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Mr John Hall
Chief Executive Officer
Queensland Competition Authority
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Dear Mr Hall

QCA draft decision regarding QR Network's electric traction DAAU and request for further comments

Anglo American Metallurgical Coal Pty Ltd (**Anglo American**) refers to the Queensland Competition Authority (**QCA**) Draft Decision on the QR Network Electricity Traction Services Draft Amending Access Undertaking (**DAAU**), dated July 2012 (**Draft Decision**), and to the QCA's subsequent letter requesting further comments on the Draft Decision, dated 8 October 2012 (**QCA Letter**).

Anglo American supports the QCA's proposal in the Draft Decision to reject the DAAU. In addition to the issues raised in its earlier submission, dated 16 April 2012, Anglo American would like to make a number of additional observations set out below.

Regulatory risk

Anglo American considers that it is inappropriate for QRN to make material changes to the structure of the AT₅ tariff (or any other reference tariff for that matter) during the term of the 2012 Access Undertaking (**UT3**).

The purpose of having a fixed regulatory period is to provide regulatory certainty to participants. It is a fundamental principle of good regulatory practice that regulation should be certain, and that changes to regulation should not be made lightly.

In the present case, the participants in the Goonyella and Blackwater systems have made significant long term investment decisions based on the current structure of the AT₅ tariff, and those participants have a legitimate expectation that the framework will not change during the term of UT3. Indeed, given the quantum and duration of investment decisions being made by participants, good regulatory practice would demand that the tariff framework in UT3 remain

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substantially the same in subsequent regulatory periods unless there is a clearly identified need for changes.

If the QCA agrees to make substantial amendments to UT3 using the DAAU process, this may affect future investment decisions by industry participants as they may consider that future regulatory frameworks are also be subject to sudden change.

Decision on AT5 to be deferred until UT4

The QCA stated in its Draft Decision (page ii) that, while the tariff structure may need to be varied in future to address the concerns raised by QR Network, such a review is best done as part of the process of developing the next draft access undertaking (**UT4**). Anglo American strongly supports this position as it reflects the principle of regulatory certainty.

Anglo American notes that issues with the AT₅ tariff structure have been discussed within the industry for some time. As highlighted the Draft Decisions (page 2), QR Network proposed the introduction of a single AT₅ tariff for the Goonyella and Blackwater systems in submissions supporting the 2009 draft access undertaking. After this proposal was rejected by the QCA, QR Network subsequently proposed separate AT₅ tariffs for the Goonyella and Blackwater systems in UT3, but said that it would revisit the issue in the next undertaking period. Now, QR Network claims that it cannot wait any longer, and that the structure of the AT₅ tariff must be changed immediately. Anglo American is not aware of any dramatic change in circumstances that has occurred since the approval of UT3 that would justify QR Network's proposal for immediate changes to the regulatory framework before the end of UT3.

Deferring the assessment of AT₅ changes until the development of UT4 also has the benefit of giving QR Network and industry participants and opportunity to engage in further discussions regarding the underlying issues with the regulatory framework without having to consider the merits of the DAAU. In addition, it will allow the changes to AT₅ to be considered in the context of other related changes that may be appropriate but are not covered in the DAAU, including changes to other reference tariffs (such as AT₂) and to the CRIMP process.

Process issues

From a procedural point of view, Anglo American is concerned that the QCA's timeframe for providing further comments on the DAAU (as set out in the QCA Letter) is too short. While Anglo American has conducted a high level review of the additional submissions made by QR Network and other stakeholders, it has not had the opportunity to fully consider all of the new material presented. In addition, Anglo American notes that QR Network's further submission on

the DAAU, dated 25 September 2012 (**2nd QRN Submission**), has raised further issues regarding asset stranding risks that were not detailed in the original DAAU.

Accordingly, even if the QCA does not elect to defer the consideration of the DAAU until the development of UT4, Anglo American would request that participants are granted an extension of time to respond to the QCA Letter.

Electrification of spur lines

In its earlier submission on the DAAU, dated 16 April 2012, Anglo American raised concerns that the cost of electrifying customer spur lines may make the development of future mines uneconomic – especially where they are a long distance from the main line.

In 2nd QRN Submission, QR Network sought to address this concern by stating that:

"the DAAU provisions only apply to "feasible electric services" – that is, the ones where the route is actually electrified. It does not provide an automatic right for QRNN to electrify additional parts of the network and apply these provisions. Future investments remain subject to customer support in the same way as occurs at present." (section 3.3.1.4)

Anglo American understands this to mean that any current or future mines would be free to elect to have a non-electrified spur line (even if it was economically feasible to electrify the spur line) and opt for the use of diesel traction services without being charged the AT₅ tariff. If this is correct, it addresses some of Anglo American's concerns.

However, this policy could also prevent the Blackwater system from achieving the claimed efficiency benefits of electric traction, notwithstanding QR Network's proposed changes to the AT₅ tariff to encourage the use of electric traction. This is because, as noted in the 2nd QRN Submission (section 3.1.2.2), electric consists are unable to achieve faster cycle times than diesel consists where the proportion of diesel consists in the system exceeds 20%. Such an outcome is noteworthy, given that capturing the efficiency benefits of electric traction was one of the central reasons for the proposed changes in the DAAU.

Tariff structures

Anglo American notes that the Goonyella and Blackwater systems have been developed separately and that, notwithstanding any cross-system traffic that may exist, they remain functionally separate rail systems. Whatever the outcome of any future review of the tariff structure, Anglo American is of the view that reference tariffs applying to the Goonyella and

Blackwater systems should be cost reflective, and should not result in any cross subsidisation between users of the Goonyella and Blackwater systems.

In summary, Anglo American considers that the DAAU in its current form should be rejected, and the complex issues that it raises are best addressed as part of the UT4 process. This will provide QR National and other stakeholders with a greater opportunity to discuss and agree upon necessary solutions (if any) to the issues raised.

If the QCA requires any further information in relation to this submission, please contact me on the number below.

Yours sincerely



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