

Brian Hopkinson
Track Access Executive
Telephone 020 7282 2022
Fax 020 7282 2118
E-mail brian.hopkinson@orr.gsi.gov.uk



20 August 2008

Ms Julie Hughes
Customer Manager, Hull Trains
Network Rail Infrastructure Limited
Carolina Court
Ground Floor, Unit 3
Lakeside
Doncaster
DN4 5RA

Mark Leving Esq
Managing Director
Hull Trains Company Limited
Premier House
Ferenway
Hull
HU1 3UF

Dear Julie and Mark

Approval of the nineteenth supplemental agreement to the track access agreement between Network Rail Infrastructure Limited and Hull Trains Company Limited

1. The Office of Rail Regulation (ORR) has today approved the nineteenth supplemental agreement to the track access agreement between Network Rail Infrastructure Limited (Network Rail) and Hull Trains Company Limited (Hull Trains) (jointly the parties) submitted to us on 20 August 2008 under section 22 of the Railways Act 1993 (the Act). The purpose of this letter is to set out the reasons for our decision.

Purpose of this application

2. As originally submitted, the agreement contained three separate provisions:

- to add Class 87 electric locomotive and Mark 3 Driving Van Trailer (DVT) to the Additional Specified Equipment;
- to amend the Track Usage Charge Price List within Hull Trains' track access agreement to include Class 87 and DVT; and
- to introduce charging provisions within Schedule 7 for the use of electric locomotives.

3. On being advised that the addition of Class 87 to the Additional Specified Equipment was most urgent – use of this class being a short-term measure whilst the DVT was made ready for service - we suggested to the parties that they might consider whether it would be appropriate to use the General Approval to make this change to the track access agreement. The parties decided that it was appropriate, and duly submitted an

approved supplemental agreement - the twentieth. The parties also included the DVT in that supplemental, meaning that we no longer had to consider any additions to the Additional Specified Equipment.

Consultation

4. As the application was reduced to one of charging issues only, it was not necessary for us to undertake any consultation.

Our review of the application

Economic issues

5. The parties advised that the proposed Traction Electricity Charge provisions were bespoke, to reflect the fact that the passenger model clause provisions applied to franchise passenger operators.

6. We considered the proposed approach and decided that it was acceptable, given that both parties had agreed and understood the impact of the approach, and that it would apply only until the end of Control Period 3 (CP3). We advised the parties that our decision letter would confirm that the CP4 traction electricity arrangements needed to include a provision that could be applied to non-franchised passenger operators in a robust way, providing as much certainty as possible up front about the actual annual cost of traction electricity.

Drafting

7. As indicated above, as originally submitted the draft agreement included amendments to Schedule 5. These have been removed from the copies of the agreement formally submitted for our approval.

Conclusion

8. In considering the application and in reaching our decision, we have had to weigh and strike the appropriate balance in discharging our statutory duties under section 4 of the Act. We have concluded that approval of this supplemental agreement is consistent with our section 4 duties, in particular those relating to:

- protecting the interests of users of railway services (section 4(1)(a));
- promoting the use of the railway network in Great Britain for the carriage of passengers...(section 4(1)(b)); and
- enabling Hull Trains to plan the future of its business with a reasonable degree of assurance (section 4(1)(g)).

Administration

9. Please find enclosed a copy of the approval notice together with a copy of the supplemental agreement. Copies of the approval notice and the supplemental agreement will be placed on ORR's public register and copies of this letter and the supplemental agreement will be placed on the ORR website. I am copying this letter to Steven Saunders at Network Rail.

Yours sincerely

Brian Hopkinson