

## ANNEX

### AMENDMENTS TO SCHEDULE 7

#### PART 1:

The definition of “Index of Industrial Electricity Costs” in Part 1 of Schedule 7 shall be deleted.

#### PART 2:

Paragraphs 4 and 5 of Part 2 of Schedule 7 shall be deleted and replaced with new paragraphs to read as follows:

#### “4. Traction Electricity Charge

4.1 For the purposes of paragraph 1, the term  $E_t$  means an amount in respect of the Traction Electricity Charge in Relevant Year  $t$  which is derived from the following formula:

$$E_t = \sum C_i \cdot EF_{gjt} \cdot UE_{igjt} + \sum C_i \cdot EV_t \cdot UE_{igjt}$$

where:

$\Sigma$  means the summation of;

$C_i$  means the calibrated modelled consumption rate (in kWh *per* Train Mile in relation to electric multiple units and kWh *per* Gross Tonne Mile in relation to locomotive-hauled units) for train category  $i$ , shown in the Traction Electricity Price List;

$EF_{gjt}$  means an amount found from the following formula:

$$EF_{gjt} = E_{gj2005/06} * X_t$$

where:

$E_{gj}$  means an amount for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area  $g$ , in tariff band  $j$ , as set out in the Traction Electricity Price List;

$X_t$  means an adjustment factor to reflect anticipated traction electricity costs for Franchised Passenger Services in Relevant Year  $t$  so that a single factor is applied to  $E_{gj2005/06}$ , such that the relative differentials as set out in the Traction Electricity Price List as between each tariff band and Geographic Area are maintained and so that the value of  $X_t$  in respect of the Relevant Year which commences on 1 April 2007 is 1.38744. For subsequent years, commencing on 1 April 2008, it will be calculated in accordance with the following formula:

$$X_t = \sum [AM_{gt} \cdot ACE_{gjt}] / \sum [AM_{g2005/06} E_{gj2005/06}]$$

where:

$AM_{gt}$  means the total predicted electricity consumption for Franchised Passenger Services in Geographic Area  $g$  in Relevant Year  $t$ ;

$ACE_{gjt}$  means the rate for traction current (in pence per kWh) consumed by trains in Geographic Area g, in tariff band j, in Relevant Year t which is the expected cost to Network Rail of traction electricity for Franchised Passenger Services in Relevant Year t;

$AM_{g2005/06}$  means the total actual electricity consumption for Franchised Passenger Services in Geographic Area g in the year 2005/06;

$E_{gj2005/06}$  means an amount for traction current (in pence *per* kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g, in tariff band j

where  $E_{gj2005/06}$  is derived from the following formula:

$$E_{gj} \cdot 1.05734$$

so that a single factor is applied across the Traction Electricity Price List as described in paragraph 4.1, such that the relative differentials as set out in the Traction Electricity Price List as between each tariff band and Geographic Area are maintained;

$EV_t$  means an amount for electrification asset usage (in pence per kWh) which is derived from the following formula:

$$EV_t = EV_{t-1} \cdot \left[ 1 + \frac{RPI_{t-1} - 0}{100} \right]$$

where:

$RPI_{t-1}$  means the percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year t-1 and the index published or determined with respect to November in Relevant Year t-2;

but so that in relation to the Relevant Year commencing on 1 April 2001,  $EV_t$  shall have, in respect of each kWh, the value set out in the Traction Electricity Price List; and in relation to the next following Relevant Year  $EV_{t-1}$  shall have the same value;

$UE_{igt}$  means the actual volume of usage (in electrified Train Miles in relation to electric multiple units or Gross Tonne Miles in relation to locomotive hauled units) of trains operated by or on behalf of the Train Operator in train category i, in Geographic Area g, in tariff band j and in Relevant Year t, pursuant to this Agreement;

“kWh” means kilowatt hours;

“tariff band” means the tariff zone and time band in which the train in question is operated;

“train category” means train type i used on the relevant route in question; and

“tariff zone”, “time band”, “train type” and “relevant route” have the meanings ascribed to them in the Traction Electricity Price List.

