



23 August 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 the QCA Draft Decision on the Aurizon Network June 2013 GAPE DAAU

Introduction and Background

Asciano welcomes the opportunity to make this submission to the Queensland Competition Authority (QCA) regarding their Draft Decision on the Aurizon Network June 2013 GAPE Draft Amending Access Undertaking (DAAU). This submission is public.

In September 2012, Aurizon Network submitted a DAAU relating to the GAPE reference tariffs. Aurizon Network withdrew this 2012 DAAU and submitted an amended DAAU in April 2013 and then withdrew this DAAU in June 2013 and submitted a further amended DAAU in June 2013. Asciano made submissions to the QCA on all of these Aurizon Network DAAUs.

Asciano Concerns with GAPE Pricing and the QCA Draft Decision

Longer Term GAPE Pricing

The GAPE DAAU addresses GAPE pricing for 2012-2013 and 2013-14, with pricing beyond 2013-14 being addressed via the UT4 process. Asciano is concerned that any QCA decision on GAPE pricing via the current regulatory process will set a precedent for GAPE pricing beyond 2013-14. Asciano believes that the GAPE pricing decisions made via the UT4 process should not be constrained by any decisions in the current regulatory process.

The Draft Decision (page 14) states

...it is not clear that any benefit would be obtained by GAPE users or existing Goonyella and Newlands users by applying an alternative pricing approach at this time (although the Authority notes that it has not, to date, rigorously tested alternative approaches).

Asciano urges the QCA to consider alternative GAPE pricing approaches in the UT4 regulatory process.

Asciano believes that in the longer term GAPE pricing must take into account:

- the cost impacts of synergies available via GAPE, Goonyella and Newlands operations and maintenance activities;

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- an appropriate contribution to common costs that should be reflected in GAPE pricing;
- a tariff structure and tariff level that better reflects the nature of GAPE incremental costs and common costs;
- the nature and appropriate regulatory treatment of returns which are greater than the regulated cost of capital; and
- the nature and appropriate regulatory treatment of possible future expansions or extensions which utilise GAPE infrastructure, and in particular whether increased volumes reduce costs for all GAPE users or a sub-group of GAPE users.

Asciano recognises that these issues are better addressed via the UT4 process but believes that the current GAPE pricing decision should not constrain future GAPE pricing decisions.

Pricing Based on Incremental Costs

As set out by Aurizon Network the GAPE pricing recovers the costs of the GAPE system, which have all been characterised as incremental costs, but does not recover the broader common costs which are recovered by reference tariffs for other Central Queensland coal systems. The GAPE tariffs are significantly higher than these other reference tariffs even though they do not include a contribution to these broader common costs.

Asciano believes that the fact that GAPE tariffs are higher than other system tariffs should not be a valid reason to not consider recovering a portion of these common costs. Asciano accepts that at the current time GAPE pricing does not need to recover these broader common costs as these costs are recovered by tariffs charged in other Central Queensland coal systems, but this should be re-assessed in the UT4 regulatory process. (For example, Asciano believes that to the extent GAPE services have an impact on Goonyella capacity then a re-adjustment of common costs borne by these two systems may be appropriate¹).

Asciano is concerned that all of the GAPE costs are characterised as incremental costs. Asciano believes that some of the costs of the GAPE system are better characterised as common costs for the GAPE system rather than incremental costs as these costs are associated with the provision of rail infrastructure which is not an incremental cost for any particular train service. Asciano is concerned that by characterising all costs as incremental costs this current regulatory process may set a pricing precedent, particularly in relation to the pricing for future extensions and expansions.

This is of particular concern as Asciano and Aurizon compete in the above rail sector, and by giving Aurizon Network the ability to characterise costs for some systems as incremental costs this results in other systems disproportionately bearing common costs. This in turn may create longer term pricing distortions. Asciano is concerned that this approach may be used by Aurizon Network to favour above rail activities in systems where Aurizon is dominant. In discussing this issue the Draft Decision focuses on the price impacts of incremental pricing for GAPE users in the short term. Asciano believes the QCA should also take into account how such pricing may develop in the future and how it may impact on above rail markets, new users and extensions and expansions.

¹ Further to this issue the Draft Decision page 11 indicates that the GAPE project does not affect the pricing for Goonyella system customers. As pricing is a function of capacity, Asciano believes that Goonyella customers will be affected the GAPE as it impacts on Goonyella system capacity.

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GAPE Tariff Structures

There is no prescribed methodology as to how costs are allocated to each tariff component, thus the GAPE DAAU sets out the various tariff components but the allocations on which these tariffs are based may act to disadvantage a certain category of users. For example by characterising the bulk of the GAPE costs as incremental costs the AT2 tariff for the GAPE is very large (approximately 10 times the AT2 tariff for the Goonyella system). The difference in the magnitudes of tariffs between different systems may send inappropriate price signals to system users. For example Asciano believes that the current GAPE tariffs act to discourage ad hoc train services using the GAPE.

