that capital expenditure project for the purposes of ~~clause 3.2(c)~~, determines that the scope of the capital expenditure project is in excess of that needed to accommodate Reasonable Demand,

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the QCA may also determine the element of the prudent costs of the capital expenditure project that was not needed to meet Reasonable Demand (**Excluded Capital Expenditure**). For clarity, this ~~clause 3.3~~ does not apply where:

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(iii) the QCA has already accepted the scope of the capital expenditure project as prudent;

(iv) the QCA accepts the scope of the capital expenditure project as prudent in accordance with ~~clause 1.1(a)~~; or

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(v) the scope of the capital expenditure project has been accepted as prudent by Interested Participants by a vote in accordance with ~~clause 8.10~~ of this Undertaking and an audit certificate has been provided to the QCA indicating the conduct of that vote was in all material respects compliant with ~~clause 8.10~~ of this Undertaking.

(b) If the QCA has determined Excluded Capital Expenditure in respect of a capital expenditure project:

(i) that Excluded Capital Expenditure will be set aside and escalated at the rate of the Approved WACC from the date of commissioning of the capital expenditure project until the full scope of the capital expenditure project is accepted by the QCA as required to meet Reasonable Demand (whether on one occasion or in parts over time); and

(ii) when the QCA accepts that all or part of the Excluded Capital Expenditure is required to meet Reasonable Demand:

(A) the QCA will accept all or the relevant part of the Excluded Capital Expenditure into the Regulatory Asset Base at its escalated value; and

(B) if only part of the Excluded Capital Expenditure is included in the Regulatory Asset Base, ~~clause 3.3(b)(i)~~, will continue to apply to the remainder.

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4 Prudence of standard of works

4.1 Assessment of prudence of standard of works

(a) Assessing the prudence of standard of works for a capital expenditure project involves assessing whether the works are of a reasonable standard to meet the requirements of the scope for that capital expenditure project and are not overdesigned such that they are beyond the requirements of that scope.

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(b) The QCA's acceptance of the prudence of standard of works for a capital expenditure project may be requested at any time including prior to the capital expenditure being incurred.

(c)

4.2 General process for acceptance of prudence of standard of works

(a) Aurizon Network must request the QCA's acceptance of the standard of works of a capital expenditure project as prudent in accordance with this **clause 4.2**.

(b) If a request is made under **clause 4.2(a)**, the QCA will accept the standard of works of a capital expenditure project as prudent if:

(i) it is demonstrated to the QCA's reasonable satisfaction, having regard to the factors set out in **clause 4.2(c)**, that:

(A) where the expenditure for the capital expenditure project has already been incurred, Aurizon Network had reasonable grounds for its design of the relevant infrastructure given the circumstances relevant at the time that the design was prepared; or

(B) where the expenditure for the capital expenditure project has not already been incurred, reasonable grounds exist for the design of the relevant infrastructure; or

(ii) the proposed works are consistent in all material respects with the existing standard and configuration of adjacent infrastructure or existing infrastructure with similar usage levels, or its modern engineering equivalent, to the extent that the standard of the adjacent or existing infrastructure has previously been accepted by the QCA as being reasonable.

(c) The factors that the QCA will have regard to for the purposes of **clause 4.2(b)(i)** are:

(i) the requirements of Railway Operators and what is reasonably required to comply with Access Agreements;

(ii) current and likely future usage levels;

(iii) the requirements of relevant Australian design and construction standards;

(iv) if applicable, the extent of consistency with the Asset Management Plan;

(v) Aurizon Network's design standards contained within the Safety Management System and which is accepted by the Safety Regulator;

(vi) all relevant Laws and the requirements of any Authority (including the Safety Regulator);

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<#>To the extent that a capital expenditure project includes Asset Replacement Expenditure and there is an Asset Management Plan, Aurizon Network may request the QCA's acceptance of the standard of works for that Asset Replacement Expenditure as prudent.¶

If a request is made under **clause 4.2(a)**, the QCA will accept as prudent the standard of works relevant to the Asset Replacement Expenditure if that standard of works is consistent with the Asset Management Plan.

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(vii) for Asset Replacement Expenditure, the Asset Management Plan; and

(viii) Good Engineering Practices.

5 Prudence of costs

5.1 Assessment of prudence of costs

- (a) Assessing the prudence of costs for a capital expenditure project involves assessing whether the costs are reasonable for the scope and standard of work done or to be done.
- (b) The QCA's acceptance of the prudence of costs for a capital expenditure project may be requested at any time.

