

## **PREAMBLE**

On 30 June 2006, the Authority approved a replacement for QR's 2001 access undertaking.

### **QR's 2006 Access Undertaking**

The 2006 access undertaking sets out the terms and conditions under which QR will provide access to the parts of its rail infrastructure that are covered by the undertaking. It also addresses the processes required for an access seeker to negotiate access to the infrastructure and for the resolution of any disputes in relation to access. The undertaking has been developed from existing arrangements, taking account of matters identified in the Authority's December 2005 decision on QR's previous application (2005 DAU) as well as subsequent stakeholder submissions and discussions.

QR's 2006 access undertaking provides for an average reduction of 17% in central Queensland coal tariffs and 20% in Western System coal tariffs.

The reduction in central Queensland tariffs is smaller than was foreshadowed in the Authority's December 2005 decision for three main reasons: a move from a five-year to a four-year regulatory period; an increase in the global capital expenditure provision; and a reduction in demand forecasts for 2005-06. However, the asset value underlying the central Queensland reference tariffs in the 2006 undertaking is consistent with the Authority's December 2005 decision, as are other key components of the tariffs, such as the weighted average cost of capital.

Key changes from the 2001 access undertaking include:

- a process to keep line diagrams up to date while ensuring that changes to declared infrastructure reflect the requirements of all access seekers;
- a provision that in calculating coal reference tariffs or common-cost contributions the distance taper will take account of the length of non-declared rail infrastructure as well as the length of declared rail infrastructure over which coal is transported;
- better definition of QRNA's roles and responsibilities — including more detailed and robust ring-fencing obligations and requirements for QRNA to adopt clear decision-making processes;
- a queuing mechanism that allows access seekers to reserve capacity during negotiations;
- a master planning process to provide robust and transparent management of the future development of the central Queensland coal network;
- a more streamlined and certain process to establish new reference tariffs and standard access agreements; and
- increased transparency through enhanced public and regulatory reporting provisions.

The 2006 access undertaking recognises that a number of matters remain unresolved, in particular measures to mitigate QR's exposure to coal volume fluctuations. The undertaking includes processes to resolve these outstanding matters over the course of 2006-07.

### **Stakeholder Consultation on the 2006 Access Undertaking**

Aware that delays in approving a replacement for QR's 2001 access undertaking had the potential to disrupt investment in rail infrastructure, the Authority conducted its assessment of QR's 2005 DAU

with a view to being in a position to approve a replacement undertaking before the original expiry date of the 2001 undertaking. Unfortunately, this objective was not achieved.

To minimise any further delay that might have followed from QR's Supreme Court application for Judicial Review of the Authority's December 2005 decision, the Authority entered into discussions with the other parties to the Judicial Review, QR and the Queensland Resources Council (QRC). The parties' shared aim was create an opportunity for the Authority to approve a replacement undertaking by 30 June 2006. This has been achieved.

Public stakeholder consultation in the process leading to the approval of the 2006 access undertaking had two main phases: consultation with respect to the Authority's December 2005 decision and consultation with respect to 2006 draft access undertaking submitted by QR on 9 June 2006 (2006 DAU). In the second of these two phases, a relatively short period was allowed for the preparation of submissions; some stakeholders have expressed concerns about this. However, many of the changes included in the 2006 DAU were required by the Authority's December 2005 decision — for these matters, stakeholders had an opportunity to raise issues in the first phase of public consultation and the Authority considered comprehensively the matters raised then. QR's 2006 DAU differs from the Authority's December 2005 decision in only a limited number of respects. These were identified and discussed clearly in the Position Paper issued by the Authority to promote discussion on the 2006 DAU. By and large, stakeholders took the opportunity to comment on these aspects of the 2006 DAU. Given the narrow focus of the new issues, the Authority considers that stakeholders were provided with sufficient time to comment on the 2006 DAU.

The QRC and BHP Billiton Mitsubishi Alliance (BMA) have indicated clearly their view that the Authority should approve QR's 2006 DAU.

Pacific National argued that the rail access regime in Queensland was not working and that QR's 2006 DAU was too complex. Pacific National argued that the Authority should not approve the 2006 DAU but should await the outcome of a forthcoming Government review of the QCA Act. However, the Authority must perform its functions consistent with the requirements currently laid out in the QCA Act. The Authority does not believe it would be prudent to delay a decision on QR's 2006 DAU given the continuing uncertainty this would create for the providers and users of rail infrastructure in Queensland. Moreover, the Authority considers that the 2006 DAU contains a number of significant improvements on the 2001 undertaking and that these should not be denied to QR, access seekers and users of infrastructure

The Authority notes the desire of Ensham Resources and the QRC to comment more broadly on the 2006 undertaking upon the completion of the review of those issues that are not fully resolved by the 2006 undertaking (eg, management of volume risk).

## **Final Approval**

In making this decision, the Authority has reconsidered all of the matters it considered in making its December 2005 decision (including submissions received from interested stakeholders in relation to the 2005 DAU) and has reassessed each of the factors to which it is required to have regard under the QCA Act.

The Authority's reasoning and conclusions generally remain consistent with its December 2005 decision. The body of the current decision focuses primarily on:

- the basis for any changes in the Authority's reasoning from that set out in the December 2005 decision; and
- the differences in drafting between the 2006 DAU and the 2005 DAU, including an explanation of how the drafting of the 2006 DAU is consistent with the principles set out in the Authority's December 2005 decision that the Authority considers should remain applicable.

Having considered all of the submissions received, the Authority confirms that the preliminary views and supporting reasoning set out in its June 2006 Position Paper are its final views and reasoning, except to the extent expressly set out in this decision.

With respect to issues on which no submissions have been received from stakeholders, the Authority simply refers to its reasoning as set out in the June 2006 Position Paper or the December 2005 decision (rather than restating that reasoning within this decision).