



21 October 2013

Dr Malcolm Roberts
Executive Chairman
Queensland Competition Authority
GPO Box 2257
Brisbane QLD 4001

By email: rail@qca.org.au

Dear Dr Roberts,

Asciano Comments on Aurizon Network's Draft Capricornia Rules – Submissions on New Matters

Introduction and Background

This Asciano submission is in response to the Queensland Competition Authority (QCA) correspondence dated 16 September 2013 regarding the QCA request to receive further comment on Aurizon Network's draft Capricornia System Rules. Asciano has previously made submissions to the QCA on the draft Capricornia System Rules in October 2011 and August 2013.

Asciano notes that the Aurizon Network submission to the QCA on the QCA's Draft Decision on the draft Capricornia System Rules includes a redrafted version of the Capricornia System Rules. Asciano understands that the QCA is seeking submissions on these redrafted Capricornia System Rules.

This submission is public.

Asciano Concerns with Aurizon Network's Redrafted Capricornia System Rules

Asciano has several concerns with Aurizon Network's Redrafted Capricornia System Rules as outlined below.

General Comments on the Redrafted Capricornia System Rules

Status of Redrafted Capricornia System Rules

Asciano has a broad concern in regard to the regulatory process in this current instance of the Redrafted Capricornia System Rules. Currently the QCA has to make a decision on the proposed Capricornia System Rules submitted by Aurizon Network to the QCA in August 2011. However, via its submission to the QCA Draft Decision Aurizon Network now appears to be proposing a revised set of Capricornia System Rules without withdrawing the previously proposed Capricornia System Rules.

Asciano believes that Aurizon Network should clarify whether it intends to withdraw the draft Capricornia System Rules submitted in August 2011 and formally resubmit the revised Capricornia System Rules contained in its submission to the QCA Draft Decision.



System Rules and the Regulatory Process

As raised by Asciano in other recent submissions relating to system rules, system rules sit under the Network Management Principles in the 2010 Access Undertaking. Given the next Access Undertaking is expected to be finalised in June 2014 Asciano is seeking clarification as to how the Capricornia System Rules submitted under the 2010 Access Undertaking will be amended to align with the changes expected in the 2014 Access Undertaking.

Asciano is concerned that:

- under the 2014 Access Undertaking there is a potential lack of regulatory oversight of future system rule amendments, and consequently Asciano believes that system rules should be included in the access undertaking; and
- the Capricornia and North Bowen Basin system rules should both be reviewed and approved in a consistent manner.

Aurizon Network Consultation

Asciano notes that in the Aurizon Network covering letter to its submission dated 21 August 2013 it states:

Over the coming month, Aurizon Network will be undertaking stakeholder consultation sessions to provide stakeholders with further details on the Capricornia System Rules and seek feedback on the proposed changes.

Asciano is the major third party user of the Capricornia System and has not been involved in any genuine consultation with Aurizon Network on the details of the Capricornia System Rules to date.

Specific Comments on the on the Redrafted Capricornia System Rules Identified by the QCA

Asciano notes that the QCA correspondence dated 16 September 2013 raises several areas where the QCA is seeking specific comment, namely the maintenance multiplier and the coal supply chain objective.

Maintenance Multiplier

The QCA Draft Decision sought further transparency and consistency in relation to the details of the proposed maintenance multiplier. The Redrafted Capricornia System Rules in Aurizon Network's August 2013 submission introduce:

- a maintenance reduction factor, which reduces paths on maintenance days; and
- a framework for determining adjusted weekly train service entitlements based on upward adjusted paths (calculated from maintenance multiplier) and downward adjusted paths (calculated from maintenance reduction factor).

The QCA are seeking comment on whether the revised maintenance-multiplier approach is sufficiently transparent and whether it has sufficient regard to relevant supply chain constraints.

While these changes clarify the maintenance multiplier Asciano remains concerned with the



concept and application of the maintenance multiplier. In particular, under the maintenance multiplier Aurizon Network may not provide paths which they are required to provide under contract. For example the maintenance multiplier continues to be applied to weekly Train Service Entitlements and not contracted monthly Train Service Entitlements.