5.2 Process for acceptance of prudence of costs where there is an accepted procurement strategy

- (a) If the QCA has accepted a procurement strategy for a capital expenditure project under **clause 6.1(b)**, Aurizon Network may request the QCA's acceptance of the costs of that capital expenditure project as prudent in accordance with this **clause 5.2**.
- (b) If a request is made under **clause 5.2(a)**, the QCA will accept as prudent the amounts incurred by Aurizon Network under a contract if the auditor engaged under **clause 6.2** certifies that:
 - (i) the tender for the contract has been conducted in accordance with the accepted procurement strategy;
 - (ii) if applicable, any relevant variations of, and/or escalations under, that contract have been handled in a manner consistent with the relevant contract provisions;
 - (iii) the amounts incurred were incurred in a manner consistent with the relevant contract provisions; and
 - (iv) Aurizon Network has complied with the relevant provisions of the contract.

5.3 General process for acceptance of prudence of costs

- (a) If **clause 5.2** does not apply or acceptance is not sought or obtained under **clause 5.2**, Aurizon Network **must** request the QCA's acceptance of the costs of a capital expenditure project as prudent in accordance with this **clause 5.3**.
- (b) If a request is made under **clause 5.3(a)**, the QCA will accept the costs of a capital expenditure project as prudent if the costs are reasonable for the scope and standard of works undertaken having regard to the matters set out in **clause 5.3(c)** given the circumstances relevant at the time when the costs were incurred or the capital expenditure project was undertaken (as applicable).

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- (c) The factors that the QCA will have regard to for the purposes of **clause 5.3(b)** are:
- (i) any relevant Network Development Plan;
 - (ii) the level of such costs relative to the scale, nature, cost and complexity of the project;
 - (iii) the circumstances prevailing in the markets for:
 - (A) engineering, equipment supply and construction;
 - (B) labour; and
 - (C) materials;
 - (iv) the allocation of costs attributable to Rail Infrastructure on an optimised Stand Alone Cost basis;
 - (v) where the QCA has accepted a procurement strategy for the capital expenditure project under **clause 6.1(b)**, the extent to which Aurizon Network has achieved compliance with that procurement strategy;
 - (vi) the Asset Management Plan;
 - (vii) **Good Engineering Practices**;
 - (viii) the manner in which the capital expenditure project has been managed by Aurizon Network given the circumstances at the time when relevant management decisions and actions were made or undertaken, including Aurizon Network's balancing of:
 - (A) safety during construction and operation;
 - (B) compliance with environmental requirements during construction and operation;
 - (C) compliance with Laws and the requirements of Authorities;
 - (D) minimising disruption to the operation of Train Services during construction;
 - (E) accommodating reasonable requests of Access Holders to amend the scope and sequence of works undertaken to suit their needs;
 - (F) minimising whole of asset life costs including future maintenance and operating costs;
 - (G) minimising total project cost which may at times not be consistent with minimisation of individual contract costs;
 - (H) aligning other elements in the supply chain; and
 - (I) meeting contractual timeframes and dealing with external factors.

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6 Procurement strategy

6.1 Process for the acceptance of a procurement strategy

(a) Where the QCA has accepted the scope of a capital expenditure project as prudent under **clause 3**, Aurizon Network may request the QCA's acceptance of a procurement strategy for all or part of that capital expenditure project.

(b) If a request is made under **clause 6.1(a)**, the QCA will accept Aurizon Network's procurement strategy if the QCA is satisfied that the procurement strategy:

- (i) **is comprehensive;**
- (ii) is in accordance with good industry practice;
- (iii) will generate an efficient and competitive outcome;
- (iv) will avoid conflict of interest or collusion amongst tenderers;
- (v) is prudent in the circumstances of the capital expenditure project (including having regard to:
 - (A) the factors set out in **clause 6.1(c)**; and
 - (B) whether the procurement strategy tends to assist in achieving the requirements for prudence of costs set out in **clause 5.3**; and
- (vi) will avoid unreasonable exposure to contract variation claims.