Under the current tariff structures for other systems users who fund their own infrastructure (for example a spur line to a mine) may receive a system discount via the AT3 tariff which is an allocated component of the reference tariff. However, Aurizon Network, by defining the GAPE charges as incremental costs rather than allocated costs, limit the ability for users to receive such discounts. For example a privately funded spur to a mine that could use either the GAPE or Goonyella systems would receive a system discount via the Goonyella tariff but would not receive a system discount via the GAPE tariff. This arises due to the different treatment of costs as incremental or common costs in these two systems.

Asciano believes that a re-allocation of costs between the AT1, AT2, AT3 and AT4 GAPE tariff components may address this issue.

Pricing of Future Expansions and Extensions

The DAAU has the affect that any new services which use the GAPE beyond the services contracted under foundation customer agreements incur both the GAPE prices and any incremental costs of expansion. Asciano is concerned that to the extent additional volumes from new services reduce average prices then the DAAU may not lead to current customers receiving a benefit from these increased volumes via a lower GAPE price.

GAPE Pricing and the GAPE Deed

The Draft Decision (page 8) states that:

The Authority notes that it has also not sought to obtain the confidential GAPE and NAPE deeds from Aurizon Network at this time. This is because it is not clear that the deeds would be necessary for the Authority to make a decision on this DAAU. On this, the Authority is satisfied that the pricing arrangements proposed by Aurizon Network will only affect (and apply to) GAPE customers (who were already aware of the contents of those deeds).

Asciano notes that it has an access agreement with Aurizon Network for GAPE train services; however Asciano is not a signatory to the GAPE Deed. Given this Asciano believes that the QCA should review the position outlined in the Draft Decision that the GAPE DAAU will only affect GAPE customers who are aware of the contents of the GAPE deed. The GAPE DAAU has the potential to impact on service providers (such as Asciano) who are not signatories to the GAPE Deed.

More generally, the lack of transparency in the commercial arrangements relating to GAPE makes it difficult to assess if GAPE prices will be truly cost reflective for foundation users and new users.

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Cost Allocation

Asciano continues to have concerns as to how costs were allocated between the GAPE, Goonyella and Newlands systems. For example electric infrastructure costs on the Goonyella system are included in the GAPE tariff even though the GAPE is a diesel system. This raises concerns about whether the GAPE tariffs are truly cost reflective.

Asciano's broad concerns relating to cost allocation focus on the ability of Aurizon to shift costs between systems such that some systems disproportionately bear costs in such a way that this cost allocation is used to favour above rail activities in systems where Aurizon is dominant.

Asciano's concern regarding capital cost allocation was acknowledged by the Draft Decision (page 12) but the Draft Decision concludes that the allocation is appropriate. Asciano seeks that the QCA should also take into account how such allocations may impact on above rail markets and pricing in the future. To this end Asciano recognises that the QCA (Draft Decision page 14) explicitly stated that this current approval does not imply its acceptance of these allocation approaches in the future. Asciano believes that cost allocation approaches should be reviewed in UT4, where Newlands and Goonyella system tariffs can also be considered.

More specifically on the issue of electric infrastructure costs on the Goonyella system being included in the GAPE tariff Asciano believes that this issue should be considered more broadly in UT4 where Goonyella system tariffs can also be considered.

GAPE Reporting Obligations

Clauses 9.1 and 9.2 of the UT3 relate to the obligations of Aurizon Network to report performance and costs on a system by system basis. Asciano notes that in the DAAU clauses 9.1 j) and 9.k) allow for Aurizon Network and the QCA to agree to vary the reporting requirements of these clauses. Asciano believes that system performance and cost reporting obligations should have no scope to be varied in this manner. Asciano's view is that if the GAPE has separate tariffs and is treated a separate system then the GAPE should have the same performance and cost reporting obligations as all other Aurizon Network systems.

Asciano is particularly concerned that in the drafting of the system definitions there is a potential for an overlapping of the GAPE system with the Goonyella and Newlands system (this potential is recognised by the Draft Decision page 22). Given this potential for overlap and possible double counting of costs or revenues Asciano believes that system performance and cost reporting obligations should have no scope to be varied.

Conclusion

Asciano has numerous concerns with the proposed GAPE reference tariffs and the Draft Decision as outlined above. Asciano is seeking that these concerns be addressed before the GAPE reference tariffs and the GAPE DAAU are finally approved by the QCA. To the extent that these concerns are not addressed Asciano believes that they should be considered in the QCA's consideration of UT4.

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

Yours faithfully,



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