



APPLICATION TO THE OFFICE OF RAIL AND ROAD FOR A FREIGHT TRACK ACCESS CONTRACT, OR AN AMENDMENT TO AN EXISTING CONTRACT

ORR ensures that train operating companies have fair access to the rail network and that best use is made of capacity.

Use this form to apply to the Office of Rail and Road (ORR) for:

- Directions under section 17 of *The Railways Act 1993* (the Act) for a new track access contract. This is for companies who want to use Network Rail's network where the parties are not able (for whatever reason) to reach agreement.
- Approval for a new track access contract under section 18 of the Act. This is for use where terms have been agreed by the parties.
- Approval of a proposed amendment to an existing track access contract, agreed by both parties, under section 22 of the Act.
- Directions under section 22A of the Act for an amendment to an existing track access contract. This is for someone seeking an amendment to an existing track access contract to permit more extensive use of the railway facility if the parties are not able, for whatever reason, to reach agreement.

The form sets out ORR's standard information requirements for considering applications. Our [track access guidance](#) (and our [making an application](#) guidance in particular) explains the process, timescales and the issues we will consider. Please read the guidance before completing the contract and this form.

If the facility owner and beneficiary have agreed terms, the facility owner should fill in the form. If not, the beneficiary should fill in the form.

A pre-application industry consultation is usually required before submitting an application. Please see the industry [code of practice for track access application consultations](#) for more information.

Network Rail should normally take responsibility for the pre-application consultation, where the terms are agreed. Before a consultation is made, complete this form up to the end of section 8. You should fill in the rest of the form after the consultation and before applying to ORR.

If, in the case of section 17 and 22A applications, the beneficiary and Network Rail have been unable to agree terms, the beneficiary should:

- (a) ask Network Rail to conduct a pre-application consultation in line with the code of practice; or
- (b) conduct a pre-application consultation itself, in line with the code of practice; or
- (c) submit the application to ORR and ask ORR to conduct the consultation, in which case, please complete this form in full before submitting it to us.

We are happy to talk to you informally before you apply. Please contact us at Track.Access@orr.gov.uk. You should use our current [model freight track access contract](#) as your starting point. Please ensure that you are using the latest version of this form as published on our [website](#). We may ask for applications which have not used the latest templates to be resubmitted.

You may also use and adapt this form if necessary to apply to use railway facilities other than those of Network Rail. Do not use this form for HS1, for which a separate form is available on our [website](#).

1. Application Summary

1.1 Facility owner:

Network Rail Infrastructure Limited ("Network Rail")

1.2 Beneficiary Company:

DB Cargo (UK) Ltd ("DBC")

1.3 With which of the regions does this application interact?

Region:	Southern <input checked="" type="checkbox"/>	Eastern <input checked="" type="checkbox"/>	North West & Central <input checked="" type="checkbox"/>	Wales & Western <input checked="" type="checkbox"/>	Scotland's Railway <input type="checkbox"/>
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1.4 Application under the Railways Act 1993 section:

17	<input type="checkbox"/>	18	<input type="checkbox"/>	22	<input type="checkbox"/>	22A	<input checked="" type="checkbox"/>
Supplemental Number:						79A	
Current contract date:						11 December 2016	
Current contract expiry date:						PCD 2026	

1.5 Executive summary of the proposed contract or amendment: (Brief & High Level)

The Rights Table in Schedule 5 of the Track Access Contract (Freight Services) dated 11 December 2016 between the Parties ("the Contract") shall be amended by updating Service Groups 4134 (flow 2) and 4180 (flow 2A) with the details listed in Annex 1 of the Supplemental Agreement to be consistent with the December 2023 timetable.

Proposed commencement date:	Date of ORR's approval
Expiry date:	PCD 2026
Date Approved at SOAR	n/a
If rights currently running as TOVRs when did they commence?	n/a

1.6 Industry consultation:

Who carried out the consultation?	
Consultation start date:	Consultation end date:
Not carried out <input checked="" type="checkbox"/>	