- 4.2 Network Rail shall at least three months prior to the start of each Relevant Year commencing on or after 1 April 2008 consult with the Train Operator at the same time as it consults with other train operators regarding their strategy for the procurement of traction electricity in respect of that Relevant Year. If Network Rail receives agreement from the Train Operator, Network Rail will procure electricity in accordance with what has been agreed. In the event that agreement is not forthcoming from the Train Operator, Network Rail will, acting reasonably, determine the procurement strategy for electricity for traction.
- 4.3 At least one month prior to the start of each Relevant Year commencing on or after 1 April 2008, Network Rail shall provide to the Train Operator:
- (a) a statement of the value of  $X_t$  for the Relevant Year; and
  - (b) such background workings as may reasonably be required for a proper understanding of the calculation of the value.
- 4.4 Not more than one month after the start of each Relevant Year commencing on or after 1 April 2008, Network Rail shall provide for an audit of the term.
- 4.5 Network Rail shall provide to the Train Operator within 30 days of the end of each calendar month in that Relevant Year, the total actual cost of traction electricity against the budgeted amounts. Network Rail shall also provide to the Train Operator a provisional six month volume reconciliation before 30 October of that Relevant Year and the provisional nine month volume reconciliation before 30 January of that Relevant Year.

## 5. Volume and Cost Reconciliation

- 5.1 Within 90 days after the end of Relevant Year  $t$ , Network Rail shall calculate two supplementary amounts  $S1_t$  and  $S2_t$  which shall be payable by or to the Train Operator in accordance with this paragraph 5.
- 5.2  $S1_t$  is derived from the following formula:

$$S1_t = \sum E_{gt} \cdot \frac{(A_{gt} - M_{gt})}{M_{gt}}$$

where:

$\sum$  means the summation of;

$E_{gt}$  is part of the Traction Electricity Charge payable by the Train Operator for each applicable Geographic Area  $g$  in Relevant Year  $t$ , determined in accordance with the following formula:

$$E_{gt} = \sum C_i \cdot EF_{gjt} \cdot UE_{ijgt}$$

where:

$C_i$  means the calibrated modelled consumption rate (in kWh per Train Mile in relation to electric multiple units and kWh per Gross Tonne Mile in relation to locomotive-hauled units) for train category  $i$ , shown in the Traction Electricity Price List;

$EF_{gjt}$  means an amount for traction current (in pence per kWh) determined in accordance with paragraph 4 of this Part 2; and

$UE_{ijgt}$  means the actual volume of usage (in electrified Train Miles in relation to electric multiple units or Gross Tonne Miles in relation to locomotive hauled units) of trains operated by or on behalf of all operators in Geographic Area g of trains of train category i, in tariff band j, referred to in the Traction Electricity Price List in Relevant Year t, pursuant to the provision of Franchised Passenger Services.

$M_{gt}$  means the total modelled electricity consumption for Franchised Passenger Services in Geographic Area g in Relevant Year t which is derived from the following formula:

$$M_{gt} = \sum C_i \cdot UE_{ijgt}$$

$A_{gt}$  means the total actual electricity consumption (in kWh) in Geographic Area g for Franchised Passenger Services in the Relevant Year t assessed by Network Rail (as nearly as reasonably practicable) as being the appropriate proportion of the electricity consumption billed to Network Rail by its electricity suppliers for traction electricity consumed in that area in accordance with the terms for the purchase of traction electricity entered into by Network Rail.

5.3  $S2_t$  is derived from the following formula:

$$S2_t = (EP_t + S1_t) * (CS_t - CW_t) / CS_t$$

where:

$S1_t$  means the supplementary amount in respect of the Train Operator for Relevant Year t calculated in accordance with paragraph 5.2;

$EP_t$  means the summation of  $E_{gt}$  for the Train Operator as referred to in paragraph 5.2 across all geographic areas for Relevant Year t;

$CS_t$  means the total actual cost to Network Rail for traction electricity for Franchised Passenger Services in Relevant Year t; and

$CW_t$  means the total modelled cost for traction electricity for Franchised Passenger Services in the Relevant Year t as notified to the Train Operator by Network Rail which is derived from the following formula:

$$CW_t = \sum (E_t + S1_t)$$

5.4 Network Rail shall, within 90 days after the end of Relevant Year t, provide to the Train Operator:

- (a) a statement of the amounts  $S1_t$  and  $S2_t$  (whether of a positive or negative amount);
- (b) such background workings as may reasonably be required for a proper understanding of the calculation; and

(c) a certificate of the auditors for the time being of Network Rail confirming the accuracy of the calculation.

5.5 Within 30 days after the date upon which Network Rail shall have provided to the Train Operator the information referred to in paragraph 5.4, the amounts  $S1_t$  and  $S2_t$  shall be invoiced for payment as provided under this contract. If the aggregate of the amounts  $S1_t$  and  $S2_t$  shall be positive, the invoice shall be issued by Network Rail and payable by the Train Operator. If the aggregate of the amounts  $S1_t$  and  $S2_t$  shall be negative, Network Rail will issue a credit note to the Train Operator."