In essence, Aurizon Network are establishing a process whereby they shift the impact and obligations of their non-performance on to other parties in the supply chain with no consideration as to whether other parties in the supply chain can carry their non-performance. Under this process Aurizon Network are not required to meet their contractual obligations, while other parties are required to meet their obligations.

Further to the issue of the maintenance multiplier Asciano queries what would occur if only a section of the network was impacted and, say, 25 per cent of access holders were impacted. The pro-rata methodology of the multiplier is applied across the system as a whole and therefore this may be inequitable for those Access Holders that were not physically impacted and who should not be impacted by the multiplier.

Asciano believes that the maintenance multiplier is a method used by Aurizon Network to reduce losses attributable to Aurizon Network cause without consideration of other participants in the supply process. Asciano notes that the North Bowen Basin System Rules do not contain a maintenance multiplier and queries whether the maintenance multiplier is needed in the Capricornia system.

Coal Supply Chain Objective

The QCA Draft Decision sought clarity on what objectives and criteria would be used to assess recovery solutions for the supply chain when delays occur on the day of operation. In response Aurizon Network has proposed that the following principles will be used:

- maximise the system available pathing for the equitable distribution of train service entitlements;
- maximise system throughput; and
- minimise parcel build times, which refers to how long it takes to assemble the coal from various miners at a port ready to load onto a ship.

The QCA are seeking comment on whether this a reasonable set of supply chain objectives to be used in preparing the intermediate train plan and whether these objectives should extend to Aurizon Network's day-of-operation train-control decisions.

Asciano believes that the objective of the coal supply chain is to maximise system throughput. This should be the objective. Other issues such as pathing and build times should be determined by reference to this over-arching objective.

Other Comments on the on the Redrafted Capricornia System Rules

In addition to the comments above, Asciano has a number of further comments on the Aurizon Network Redrafted Capricornia System Rules.

In general Asciano notes that in numerous instances the Redrafted Capricornia System Rules Aurizon Network has replaced concepts in the System Rules rather than removing them or amending them as suggested by the QCA in their Draft Decision. For example:



- the QCA Draft Decision requested Aurizon Network to make available cyclic MTP train paths overlaid on top of timetable and possession paths. Aurizon Network has instead offered a separate suite of documents being the Critical Asset Constraint Summary, Scheduling Constraint Summary and the MTP Train Graph;
- the QCA Draft Decision requested changes to the definition of Below Rail Network Paths. Aurizon Network has not addressed this, instead Aurizon Network has introduced the term Mainline Path.
- QCA Draft Decision requested a series of reporting requirements on pathing. Though Aurizon Network argued that there is already sufficient reporting on pathing (for example, in the access agreements and the undertaking), and has consequently rejected the QCA's request for additional reporting.

1.2 Governance Framework

As outlined above Asciano is concerned that there is a lack of regulatory oversight of future system rule amendments, and consequently Asciano believes that system rules should be included in the access undertaking. At the very least section 1.2 of the Capricornia System Rules should include a provision that any changes to the System Rules must go through a QCA consultation and approval process.

In addition section 1.2 of the Capricornia System Rules must allow other parties to be able to initiate a process to change the Capricornia System Rules (as currently drafted the System Rules only allows Aurizon Network to modify System Rules).

More generally Asciano believes that the governance framework applying to the Capricornia System Rules must as a general principle provide access holders with the same rights as Aurizon Network. Thus, for example, both parties must have the same rights in regard to dispute processes, changing the system rules and the cancellation resolution process.

2.1 System Paths

The Redrafted Capricornia System Rules defines dwells as:

The Dwells for a Train Service are taken into account and included in the cycle time for that Train Service and consequently in the scheduling process. The Dwell may include provisioning activities and crew changes. Specific Dwells are identified in the Access Agreement, and Operating Plan, for the Train Service.

In addition the Port Unloading Slot is defined as a dwell in the Redrafted Capricornia System Rules. This has the consequence that the Port Unloading Slot may be excluded from various Aurizon Network performance metrics and calculation processes.