1.7 Applicant details

<p>Network Rail Infrastructure Limited ("Network Rail")</p> <p>Contact individual: Ian Bartlett Job title: Customer Manager Telephone number: [REDACTED] E-mail address: [REDACTED]</p> <p>Address: Floor 3, Waterloo General Offices London SE1 8SW</p>	<p>DB Cargo (UK) Ltd ("DB Cargo")</p> <p>Contact individual: Quentin Hedderly Job title: Regulatory Specialist Telephone number: [REDACTED] E-mail address: [REDACTED]</p> <p>Address: Lakeside Business Park Doncaster South Yorkshire DN4 5PN</p>
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1.8 Date of application to ORR:

20 May 2024

1.9 Checklist of documents attached to the application form:

- Proposed new contract or supplemental agreement
- Marked up Schedule 5 (where applicable)
- Marked up comparison to model contract (where applicable)
- All consultation correspondence
- Supporting evidence such as performance improvement plans or modelling exercises.
- Other supporting documents, side letters or collateral agreements (please list):

1.10 Confidential redactions: If there is any information you want us to exclude from publication please list it here and provide full reasons for the redactions. Please provide a redacted version of the document(s) that we can publish.

n/a

2. Licence and railway safety certificate

2.1 Please state whether:

- you intend to operate the services yourself; or
- have them operated on your behalf.
- if so, please name the proposed operating company:

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2.2 Does the proposed operator of the services:

- (a) hold a valid train operating licence under section 8 of the Railways Act 1993 or an exemption under section 7, **and**
- (b) hold a valid safety certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006.

If the answer to (a) **or** (b) is no, please state the point reached in obtaining a licence, exemption and/or safety certificate.

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3. The proposed contract or amendment

3.1 Application overview: Please detail the proposed contract or amendment. This should cover the services, the commercial terms, and the reasons for making the application in the terms proposed. This information should be laid out clearly and concisely, and fully highlight the changes from the previous version of the contract (in the case of an amendment).

Commercial Justification for Access Rights

Phillips 66

DBC operates up to two services a day, six days a week from Humber Oil Refinery (HOR) to Kingsbury for Phillips 66. Petroleum products are classed as dangerous goods and are governed by the CDG Regulations. The train plan for the HOR to Kingsbury trains has undergone various assessments to ensure the petroleum products are transported safely on the rail network. Amendments to the train plan and significant changes to the train slots will have a knock-on effect for the terminals with new assessments required which may impact the operation of trains. Both Kingsbury oil terminal and movements to/from the adjacent Birch Coppice branch are accessed by other freight operators.

Customer and Market

Phillips 66 has been operating in the UK for over 65 years.

Phillips 66 Limited Humber Refinery is located near Immingham on the east coast and processes crude oil supplied primarily from the North Sea. This includes light, low and medium sulphur and acidic crude oil. It is one of the most sophisticated petroleum refineries in Europe. The Humber Refinery:

- Maintains 12.8 billion litres per year in processing capacity
- Produces a wide range of finished products, including fuel sold at JET branded retail service stations in the UK
- Manufactures raw materials and feedstocks used in everything from electric vehicle (EV) batteries to toiletries
- Acknowledged by the Department for Transport as a leader in low-carbon liquid fuels

Customer and Business Development

The annual volume transported from HOR to Kingsbury is in excess of 1M tonnes.

One hour 'window' rights are required to support this traffic, as the arrival time is critical to Phillips 66, due to operations at Kingsbury. Ensuring the train slots work for the terminal, for end customers and other users of the site is essential.

Locational Development

Since acquiring Humber Oil Refinery, Phillips 66 has committed over £1 billion to keep its assets in top condition. It operates above and beyond regulatory standards whilst focusing on safety and reliability.

A key part of the investment has been to incorporate new technologies in petrochemical production and the reduction of carbon emissions.

A deal with British Airways to produce and supply Sustainable Aviation Fuel (SAF) from waste cooking oils has been agreed. SAF is expected to reduce lifecycle emissions by over 80% compared to the traditional jet fuel it replaces.

Summary

One hour 'window' rights are required to support this traffic to ensure it is delivered efficiently by DBC. This will align us for future growth opportunities by maintaining commercial competitiveness and retain this traffic on the network.

Rail operation is the safest and most efficient means of transporting the volume of this hazardous product. Limited storage capacity means any disruption quickly affects the supply chain.

