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Alistair Rusholme
Franchise and Access Manager
Network Rail Infrastructure Ltd
Basingstoke Rail Operating Centre
Gresley Road
Basingstoke
RG21 4FS

David Rourke
Regulatory Access Manager
First MTR South Western Trains Ltd
South Bank Central
30 Stamford Street
London
SE1 9LQ

Dear Alistair and David

Approval of the 14th supplemental agreement to the track access contract between Network Rail Infrastructure Limited and First MTR South Western Trains Limited dated 9 April 2019

We have today approved the above supplemental agreement submitted to us formally on 16 February 2022 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. This letter explains the reasons for our decision.

Purpose

The purpose of this agreement is to make the amendments necessary to South Western Trains' (SWT) track access contract to allow the running of its December 2021 timetable. This will extend service reductions, expressed as contingent rights, originally introduced at the Principal Change Date (PCD) 2020. The amendment will apply from the date of ORR's approval and will expire on PCD 2022 or earlier termination of SWT's track access contract.

Industry consultation

Network Rail undertook the usual industry consultation. Comments in support were received from First Greater Western, Cross Country Trains and Transport Focus; there were no objections or queries.

Head Office: 25 Cabot Square, London E14 4QZT: 020 7282 2000 orr.gov.uk



ORR review

ORR has reviewed this application from an operational and drafting point of view. Our operations team had some queries about the way in which the amendments had been expressed in the supplemental agreement, which were answered by Network Rail satisfactorily.

However, the main issue that we identified with the application is that it was submitted to us significantly later than the date on which it was intended to become effective and while the services concerned were already running (due to their extension by means of a General Approval). This brought into question the purpose of our raising any queries or concerns, since we were somewhat under pressure to approve the rights as quickly as possible so that the contents of the contract and the services in the timetable would be fully in agreement with each other.

We have advised Network Rail and the train operator of the risks inherent in having such disparities between their contract and the reality of the operational services that are running, and we expect to see better forward planning for any future timetable changes to avoid a recurrence of this issue.

Our duties under section 4 of the Act and our decision

We have concluded that approval of this supplemental agreement strikes the appropriate balance in discharging our statutory duties under section 4 of the Act; in particular, those relating to protecting the interests of users of railway services (section 4(1)(a)), promoting the use of the railway network for the carriage of passengers (section 4(1)(b)) and enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g)).

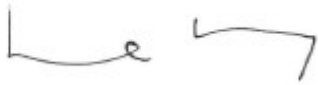
Conformed copy of the track access agreement

Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and the Train Operator. Please send the conformed copy to me at ORR.

Public register and administration

Electronic copies of this letter, the approval notice and the agreement will be sent to the Department for Transport and Network Rail's Policy and Access Team. Copies of the approval notice and the agreement will be placed on ORR's public register (website) and copies of this letter and the agreement will be placed on the ORR website.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Le' followed by a stylized flourish.

Louise Beilby