(c) The factors that the QCA will have regard to for the purposes of **clause 6.1(b)(v)(A)** are whether in the procurement strategy:

- (i) there is a clear process for the calling of tenders, including having clear specifications for tenders, and processes for mitigating conflicts of interest (except when it is assessed **in accordance with Good Engineering Practices** that calling tenders is likely to be less advantageous than an alternative means of negotiating a contract);
- (ii) there is a tender assessment process which contains clear and appropriate processes for determining the successful tender, with any decisions to approve a tender that is not the lowest tender being appropriately justified and documented;
- (iii) the basis of payment for works is clearly specified and the basis for undertaking the works is in accordance with good commercial practice;
- (iv) there is a process for managing contracts before and after award that accords with good commercial practice for a project of the type and scale of the capital expenditure project and provides appropriate guidance on the criteria that Aurizon Network should apply to decisions regarding the management of the capital expenditure project, including:

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- (A) safety during construction and operation;
 - (B) compliance with environmental requirements during construction and operation;
 - (C) minimising disruption to Committed Capacity during construction;
 - (D) accommodation of the reasonable requests of Access Holders and, if applicable, their Customers to change the scope and sequence of construction to suit their needs;
 - (E) a prudent balance between:
 - (1) a higher price in return for more certainty as to final cost;
 - (2) a lower price accepting that final cost may be less certain; and
 - (3) costs, schedule and minimising disruption to Committed Capacity during construction;
 - (F) minimising whole of asset life costs including future maintenance and operating costs; and
 - (G) minimising total project cost which may at times not be consistent with minimisation of individual contract costs; and
- (v) there is a process for managing contract variations and/or escalation that occurs post award of a contract, requiring:
- (A) that reasonable consideration be given to:
 - (1) managing the risk of contract variations and/or escalation; and
 - (2) the allocation of potential risks during the management of the contract; and
 - (B) the provision of clear documentary evidence regarding the nature and reasonableness of any variation and/or escalation.
- (d) The QCA will give Aurizon Network a notice in writing regarding:
- (i) whether the procurement strategy is accepted; and
 - (ii) if the QCA decides not to accept the procurement strategy (in whole or part) the reasons for its refusal and the way the processes under the procurement strategy may be amended to obtain the QCA's acceptance.
- (e) In deciding whether to accept a procurement strategy, the QCA may take advice as it considers necessary from appropriately qualified and experienced independent advisors and, if so, the cost of those advisors will be borne by Aurizon Network.

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- (f) For the purpose of this **clause 6.1**:
 - (i) the QCA may request additional information from Aurizon Network that is reasonably required to make any determination under this **clause 6.1**, ~~and~~
 - (ii) Aurizon Network must respond to a request by the QCA under **clause 6.1(f)(i)** within 20 Business Days after receiving that request; and
 - (iii) if the QCA has not given Aurizon Network a notice under **clause 6.1(d)** within 20 Business Days after:
 - (A) where the QCA has not made a request under **clause 6.1(f)(i)**, receiving a request from Aurizon Network for the acceptance of a procurement strategy under **clause 6.1(a)**; or
 - (B) where the QCA has made a request under **clause 6.1(f)(i)**, receiving additional information from Aurizon Network reasonably required to make any determination under this **clause 6.1** as requested by the QCA,

6.2 the QCA is taken to have accepted the procurement strategy. Aurizon Network and the QCA may agree to vary the timeframes set out in this clause 6.1(f) based on the nature or circumstances of the relevant capital expenditure project and if varied timeframes are agreed then those alternative timeframes will apply under this clause 6.1(f) in relation to the relevant capital expenditure project. [See note above] Compliance with accepted procurement strategy

- (a) As part of the implementation of a procurement strategy accepted by the QCA under **clause 6.1**, the QCA will engage an independent external auditor to audit the compliance of Aurizon Network's tender and contract management processes with the accepted procurement strategy.
 - (b) For the purpose of **clause 5.3**:
 - (i) the QCA will accept as prudent the costs incurred by Aurizon Network in relation to:
 - (A) an auditor engaged under this **clause 6.2**; and
 - (B) any costs paid or incurred by Aurizon Network under **clause 6.1(e)**
- as part of the capital expenditure for the relevant capital expenditure project.

7 Capital Expenditure Carryover Account

[Note: We suggest that the Capital Indicator should look forward only 1 year and include capex which is expected to be rolled into the RAB in

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that year. This suggestion is part of QRC's suggestion to calculate tariffs rather than smoothed tariffs, as discussed in the Schedule F submission.]

