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Mr Michael Carter
Chief Executive Officer
Aurizon Network Pty Ltd
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BRISBANE QLD 4001

Dear Mr Carter *Mike*

FINAL APPROVAL: STANDARD RAIL CONNECTION AGREEMENT

The Queensland Competition Authority (QCA) today issued its decision to approve a proposed Standard Rail Connection Agreement (SRCA) in accordance with clause 8.4 of Aurizon Network's 2010 access undertaking.

Context

The QCA's consideration of its proposed SRCA follows a lengthy and comprehensive assessment process that commenced when Aurizon Network first submitted a proposed SRCA in June 2011.

Since then the QCA has:

- (a) published Aurizon Network's original proposal and invited stakeholders to comment;
- (b) issued draft and final decisions to not approve Aurizon Network's proposal that identified how the SRCA should be amended in order for the QCA to approve it;
- (c) published Aurizon Network's resubmitted proposal and invited stakeholders to comment;
- (d) developed a proposed SRCA – having regard to previously proposed detailed drafting for the SRCA set out in the final decision, the issues raised by Aurizon Network in its resubmitted proposal, stakeholders' comments on Aurizon Network's resubmitted proposal and other matters relevant to the content of the proposed SRCA; and
- (e) published its proposal and invited stakeholders to comment – providing a comparatively short response period, given the considerable consultation that had occurred previously and because the proposed SRCA was largely consistent with the QCA's earlier final decision.

Stakeholder Consultation

Over the course of its consideration of the SRCA, the QCA has received 24 submissions from nine stakeholders, including Aurizon Network. Most recently four stakeholders commented on the QCA's

proposal, but raised no new or material concerns. A summary of issues raised previously can be found in the QCA's earlier draft and final decisions on these matters.

Final Approval

In making this decision to approve the SRCA, the QCA has had regard to the decision criteria set out in the 2010 access undertaking. The QCA may only approve a proposed SRCA if it:

- (a) is satisfied that the proposed SRCA is consistent with the 2010 access undertaking (clause 8.4(e)(ii));
- (b) considers it appropriate to do so having regard to the matters listed in section 138(2) of the *Queensland Competition Authority Act 1997* (the QCA Act) (clause 8.4(e)(iii)); and
- (c) has published the proposed SRCA, invited stakeholders to comment on it and considered any submissions received (clause 8.4(e)(iv), 8.4(f)).

In doing so, the QCA has had regard to the matters it has previously considered in reaching its decisions on Aurizon Network's original proposal.

For the most part, the QCA's reasoning and conclusions are consistent with the QCA's final decision on that matter and will therefore not be repeated in this final approval. In summary, the QCA is satisfied that the SRCA:

- (a) appropriately balances Aurizon Network's and users' interests (sections 138(2)(b), (c) & (e), QCA Act) – by, among other things, ensuring responsibilities are appropriately allocated between Aurizon Network and private infrastructure owners;
- (b) promotes efficient operation of, use of, and investment in, the network and private rail infrastructure (section 138(2)(a), QCA Act) – by addressing Aurizon Network's ability to use the negotiation process to delay interconnection or otherwise undermining the ability of users to connect private infrastructure to the existing network;
- (c) promotes effective competition in upstream and downstream markets (section 138(2)(a) & (d), QCA Act) – in particular as the benefits of competition in the markets for construction and management of private rail infrastructure will only be realised when such infrastructure can be connected to the network on reasonable terms irrespective of whether Aurizon Network (or its related bodies corporate) or a third party provides those services;
- (d) provides incentives to reduce costs or otherwise improve productivity (section 138(2)(g) and 168A(d), QCA Act); and
- (e) is consistent with the 2010 access undertaking.

The approved SRCA is provided as an attachment in this decision. Where the SRCA is different from the detailed drafting in the final decision, the QCA is satisfied that that these differences appropriately address stakeholders' concerns, including by improving the workability, clarity and consistency of drafting. The QCA has also amended a minor typographical error in clause 18.4(c) of the SRCA, which now reads "where agreement has not ~~need~~ been reached ...".

Way forward

This final approval provides Aurizon Network with written notice of the QCA's decision for the purposes of clause 8.4(g)(ii) of the 2010 access undertaking. Aurizon Network must now publish the SRCA on its website.

The SRCA applies from this date. Accordingly, unless otherwise agreed between Aurizon Network and a proponent of infrastructure which is proposed to connect to the rail network the subject of the access undertaking, any future rail connection agreements entered into during the term of the 2010 access undertaking must be consistent with the terms of the SRCA (clause 8.4(j)). Aurizon Network and a private infrastructure owner may agree to terms and conditions that differ from the SRCA, but in the event that negotiations fail, the QCA will have regard to the SRCA in resolving a dispute.

The QCA thanks stakeholders for contributing their considerable knowledge and expertise on these matters to this assessment process. By doing so, the QCA is confident that the approved arrangements will facilitate the timely and efficient connection of private infrastructure to the network.

Yours sincerely

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Malcolm Roberts
Chairman