

29 June 2007

Mr John Prescott AC
Chairman of the Board
Queensland Rail
GPO Box 1429
Brisbane QLD 4001

Dear Mr Prescott

Queensland Rail (QR) – Proposed Amendments to Approved Access Undertaking

The Queensland Competition Authority (the Authority) today approved QR's proposal to amend its approved access undertaking to implement a hybrid revenue cap for coal-carrying services in the central Queensland coal region.

Background

On 30 June 2006, the Authority approved QR's 2006 access undertaking which sets out the terms and conditions under which QR will provide access to the relevant parts of its rail infrastructure. At the time the access undertaking was approved, the issue of QR's exposure to volume risk for the central Queensland coal system remained outstanding. Accordingly, the access undertaking included processes to resolve these matters over the course of 2006-07.

As provided for in the undertaking, QR consulted with the Queensland Resources Council regarding broad options for the regulatory framework and detailed processes required to support that framework. Subsequently, on 28 February 2007 QR submitted proposed amendments to its access undertaking (the Proposed Schedule F Amendment) for the Authority's approval.

On 25 May 2007, the Authority released its final decision to not approve QR's proposed amendments to its access undertaking – and required that QR revise and **resubmit** its proposal before 25 June 2007. In doing so, the Authority accepted, in principle, to move to a revenue cap, but required QR to amend how the revenue cap was implemented. In particular, the Authority had concerns with the way that QR had originally sought to define the revenue included in the revenue cap and how it would make adjustments to reference tariffs to reflect the revenue cap over time.

QR's Resubmitted Proposal

On 25 June 2007, QR submitted a revised proposal for the Authority's approval (the revised Schedule F Amendment).

The revised proposal includes amendments Schedule F of the access undertaking as well as other consequential amendments to the body of the access undertaking and to the Standard Access Agreements.

In doing so, QR sought to comply with the May 2007 decision, but included a number of 'minor amendments' to the detailed drafting contained in that decision.

Final Approval

Today, the Authority has approved QR's revised Schedule F Amendment dated 25 June 2007.

In doing so, the Authority has taken account of the matters required under the process contained in the access undertaking. In this regard, the Authority:

- is satisfied that QR's resubmitted proposal is in accordance with the notice dated 25 May 2007, given under cl. 3.9 of Part B of Schedule F of the access undertaking – being submitted within the required timeframe and consistent with the principles described within the written notice;
- is satisfied that QR's resubmitted proposal is consistent with the access undertaking and the principles contained in Schedule F; and
- considers it appropriate to approve QR's resubmitted proposal having regard to s.138(2) of the QCA Act.

In making this decision, the Authority has had regard to the matters it considered in making its May 2007 decision as well as the detailed drafting included in that decision.

While QR has generally adopted the detailed drafting included in the May 2007 decision, the Authority notes that QR's resubmitted proposal is not identical to that drafting.

To the extent that QR has refined the drafting proposed in the May 2007 decision, or included additional drafting to provide greater clarity, the Authority is nevertheless satisfied that the new drafting meets the Authority's overarching objectives and complies with the notice given under cl. 3.9 of Part B of Schedule F of the access undertaking.

For example, in making adjustments to system allowable revenue, QR has provided additional detail that seeks to clarify how the Authority will treat matters that are the subject of dispute resolutions proceedings other than a court or tribunal (ie. matters before an expert or an arbitrator or that are the subject of other dispute resolution processes). In this regard, the Authority accepts that QR should be provided an opportunity to remedy or resolve a dispute through standard dispute resolution processes before a deduction is made. In doing so, the Authority accepts that it should only be bound by the decision of the expert, arbitrator (court or tribunal) in making its assessment.

QR has also included a materiality threshold for deductions based on the test included in the detailed drafting in the May 2007 decision. The Authority is aware of stakeholders' concerns that, in practice, this test is too high. Therefore, the Authority proposes to review the materiality threshold in the next review of QR's access undertaking and, to this end, will monitor closely the operation of the materiality threshold over the remaining regulatory period.

Written notice

This letter constitutes a written notice for the purposes of cl. 3.8 of Part B of Schedule F of the access undertaking.

In accordance with cl. 3.8 of Part B of Schedule F of the access undertaking, the Authority requires that the amendments to Schedule F apply from 30 June 2007.

In accordance with cl. 3.8 of Part B of Schedule F of the access undertaking, QR is required to publish a new version of Schedule F and advise access holders and access seekers that an amended Schedule F has been approved.

Yours sincerely



Brian Parmenter
Chairperson