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- (a) Aurizon Network will maintain a register in which it annually records all Approved Capital Expenditure including identifying the relevant capital expenditure:
- (i) by project;
 - (ii) **[by whether it relates to electrification assets];** and
 - (iii) by Coal System.
- (b) If, at the end of each Year, the Approved Capital Expenditure differs from the Capital Indicator, the difference will be entered in the Capital Expenditure Carryover Account for assets funded under User Funding Agreements and assets funded by Aurizon Network. If the Approved Capital Expenditure exceeds the Capital Indicator, it will be deemed an under recovery of revenue. If the Approved Capital Expenditure is less than the Capital Indicator, it will be deemed an over-recovery of revenue.
- (c) The balance recorded in the Capital Expenditure Carryover Account will include:
- (i) a return on capital component, calculated as the difference between the return on capital assumed for the Capital Indicator and the return on capital that should have applied for the Approved Capital Expenditure, accrued at the Discount Rate;
 - (ii) a depreciation component, calculated as the difference between the depreciation assumed for the Capital Indicator and the depreciation that should have applied for the Approved Capital Expenditure; and
 - (iii) a tax depreciation component, calculated as the difference between the tax depreciation assumed for the Capital Indicator and the tax depreciation that should have applied for the Approved Capital Expenditure,
- and will be calculated using the modelling parameters and assumptions used to determine the Reference Tariffs.
- (d) The balance in the Capital Expenditure Carryover Account at the end of each Year will be rolled forward at the Discount Rate.
- (e) The balance in the Capital Expenditure Carryover Account at the end of the Term will be taken into account when determining Reference Tariffs to apply in the next undertaking with the intention of clearing the Capital Expenditure Carryover Account over the term of that next undertaking. In the event there is no next undertaking within one year after the withdrawal or expiry of this Undertaking, the balance in the Capital Expenditure Carryover Account will be recovered from, or returned to,

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Access Holders (as the case may be) in the form of a single payment following the Terminating Date.

8 Condition based assessments

(a) Aurizon Network must procure, at the cost of Aurizon Network, a condition based assessment of the Coal System in accordance with this clause 8 within 3 months of the Approval Date (the **Initial Assessment**) and 6 months prior to the Terminating Date (the **End of the Period Assessment**):

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(b) If the End of Period Assessment finds that the condition of the Coal System has deteriorated between the Initial Assessment and End of Period Assessment by more than would have been the case had good operating practice and prudent and effective maintenance and asset replacement policies and practices been pursued, the Authority will be entitled to reduce the Regulatory Asset Base to reflect the additional deterioration:

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(c) Aurizon Network will nominate three independent qualified consultants from which the QCA will select the independent consultant (the **Assessor**) which must be appointed to conduct both the Initial Assessment and the End of Period Assessment;

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(d) the Assessor will have a duty of care to the QCA in the conduct of the Initial Assessment and the End of Period Assessment and, in the event of a conflict between the Assessor's obligations to Aurizon Network and its duty of care to the QCA, the Assessor's duty of care to the QCA will take precedence;

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(e) Prior to commencing an Initial Assessment or End of Period Assessment, the Assessor must agree an assessment plan with Aurizon Network, document that assessment plan and obtain the QCA's approval of that assessment plan;

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(f) The assessment plan will:

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(i) consist of a proposed work program for the execution of the Initial Assessment or End of Period Assessment (as applicable) including the costs which shall be payable by Aurizon Network;

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(ii) provide for the establishment of an assessment liaison group, comprising the Assessor, Aurizon Network and the QCA, during the course of the Initial Assessment and the End of Period Assessment (as applicable) to provide a forum for the resolution of any issues that arise; and

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(iii) propose a methodology for assessing track condition to be agreed between Aurizon Network and the QCA and in the absence of agreement determined by the QCA;

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(g) Aurizon Network will provide the Assessor with:

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(i) any relevant information; and

(ii) access to land or sites,

as reasonably required by the Assessor for the purposes of conducting an Initial Assessment or the End of Period Assessment.

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(h) To the extent Aurizon Network is requested to provide confidential information to the Assessor, the Assessor will be required to enter into a confidentiality deed with Aurizon Network in relation to any information provided by Aurizon Network, to the effect that it must keep the information confidential and only use that information for the purpose of conducting the Initial Assessment and the End of Period Assessment and completing the assessment report.

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(i) The Assessor must provide to Aurizon Network and the QCA a report on the findings of the Initial Assessment or the End of Period Assessment (as applicable), with the report of the End of Period Assessment including:

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(i) identifying the extent to which the Rail Infrastructure in the Central Queensland Coal Region has deteriorated by more than would have been the case had good operating practice and prudent and effective maintenance and asset replacement policies and practices been pursued; and

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(ii) to the extent such greater deterioration is identified, the value of that deterioration.

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as soon as reasonably practicable and in any event

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for Asset Replacement Expenditure, it is in accordance with the Asset Management Plan; or

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the QCA will accept for inclusion into the Regulatory Asset Base all other costs, paid or incurred by Aurizon Network, that Aurizon Network can demonstrate were prudently incurred for the purpose of this **clause 6** or for compliance with an accepted procurement strategy (such as costs of tender and contract management processes including legal and probity costs).