This definition of dwell is inconsistent with the definition of dwell in the Access Undertaking

"Dwell" means the short-term storage of Trains on Rail Infrastructure at locations specified by QR Network as required for crew changes, meal breaks and on Track maintenance, examination and provisioning of that Train

Asciano believes the definitions should be aligned and, in particular it should be clarified that the dwell does include provisioning activities and crew changes as stated in the Access Undertaking definition. In addition the Port Unloading Slots should not be considered a dwell.

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3.2.1 Critical Asset Alignment Calendar

While Asciano welcomes the availability of the Critical Asset Alignment Calendar (CAAC) Asciano does not believe that this document provides sufficient visibility of the capacity that the network can handle on any given day. Asciano believes that further information should be provided so that there is sufficient visibility of the capability of the network on any given day that allows better planning ability to stakeholders in the supply chain.

4.1.1 Ordering Process

The Redrafted Capricornia System Rules state that:

For changes to Train Orders, or requests for additional Train Services after 12:00 hours on the Wednesday prior to the Weekly Period of operation, Aurizon Network will schedule these on a best endeavours basis only.

Asciano believes that due to this process for orders made after Wednesday for the following week it is actually an eleven day plan. This makes the process closer to a two week plan rather than a weekly plan.

Asciano is strongly concerned with the concepts underpinning the ordering process. In essence, under the Aurizon Network ordering process Aurizon Network only has to deliver the paths ordered rather than the Train Service Entitlements contracted. This is of a particular concern as take or Pay obligations are linked to Train Service Entitlements rather than paths ordered. Asciano believes that Aurizon Network should meet its contractual obligations and deliver the Train Service Entitlements contracted.

4.2.2 Allocating TSEs to paths – Contested Train Path Principles

The Redrafted Capricornia System Rules (page 18) provides a tabulated example of Train service Entitlement consumption which includes the definition:

YTD Provided = the greater of the YTD MTP TSE Allocation or the TSE Consumed Services.

Asciano strongly believes that the “YTD Provided” should only be the TSE Consumed Services, otherwise the “FY Provided” percentage in the table is misleading as its calculation would include services that was not actually operated by the access holder.

5.1 48 Hour Lockdown and 7.4 TSE Consumption Rules

The 48 Hour Lockdown concept (whereby if an access holder requests alterations less than 48 hours prior to operation additional Train Service Entitlement Consumption may result) should be a reciprocal concept. Thus if Aurizon Network seek to cancel or shift train paths in this 48 Hour Lockdown they should have to provide the alternative paths without impacting on the relevant users Train Service Entitlement Consumption.

Further to this issue Asciano believes that Aurizon Network variances from their three week lockdown period in their Four Week Pathing Availability Plan should be considered Aurizon Network cancellations.

7.1 Types of Requests to Alter Train Services

Aurizon Network appears to have introduced a new service alteration rule under sections 7.1

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of the System Rules “EU Access Holder variation to Operators”. This new rule gives the ability to an end user to vary or withdraw their nominated operator’s train service. Asciano believes that it must be clarified that an end user can only vary or withdraw services for which they directly hold the Access Rights.

7.3 Schedule Alterations for Possessions

Alterations to the daily train plan due to possessions under the Redrafted Capricornia System Rules section 7.3 must result in a loss identified as an Aurizon Network cause loss. It should not be identified as a cancellation or a delay by the Access Holder.

8.3.3 Delay Cause Identification and 8.3.4 Cancellation Cause Identification

The Redrafted Capricornia System Rules section 8.3.3 Delay Cause needs to be extended beyond delays that occur on or after the commencement of that service. Delays could occur prior to the service.

The Redrafted Capricornia System Rules suggests that any disputes regarding Delay Cause can be addressed via the dispute resolution mechanism in access agreements. Asciano believes that the access agreement dispute resolution process is too costly to be used in determining issues such as Delay Cause and in any event the access agreement dispute resolution process is not intended for determining regularly occurring operational issues such as Delay Cause.

Similarly the dispute process offered for train cancellations is flawed. Basically the process appears to be that if the parties cannot agree in the first instance then Aurizon Network will decide the Cancellation Cause with no further appeal process. This has the potential to impact heavily on both performance data and Take or Pay outcomes.

Asciano believes that in relation to both Delay Cause and Cancellation Cause it may be more appropriate for the operator to have the final decision as to the nature of the Delay Cause or Cancellation Cause.

