

21 November 2008

Mr John Hall
Chief Executive
Queensland Competition Authority
GPO Box 2257
BRISBANE QLD 4001

Dear Mr Hall

The Queensland Resources Council (QRC) appreciates the opportunity to provide this response to the reference tariff variation proposed by QR Network. QRC notes that this process is the second revenue-cap variation application which has been undertaken due to the implementation of a revenue-cap form of regulation for coal carrying train services in central Queensland. Given the financial implications on tariffs, QRC offers all relevant assistance to complete this review.

Industry supports this process being managed in a transparent manner – there are considerable benefits in providing sufficient information, particularly to individual end-customers, to enable independent consideration and verification of QR Network's proposal.

As end-customers generally contract with QR National and QR National contracts with QR Network, it is difficult to verify the 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 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 information necessary to assess QR Network's application, QRC is largely constrained in its ability to draw any conclusions or make absolute recommendations. In order to address this, industry considers that there is merit in providing relevant operational data to inform the reasonableness of the proposed tariff variation to apply.

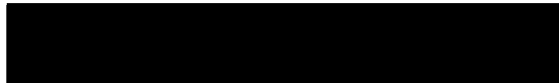
Indeed, contextual operational data would assist in explaining the significance and drivers of the material variations which are implied in QR Network's application— especially relating to the electric infrastructure access charge (AT5). Industry relies heavily on QCA undertaking a thorough assessment of this application, and would appreciate understanding the underlying factors which have resulted in material variations to be recovered in future access charges.

In addition, QRC has attached a range of matters that may require consideration by QCA in order to assist the consideration of the proposed revenue-cap variation sought.

Industry continues to request 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 being sought. Industry acknowledges that QR Network has absolved itself entirely of volume risk; consequently identification of the impact on future access charges and the methodology used to determine the revenue short-fall requires careful explanation to end-customers.

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

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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 QCA should consider in order to complete the assessment of the proposed revenue-cap variation application. 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.
 - 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 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 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.