

Amendments for Relinquishment Fee

The following are marked up amendments to Subclause 7.4.3 and the definition of "Relinquishment Fee" in Clause 10.1 of QR's 2005 Access Undertaking.

7.4.3 Capacity Relinquishment

- (a) This Subclause 7.4.3 describes when an Access Holder may relinquish Access Rights upon the payment of a Relinquishment Fee. This Subclause 7.4.3 also describes how this Relinquishment Fee may be reduced if QR enters into an Access Agreement with another Access Holder that has been identified by QR (provided that QR could not have entered into the Access Agreement in the absence of such relinquishment) in order to reflect the resultant variation in contribution to QR's Common Costs in relation to the section of corridor that is common between the relinquished Access Rights and new Access Rights.
- (b) Unless otherwise specified in the Access Holder's Access Agreement and provided the Access Holder has given QR reasonable notice of its intention to do so, an Access Holder may relinquish Access Rights upon payment of a Relinquishment Fee.
- (c) The period from the provision of the notice of intention to relinquish, pursuant to Paragraph 7.4.3(b), until the date of payment of the Relinquishment Fee shall not:
- (i) exceed two (2) years, where:
 - (A) Access Rights are to be relinquished under an Access Agreement that was executed on or after the Commencing Date; and
 - (B) that Access Agreement is for coal carrying Train Services (including those Train Services in relation to the Access Rights that are to be relinquished) operating in the Central Queensland Coal Region; or
 - (ii) exceed six (6) months, where Subparagraph 7.4.3(c)(i) does not apply.
- During such period, the terms of the Access Agreement will continue to apply in respect of the Access Rights which the Access Holder intends to relinquish.
- (d) QR will reduce the Relinquishment Fee in accordance with Paragraph 7.4.3(f) if:
- (i) a new Access Holder has entered into an Access Agreement with QR in respect of Access Rights that QR could not have provided without using the whole or part of the relinquished Access Rights;
 - (ii) following the provision of the notice of intention to relinquish, but prior to the payment of the Relinquishment Fee, QR's obligation to provide

the Access Rights under the new Access Agreement has commenced; and

- (iii) no other Access Holder is seeking to transfer Access Rights in accordance with Subclause 7.4.4 or relinquish Access Rights in accordance with this Subclause 7.4.3 that more closely resemble the Access Rights sought by the new Access Holder.
- (e) Where QR identifies an opportunity for it to enter into an Access Agreement with an Access Seeker that would result in a reduction to an Access Holder's Relinquishment Fee pursuant to Paragraph 7.4.3(d), QR will not unreasonably delay the process for negotiating and executing an Access Agreement with such Access Seeker.
- (f) Subject to Paragraph 7.4.3(h), QR will reduce the Relinquishment Fee by subtracting from it the product of the Relinquishment Fee and the Reduction Factor. To the extent that the new Access Holder's average contribution to Common Costs per train kilometre for its relevant Train Service is less than the existing Access Holder's average contribution to Common Costs per train kilometre for its relevant Train Service, the Reduction Factor will be decreased in proportion to the relative contribution.

Deleted: g

(g) Where:

- (i) Access Rights are to be relinquished under an Access Agreement that was executed on or after the Commencing Date; and
 - (ii) that Access Agreement is for coal carrying Train Services (including those Train Services in relation to the Access Rights that are to be relinquished) operating in the Central Queensland Coal Region,
- the amount payable by the Access Holder to QR under Paragraph 7.4.3(b) will not exceed fifty percentage points (50%) of the Relinquishment Fee (as determined prior to any reduction under Paragraph 7.4.3(f)).

- (h) In no circumstances will the Relinquishment Fee be reduced to less than zero (0).

Deleted: g

Clause 10.1

"Relinquishment Fee" means:

- (i) in respect of an Access Agreement that includes an obligation to pay take or pay in the event that an Access Holder does not operate Train Services:
 - (A) for Train Services other than those specified in Subparagraph (i)(B) of this definition, the amount equivalent to the present value of the payment of the take or pay amount that would have been payable for the remainder of the term of the Access Agreement if the Access Agreement remained on foot but the Access Holder did not operate the relevant Train Services; or
 - (B) for coal carrying Train Services included in Access Agreements in place on the day immediately prior to the Commencing Date, the amount equivalent to the payment of the take or pay amount that

Deleted: subject to Clause 3 of Part B,

would have been payable for the following two (2) year period if the Access Agreement remained on foot but the Access Holder did not operate the relevant Train Services;

- (ii) in respect of an Access Agreement other than those nominated in Subparagraph (i), the amount that would have been contributed over the following two (2) year period to the Common Costs of providing the Rail Infrastructure as the result of operation of the relevant Train Services and payment of the applicable Access Charge;