Other Comments on the on the Redrafted Capricornia System Rules Supporting Submission

In addition to the comments above Asciano has a number of further comments on the Aurizon network supporting submission submitted with the Aurizon Network Redrafted Capricornia System Rules.

Section 2.1.1 Master Train Plan to be developed in the form of a Train Graph

Aurizon Network has proposed that they will develop the Master Train Plan using their APEX system; however APEX will not be in place till April 2014 at the earliest. Asciano believes that in any Final Decision the QCA must outline what data the Master Train Plan is to include, both from the APEX tool and more generally. Asciano is concerned that the Master Train Plan may contain information that is not relevant or useful for users.

Section 2.2.1 Defining Network Paths

Asciano does not agree with Aurizon Network’s refusal to define “Below Rail Network Paths” and their replacements of the concept with the term “Mainline Paths”. Asciano believes that the impact that such a change in definition has on capacity allocation should be clarified by Aurizon Network.

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Section 2.2.2 Reporting Requirements

Aurizon Network states that KPI reporting is better served as part of access agreements with Access Holders. Asciano addresses the issues of KPI reporting in its submission to the QCA on the 2013 Draft Access Undertaking¹ and agrees that improved and regular KPI reporting on an access agreement basis is essential.

There is currently no useful or relevant KPI reporting in Aurizon Network individual access agreements with third party access users at this current point in time, and as outlined in the Asciano submission to the QCA on the 2013 Draft Access Undertaking² the current KPI reporting under the access undertaking is not particularly useful or relevant.

Aurizon Network proposes that “non-Reference Train Services” be treated outside of the System Rules and instead within access agreements. Asciano believes that all train services must be subject to the same set of system rules. If Aurizon network has the power to unilaterally exempt some train services from the system rules and / or differentially negotiate with some train operators to exempt some train services from the system rules then such power raises strong concerns with regard to the potential for discriminatory behaviour by Aurizon Network.

Aurizon Network makes reference to the assessment of “Supply Chain Operating Assumptions”. Asciano strongly believes that these assumptions must be developed in conjunction with all supply chain participants and cannot be determined unilaterally by Aurizon Network.

Section 3.3.1 Train Service Entitlement Determination

Aurizon Network states that

... the System Rules can be improved to provide more clarity around the process for determining TSE Obligation. This has been incorporated into the drafting as follows: rounding assumptions have been included within Section 3.2

Asciano believes that the reference is incorrect as section 3.2 of the System Rules refers to “Asset Activity Planning”.

In any event Asciano does not believe that Aurizon Network has fully addressed the issue of Train Service Entitlement determination. The Redrafted Capricornia System Rules contain no consistent method or formula outlining the calculation of indicative weekly Train Service Entitlements. (Asciano notes that the North Bowen Basin System Rules has a Train Service Entitlement formula which, as noted in the Asciano submission³ on the North Bowen Basin System Rules is inconsistent with access agreement calculations of Train Service Entitlements).

Section 3.2.2 Train Service Entitlement Consumption

¹ Asciano (2013) Submission to the Queensland Competition Authority in Relation to the 2013 Aurizon Network Draft Access Undertaking October 2013 Section 6.2

² Asciano (2013) Submission to the Queensland Competition Authority in Relation to the 2013 Aurizon Network Draft Access Undertaking October 2013 Section 6.2

³ Asciano (2013) Submission to the QCA Review of the Aurizon Network North Bowen Basin System Rules September 2013 pages 9-10

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Aurizon Network has not accepted the QCA's recommendation to remove penalties associated with cancelling a service where the path can be taken up by another party. Asciano continues to support the concept where, if within the 48 hour period, an Access Holder's cancelled service is taken up by another Access Holder, then the cancelled service is not treated as the consumption of a train service entitlement.

Conclusion

Asciano has numerous concerns with the redrafted Capricornia System Rules as outlined above. Asciano is seeking that these concerns be addressed before the Capricornia system rules are finally approved by the QCA.

In addition Asciano is seeking that the status of the redrafted Capricornia System Rules be clarified.

Feel free to contact me on 02 8484 8056 to discuss this submission.

Yours faithfully



Stuart Ronan
Manager Access and Regulation

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