

2 October 2009

Mr John Hall
Chief Executive
Queensland Competition Authority
BRISBANE QLD 4001

Dear Mr Hall,

The Queensland Resources Council (QRC) appreciates the opportunity to provide this response to assist the Authority's assessment of QR Network's 2008-09 revenue-cap variation application for coal train services operating in central Queensland.

As part of the finalisation of the 2006 Access Undertaking, all stakeholders ultimately endorsed the adoption of a hybrid revenue-cap regulatory regime following an extensive consultation and review process. It is important to note that the revenue-cap framework was sought by QR Network to remove its exposure to volume risk – by means of any over/under recovery of QR Network's approved regulated revenues being returned/recouped through reference tariff adjustments in later years (revenue-cap adjustment). As a result, the observed 2008-09 revenue short-fall (representing \$27.7 million) will be recovered through adjustments to access charges levied on end-customers (coal companies) in the future.

Currently, end-customers generally contract with above-rail operators (QR National and Pacific National), and above-rail operators contract directly with QR Network, therefore it is somewhat problematic to verify the indirect contractual relationship between end-customers and QR Network. As a result, only QCA and QR Network have the necessary detailed information to assess this application – this includes the essential elements of:

- the approved regulatory demand and tariff revenue forecasts, by individual train service;
- the contracted demand profile of the QR Network's access agreements, by individual train service; and
- access to QR Network's financial models used to determine revenue adjustments.

In the absence of the above information necessary to assess QR Network's application, QRC is largely constrained in its ability to draw any conclusions or make absolute recommendations. As such, the process of independent verification by the Authority (including consultation with individual coal companies) is an important means of ensuring sufficient transparency to determine the eventual revenue adjustment required to reflect QR Network absolving itself entirely of any volume risk.

Past revenue-cap assessments have focused heavily on the process to calculate the necessary revenue adjustment, although have not provided any explanation outlining the underlying reasons for, or reasonableness of, the proposed revenue-cap variation to apply. The provision of contextual operational data would assist in explaining the significance and principal drivers of the material variations implied in QR Network's application. This is especially important, as end-customers will be liable for future increases/decreases in access charges to recover/return any approved revenue variation.

Industry relies heavily on the QCA undertaking a thorough assessment of this application, and requests that QCA maximises transparency, subject to substantiated confidentiality constraints, in order to assist end-customers confirm and understand the nature of the proposed revenue adjustment sought. To assist, QRC has attached a range of matters that may require consideration by the QCA in order to assist the consideration of the proposed revenue-cap variation.

Should you wish to discuss any of the issues raised in this submission, please do not hesitate to contact Russell Silver-Thomas, Adviser – Industry Policy, on (07) 3295 9560.

Yours sincerely

Michael Roche
Chief Executive

Proposed matters to be considered within QCA's assessment of QR Network's application

QRC offers the following issues and proposals as matters which the QCA should consider in order to complete the assessment of the proposed revenue-cap variation applications. These include:

- QCA engaging an independent consultant to assess QR Network's financial models to ensure these are correctly calibrated to determine the revenue-cap variation amounts.
 - QR Network's financial models need to be thoroughly tested and independently audited in order for industry to be confident in the revenue variation assessment.
 - Reconciling the actual tonnages railed by origin-destination (and therefore revenue received by origin and destination) with available volume data.
 - Reviewing financial model parameters and assumptions to ensure they are consistent with the provisions of QR Network's approved access undertaking and relevant regulatory decisions.
- Reviewing QR Network's access agreements, including the application of below-rail 'take or pay' to grandfathered and 2001 Access Undertaking train service entitlements.
 - Reconciling the 'take or pay' liabilities by each individual train service (as per the internal access agreement) by application of the requirements of the relevant standard access agreement conditions.
 - QRC notes that while grandfathered paths are included within QR Network's access agreement, there is insufficient information available to verify the application of these contractual provisions in relation to 'take or pay' (deemed collected) liabilities. In particular, the appropriate treatment of the transitional 'take or pay' arrangements which apply to these train services.
 - Internal access agreements (including grandfathered paths) should be audited against QR Network's 'take or pay' model.
- QCA provide information from each QR Network financial model which relates to each individual train service to the respective end-customer (relevant mine operator), in order for this information to be independently verified. This would include:
 - Identification of the applicable internal access agreement (and/or other relevant contractual documents) which relates to these end-customer train services by origin-destination and train paths – including expiry date and details of the relevant terms and conditions (such as whether the path was grandfathered).
 - The below-rail 'take or pay' revenue deemed recovered under the internal access, or related agreement.
 - The actual number of 'QR Network Cause' events directly relating to each individual train service (by origin-destination) and the number allocated by the proposed pro-rata methodology (including the financial impact of this allocation on 'take or pay' liabilities).
- Ensure QR Network's proposal excludes all revenues arising from access facilitation agreements or rebate agreements, and relates solely to the relevant revenue-cap provisions of QR Network's approved access undertaking.
- The approved revenue-cap adjust reflects the QCA's ultimate approval parameters of the Lake Vermont Draft Access Undertaking process, which is currently being undertaken by the QCA.
- Assessment of all revenue from coal carrying-train services (including that relating to test trains identified within QR Network's submission), be included within the assessment process.