

George Passmore  
Director Business Performance  
Queensland Competition Authority  
Level 27, 145 Ann Street  
Brisbane QLD 4000

8 November 2022

Dear George,

**CONFIDENTIAL**

We refer to the Concept Studies DAAU submitted by Aurizon Network on Friday 4 November 2022 and to the submission of the same date made in respect of that DAAU by the Queensland Resources Council (QRC).

[REDACTED]

Aurizon Network wishes to express its concern that the QRC submission and the associated drafting provided by it in respect of a number of the issues raised by the QRC, [REDACTED] [REDACTED] creates the wrong impression that the relevant issues had been previously raised for inclusion in the drafting and rejected by Aurizon Network. That is not the case.

The first time some of the drafting submitted to the QCA by the QRC was seen by Aurizon Network was after the QRC made its submission to the QCA.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### Clause 7A.5 (n)(v)(C)

The QCA will note the mark-up proposed by the QRC to clause 7A.5(n)(v)(C). The final version of the mark-up had not previously been discussed between the parties. Whilst a mark-up had previously been shared with Aurizon Network, that mark-up was in different terms and Aurizon Network had rejected the drafting with reasoning provided to the QRC.

Aurizon Network does not agree with the drafting proposed by the QRC to that clause.

Clause 8.9.4 of the current approved version of UT5 expressly deals with what is meant to happen if there is a remaining deficit after the steps contemplated by clause 7A.5 have been undertaken. The approach expressly contemplated by clause 8.9.4 in those circumstances gives Aurizon Network relief from any further Expansion obligation where, in accordance with clause 8.9.4(g)(i), the Independent Expert confirms that Aurizon Network has complied in all material respects with its obligations to undertake the Expansion determined or agreed to be undertaken in accordance with clause 7A.5.

The drafting proposed by the QRC seeks to deal with the same subject matter as clause 8.9.4 and has the effect of removing the protection in clause 8.9.4(g)(i).

The Concept Studies DAAU is expressly designed to reflect the reality that the ICAR, and Aurizon Network's responses to it, address matters that were not contemplated by the Transitional Arrangements referred to in UT5. The possibility that an Expansion does not address all of the Existing Capacity Deficit was already expressly dealt with UT5 in clause 8.9.4. There has been no material change in circumstances affecting the way in which clause 8.9.4 was intended to operate and there is therefore no justification for a change to the Concept Studies DAAU submitted by Aurizon Network in that regard.

Aurizon Network does not agree to the removal of any UT5 protections, or to take on liabilities additional to those contemplated by the currently approved UT5, other than as expressly contemplated by the Concept Studies DAAU submitted by Aurizon Network.

### Cross-referencing errors

Finally, in reviewing clause 8.9.4 it became apparent that cross-referencing errors were introduced to the Consolidated Version of UT5 (approved in February 2020).

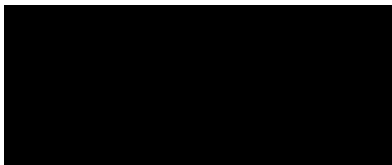
In particular, the originally approved UT5 drafting of clauses 8.9.4(a)(i) and 8.9.4(g)(i) correctly referred to clause 7A.5. Between the mark-up and clean copy of the drafting which consolidated the original UT5 and the 2019 Volume Reset DAAU, errors were introduced which replaced the references to "clause 7A.5" with references to "clause 0".

Aurizon Network seeks the QCA's approval to correct those references as part of the Concept Studies DAAU.

The QRC's lawyers have been advised of the cross-referencing errors and of Aurizon Network's intention to have the QCA approve the corrections. We are not aware of any basis on which the QRC could object to the corrections but will let you know if we receive one.

Please contact myself if you would like to discuss any of the matters raised in this letter.

Yours sincerely



Jon Windle  
Manager Regulation  
Aurizon Network