

Steve Taylor
Coal Operations Manager

Mr M Dawson
Deputy Director Rail Market Access and Performance
Office of the Rail Regulator
1 Waterhouse Square
138-142 Holborn
LONDON EC1N 2TQ

16/09/03

Dear Mr Dawson

**MODEL FREIGHT TRACK ACCESS CONTRACT:
RESPONSE TO CONSULTATION DOCUMENT**

Powergen is a major user of rail services for the movement of coal and limestone into power stations and industrial premises. Powergen is not a party to a track access agreement and is not familiar with the internal railway processes summarised in the consultation document. However, it wishes the Regulator to note the following brief comments arising from its consultation document.

1. Coal traffic represents a third of the railfreight moved and provides the rail industry with a significant and relatively stable revenue stream. In general it is not time sensitive but does require the flexibility to vary its flows from week to week in response to operational and commercial influences.

Level 1 and Level 2 Rights

2. Powergen agrees with the Regulator that the Level 1/Level 2 distinction reflects the different needs of different freight traffic and should be retained.
3. The use of Level 1 rights may be appropriate for a power station fed by a single supply point or from a single port. A power company which operates a portfolio of supply contracts with several UK and international suppliers, however, will require a Level 2 type arrangement. The flexibility afforded by Level 2 rights provides the ability to respond to changes in:-
 - the rate of coal extraction and processing at each supply point;
 - power and gas market conditions and changes in contract positions;
and
 - requirements to build or deplete coal stocks.
4. Level 2 rights allow Network Rail to plan coal services at times to fit round other traffic on the network because they do not specify timings and route. Removal of Level 2 rights could result in rail operators booking a surplus of Level 1 paths to replicate the flexibility previously provided by Level 2 rights.

Powergen UK plc
Westwood Way
Westwood Business Park
Coventry
CV4 8LG
T +44 (0) 24 7642 4000
F +44 (0) 24 7642 5432
www.powergen.co.uk

Transfer of Rights

5. The coal market has changed from one typified by long term contracts between supplier and generator, to one typified by short term contracts and the on-sale or trading of coal between buyers. Therefore, it may be difficult to determine whether business has been transferred from one operator to another, or, whether one operator has secured new business whilst the other operator's requirements are unchanged.
6. Where existing business transfers between operators the paths should follow where they can clearly be identified. If an operator wins new business this should not trigger the transfer of paths from another operator if this will affect the latter's ability to perform existing contracts with customers.

Diverted Services etc

7. Freight services are more vulnerable to disruption by Network Rail maintenance work than passenger services which are predominantly daytime. They therefore need the protection of a requirement on Network Rail to provide an alternative route or timing. The long term growth and stability of rail freight traffic depends on customer confidence in the rail industry's ability to deliver a consistently reliable service.

RightsCo

8. The introduction of a new industry body RightsCo and further contractual relationships would not be a constructive development. It would inevitably lead to an unnecessary increase in the cost of industry bureaucracy and remove Network Rail even further from the end user.

Please do not hesitate to contact me if it would be helpful to discuss any of these comments further.

Yours sincerely

Steve Taylor