

Office of Rail Regulation
1 Kemble Street
London
WC2B 4AN



30th January 2007

Dear Tim,

EDF Energy is pleased to have the opportunity to respond to the consultation on Track access Charges for Freight.

To summarise, EDF Energy is disappointed that access charges are to be marked-up for freight services to power generators.

EDF Energy understands that the obligations placed on the ORR dictate that it must set charges that force freight to pay the full costs of using freight-only lines - but that these costs should only be applied if the sectors have the “afford to pay” such costs. For a company requiring the delivery of coal, track access charges are an unavoidable, significant cost. That a power station’s decision to burn coal is influenced by electricity, carbon, and gas prices, alongside the levels of electricity demand (as well as the price of coal) does not make access charges any the less significant.

As stated in the consultation, it is unlikely that power generators will switch from rail as there is generally no alternative. Instead, it will be the competitive position of coal-fired power stations that may be affected. Increases in access charges will result in less coal being burnt as increased costs make coal-fired generation less economic.

EDF Energy wholeheartedly disagrees with point 54 (page 99), which states that the Energy Supply Industry (ESI) can pass on costs to consumers. This point does not accept that the electricity market has significant competitive pressure on tariffs.

The consultation, (page 92, point 47) states there is uncertainty as to the future volumes of coal that will be transported by rail, with estimates ranging from a 9% decrease to a 15% increase. EDF Energy is concerned that ORR’s proposals for a cap of £18.8m might be applied to a far lower charging base than it expects. It is highly possible that carbon allowances, gas prices, track access charges and closure of stations under the Large Combustion Plant Directive (LCPD), may reduce the volume of coal on the railway leaving the cap being apportioned to fewer ESI customers than the ORR has presumed.

EDF Energy is disappointed that only power generators and nuclear fuel re-processing companies are exposed to the increase in access charges. As mentioned above, it is the perverse policy framework that is penalising the market sectors that are in the most disadvantaged position.

The consultation has requested views on the following:

Regarding ORR's view that there has been material change since 2001:

- EDF Energy does not have a view on this.

1. Network Rail's cost estimates:

- Network Rail's cost estimates have been viewed as high, by freight operators, the reporters and by ORR. These views are outlined in points 3.60 3.61 and 3.62, which are of concern to EDF Energy, as it may result in charges that are higher than the cost of providing the service. If the proposed caps are implemented on incorrectly calculated costs, with power generators paying a mark-up, it is likely that Network Rail may be over charging the freight operators for use of the network. Network Rail has to complete further work to justify the charges faced by Freight customers to allay EDF Energy's fears of over paying.

2. Definition and assessment of what the market can bear:

- The consultation suggests that power generators are already in a disadvantaged position when transporting coal deliveries, dealing with few freight operators, which operate on a monopoly network. The inability to switch is considered on pages 92 and 98, points (29) and (50) of Annex D, where there is a tacit admission that providing Freight services to power generators is likely to be more profitable than to intermodal customers, where rail is competing against road.
- The perverse policy framework (from the DfT White Paper and the Rail Infrastructure Regulations 2005) aims to move freight from road to rail, yet demands that costs be recovered where possible. This results in the two sectors with the least competitive position for negotiating use of the Rail network being those that the ORR wishes to allow a mark up on freight access charges.

3. The approach to charging for freight only lines:

- EDF Energy and other power generators are facing an increase of up to £3.8m a year in using a track length based allocation, totalling an additional £18.8m in 2013-14. That these costs are also estimated to be as little as £7.5m per year using a gross tonnage based allocation indicates the arbitrary nature of allocating costs for using the rail network. EDF Energy would want to see further work proving the allocation of costs and would also wish to see the caps based on an intermediate allocation of costs rather than the highest estimate.
- Although the ORR states that it would expect charges to be levied below the cap, it provides little solace to the customer, which has to face the prospect of possibly paying the value of the full cap.
- The consultation does not explicitly state how charges would be levied, nor does it state how the ESI sector will use the network, once these charges are introduced. EDF Energy believes that the ORR must carefully consider the potential impact of different charging approaches, recognising that this may have a significant effect on the business of particular coal producers or port operators, possibly resulting in significant change to across the network. The consultation discusses this on page 101, point (45), but provides no accompanying assessment.
- It seems strange to mark-up variable charges to cover fixed costs. However, EDF Energy believes that a variable charge across the whole network (as per 4.54 in the consultation) would be the most appropriate. This appears the simplest process to implement charges that discriminate against two market sectors and

relatively few customers. It also avoids the problem of any perverse incentives for freight to avoid freight only lines.

4. Proposed approach to dealing with the capability:

- EDF Energy has prepared no response to this section of the consultation.

5. Charges for freight charge caps, including the proposed phasing and duration of the charges:

- EDF Energy supports the proposal to phase in track access charges, but is disappointed that the freight charge caps are being set at the higher estimates in the analysis.

6. Proposals for further work:

- It is important that Network Rail further substantiates the costs associated with Freight using the rail network. The range in estimated costs and the difference in valuation (when different allocation methods are used) concern EDF Energy and it needs to have these concerns addressed prior to the contemplated introduction of track access charges.
- The current 20% uniform uplift for freight carrying coal appears to be an unsubstantiated additional burden for power generators. It is stated without proof that it represents “additional costs to Network Rail resulting from coal spillage on the network” – it came to some £5m last year. EDF Energy would like to see that the “coal dust spillage uplift” be fully justified or removed.

We hope that you will find these comments helpful.

If you have any queries please do not hesitate to contact me on the number below.

Yours sincerely,

David Scott
Energy Regulation