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Malcolm Roberts
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29 May 2015

Aurizon Network 2014 Draft Access Undertaking: Capacity Transfer Mechanism

Dear Malcolm

Aurizon Operations (Aurizon) welcomes the opportunity to respond to the QCA's supplementary draft decision on Aurizon Network's proposed Capacity Transfer Mechanism.

As noted in Aurizon's submission on the Draft Decision on the DAU Pricing and Policy paper, the position of Aurizon is to support this mechanism to the extent that it provides flexibility to the coal chain but not at the expense of other stakeholders being adversely affected.

This submission will address those areas where Aurizon is of the view that the QCA's proposed changes limit the flexibility and workability of the mechanism proposed by Aurizon Network following consultation with a diverse range of industry participants.

Scope of participation

The QCA has proposed that both non-coal traffic and access seekers should have the benefit of the mechanism as it relates to the Central Queensland Coal Network (CQCN). Aurizon's view is that extending the scope of the mechanism to these parties may limit its efficiency, and is not reflective of the intent of the mechanism proposed.

The QCA's proposal does not adequately contemplate the complexity of operations for non-coal traffic through the CQCN. Such a transfer would, in most cases, require approval from the other network provider to secure the relevant path. If the rules of the transfers, as presently drafted, are applied to non-coal traffic, it is difficult to envisage whose access rights they are transferring, given there would generally be no like for like services to transfer.

The application of the mechanism to access seekers does not advance industry's desire for a flexible and timely transfer mechanism. The QCA's proposal requires that access seekers have all contractual obligations in place before the transfer can take effect. This requirement could delay the transfer of the rights sought in that application where the request is within a 48 hour to three month application timeframe, stifling the efficiency and efficacy of the mechanism and potentially exposing the transferor to unintended risks and exposures, particularly if it retains the liability for those rights the subject of the transfer.

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The QCA's transfer framework (criteria, timeframes, pricing)

The QCA has proposed an amended transfer framework that effectively eliminates what is considered to be a traditional transfer. In doing so, the QCA has reshaped the transfer process, including the pricing of transfers.

The mechanism proposed by Network was intended to operate separately from the existing framework to facilitate transfers on a short-term basis between access holders, at no cost and was agreed with industry in the development of the 2010 Access Undertaking[1].

Aurizon generally supports the concept of criteria A and B transfers outlined in the Draft Decision. However, Aurizon is of the view that different destinations can be accommodated within the type A transfers, particularly where multiple ports are located within the same vicinity, for example Gladstone. The focus for the capacity assessment should be on the consumption of the mainline capacity, rather than scheduling at the relevant ports. The risk of capacity not being available could be further mitigated by the transferee being able to demonstrate they have the relevant unloading capacity at the port.

In the QCA's draft decision, it is apparent that transfers not previously subject to transfer fees would be subject to the higher of the applicable access charge for the relevant transfer. This is a dramatic shift from the existing contractual framework.

The changes proposed also amend the pricing of transfers in a material way, adding additional complexity to access pricing and potentially to the detriment of access holders. The changes are consistent with the broader themes in the QCA's draft decision to adopt a more accountable approach to the user pays concept and the unwinding of socialisation of volume and utilisation risks.

Aurizon considers the efficiency of the socialisation of volume and utilisation risk in the CQCN has not been subject to a robust and systemic cost and benefit or impact analysis. Therefore, the transfer pricing proposal requiring the recipient of the transferred access rights to pay an access charge which is consistent with the reference tariff, but adjusted by a revenue equivalence factor, should only be contemplated following this review.

Notwithstanding, the arrangements are subject to a range of administrative complexities that impair the efficacy of the transfer arrangements and create disincentives for its application. These include:

- Contractual variation and potential disputes on the derivation of the access charge adjustment;
- Application of differentiation access charges for access holders who operate both contracted and transferred services from the same origin;
- Potential billing complexities and increased compliance risks due to billing errors;

[1] See clause 7.3.6(l)(ii)

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- Conflicting objectives in relation to the estimation of gtk and ntk forecasts used in the annual reference tariff review process; and
- Inconsistency with the terms of access agreements which could require an access holder to pay both an upfront transfer fee and an ongoing adjusted charge.

An effective transfer mechanism should be administratively efficient and not create disincentives to achieve the objectives of transfers subject to an appropriate and industry accepted level of socialisation of utilisation risks.

In addition, the draft decision only addresses how transfer pricing will be impacted for different generations of access agreements, to the extent that the latest relevant access agreement will apply if there is a transfer between different generations. Therefore, there is uncertainty as to whether particular types of transfers are intended to apply to access holders that do not hold UT4 access agreements (eg pre-approved transfers) or whether the two year 'free' transfer provisions will continue to have effect for UT3 access holders.

Aurizon is supportive of timeframes that provide the flexibility required to facilitate the mechanism efficiently. However, transfers that are permitted to occur within the post-Intermediate Train Plan (ITP) environment need to be supported by robust and real-time systems that can track those transfers and note consumption against the relevant access agreement for the purposes of the Network Management Principles and Contested Train Path decision making. Aurizon is also cognisant of potential scheduling issues that may occur within the day of operations and post-ITP environment that could impact capacity and the access rights of other access holders.

Governance and implementation

Aurizon notes the QCA's proposal to have the majority of the provisions for the capacity transfer mechanisms in the Undertaking and not access agreements. To this extent, Aurizon reiterates its views that contract provisions that impact on access rights and commercial arrangements are best left to contracts between the parties (ie access agreements) as that is the basis on which the parties contracted at the relevant time and should not be subject to future change and uncertainty between regulatory periods.

Should you have any questions in relation to the attached submission please contact Amy Kirk, Manager Access Commercial & Marketing by phone on 07 3019 9198 or via email at Amy.Kirk@aurizon.com.au.

Yours sincerely

Prue Mackenzie
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