

Stephen Cornish
Network Rail Infrastructure Limited
Room 410
Rail House
Store Street
Manchester M60 7RT

Pat Marshall
West Coast Railway Company
Crag Bank
Jesson Way
Carnforth
LA59UR

18 May 2005

Approval of the track access contract between Network Rail Infrastructure Limited and West Coast Railway Company Limited

1. The Office of Rail Regulation (ORR) has today approved the terms of the above track access contract submitted to it by Network Rail Infrastructure Limited (“Network Rail”) under section 18 of the Railways Act 1993 (“the Act”) on 24 April 2005, and has directed Network Rail to enter into it. In approving the terms of the contract, ORR has also directed Network Rail under section 18(7) of the Act to make certain modifications. In considering the application and in reaching its decision, ORR has discharged its statutory duties. This letter sets out the reasons for ORR’s approval of the contract.

Consultation

2. In considering track access applications, ORR makes considerable efforts to ensure that its decisions are consistent with its statutory duties. ORR therefore, invited comments from the Strategic Rail Authority (“SRA”) and all those train operators who might be affected by the proposed contract. None of those consulted raised any material concerns.

The contract

3. The agreement sets out provisions for the operation of one steam service each way between Fort William and Mallaig on specified weekdays and Sundays. These rights are for the period between 23 May 2005 through to 29 October 2005. Similar agreements to this one, permitting the operation of summer steam services, have been entered into on an annual basis since 1998.

ORR’s review

4. ORR proposed one minor drafting modification to the agreement, which after consultation with the parties, has been included in the directions.

Maxine Howell, Information Officer

Telephone 0207282 2096 • Fax 0207 282 2048
E-mail maxine.howell@orr.gsi.gov.uk

Doc # 207029.01

Use of passenger model contract

5. ORR expects that any future application for rights to operate the Jacobite service will incorporate, as far as possible, the provisions of the model contract¹. As WCRC is a non-franchised passenger operator, certain parts of the model contract will need to be amended to reflect the particular nature of WCRC's operation. Please feel free to call in on any aspects of this.

Conclusions

6. ORR is satisfied that approval of the agreement is consistent with its duties under section 4 of the Railways Act 1993 because the agreement will:

- (a) promote the use of the railway network in Great Britain for the carriage of passengers and goods, and the development of that network, to the greatest extent that he considers economically practicable (section 4(1)(b));
- (b) will enable West Coast Railway Company to plan the future of its business with a reasonable degree of assurance (section 4(1)(g)).

ORR's public register

7. ORR is required under section 72 of the Act to maintain a public register which must include, *inter alia*, every direction to enter into an access contract and every access agreement. Would you therefore please send me two copies of the signed agreement no later than 14 days after the date upon which the agreement is entered into, as required by section 72(5) of the Act.

8. In placing any agreement on the public register, ORR is required to have regard to the need for excluding, so far as that is practicable, the matters referred to in section 71(2)(a) and (b) of the Act. These cover:

- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of that individual; and
- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of ORR, seriously and prejudicially affect the interests of that body.

9. When you submit the copies of the signed agreement would you therefore please list any aspects of the agreement which you wish ORR to consider excluding from its register and explain why you consider how they meet the requirements of sections 71(2)(a) or (b).

¹ *Model passenger track access contract*, Office of the Rail Regulation, London, October 2004. Available at http://www.rail-reg.gov.uk/upload/pdf/ta-pasmodcontract_oct04.pdf.

Distribution

10. Please find enclosed a copy of the directions for this agreement. Copies of this letter and the directions will be sent to Mark Norrington at the SRA. Copies of the directions will be placed on the ORR's public register and this letter will also be posted on the ORR website.
11. I am also copying this letter without enclosures to Steven Saunders at Network Rail and Bil McGregor at First ScotRail Limited.

Maxine Howell