Puma Energy (UK) Limited

This is a commercial justification for one hour window rights on freight traffic hauled by DBC on behalf of Puma Energy (UK) Limited (Puma):

- Robeston to Theale

DBC currently operates 3 round trip services per week from Robeston to Theale for Puma. Petroleum products are classed as dangerous goods and are governed by CDG Regulations. The train plan for the Robeston to Theale trains has undergone various assessments to ensure petroleum products are transported safely on the rail network. Amendments to the train plan and significant changes to the train slots will have a knock-on effect for the terminals with new assessments required which may impact the operation of trains. Theale Terminal is accessed by other freight operators, as is the adjacent aggregates terminal which places constraints on terminal operations.

Milford Haven is a major supply point for fuel; used to supply supermarkets, motorway service stations and the Ministry of Defence. Moving petroleum products on the network means any dwell times should be kept to a minimum for safety reasons.

The removal of the train slots to and from Milford Haven would render the facility uneconomic and likely to lead to the closure of the site. This would result in job losses for Puma and DBC.

Customer and Market

Compañía General de Combustibles (CGC) was founded in 1920 in Argentina to transport and market crude oil and its by-products. CGC created Puma in 1929 and the brand expanded to become today's global energy business, with operations in 47 countries across 5 continents.

In 2015, Puma acquired the refinery in Milford Haven and the terminal at Theale which had previously belonged to Murco Petroleum. DBC runs trains for Puma to both Westerleigh and Theale from the Milford Haven site.

Milford Haven is one of the deepest natural harbours in the world and one of the largest terminals in North-Western Europe. It is capable of handling the largest vessels, making it the ideal entry point to the UK market.

Customer and Business Development

DBC currently transports circa 1.5M tonnes of fuel per annum which will generate approximately £3.5 million per annum. This revenue is significant for DBC and the contract with Puma is regarded as one of the most important to the business.

Investment

DBC maintains and provides 29 TEA tank wagons for Puma traffic, if the traffic were to cease due to no suitable train slots being available, this would impact DBC financially.

DBC has provided significant investment in track infrastructure at Margam yard, which supports Puma operations and a number of other customers.

Locational Development

Milford Haven (Robeston)***Background, Investment and development***

Puma Energy have converted Milford Haven from a refinery to a fully flexible, state-of-the-art facility with storage capacity of 1.4 million m³, creating jobs in the local economy and being an integral link in fuel supply to the UK market.

DBC has invested at Milford Haven with an additional track for wheel storage and is working with Puma on installation of a fuel point and gantries.

Operations and Constraints

The remote location of Milford Haven site means modal shift to road is not viable for the volume of fuel moved. Each single train carries approximately 2.75M litres of fuel (equal to 70 HGV) with a value of approximately £4M.

DBC provide traincrew and groundstaff which is rostered in conjunction with other traffic flows. Any significant changes could have a wider impact on efficiency and other flows.

Theale***Background, Investment and Development***

Theale was acquired from Murco in 2015 and receives trains from a number of locations including Robeston.

Operations and Constraints

Storage is limited at Theale, where only 2 days stock can be held. Frequently, product delivered on the train at 7am will have been sold and transported off site by the following morning.

Puma staff perform the unloading operation at Theale with DBC providing ground staff, rostered in conjunction with other traffic flows. Significant changes to train slots could have a wider impact on the efficiency of other flows. Movements at the adjacent aggregates terminal must be planned and managed together to comply with a number of constraints.

Summary

One hour 'window' rights are required to support this traffic to ensure it is delivered efficiently by DBC. Local and wider business is supported by this significant traffic and amendments could have far reaching implications. Any cessation would lead to job losses and impact fuel supply to key UK markets.

The remoteness of Milford Haven, the volume and hazardous product mean supply by rail is the only viable solution. Limited storage capacity means any disruption quickly affects the supply chain.

Safeguarding the train slots through securing access rights will provide certainty and protect Puma and DBC's interests along with many other UK businesses.

3.2 Capacity considerations: Please detail the steps taken by the parties to satisfy themselves that there is sufficient network capacity for the services in the proposal. Include details on all relevant capacity considerations, including but not limited to track and power supply traction. Will the proposed Rights operate over an area subject to a **Declaration of Congested Infrastructure**, or will the capacity requirement result in a Declaration of Congested Infrastructure by Network Rail (under the Network Code)

n/a

3.3 Safety risks: Please explain any important safety risks that have been identified arising from the proposal and how these will be controlled (by reference to the facility owner's safety authorisation and the train operator's safety certificate).

n/a

3.4 Contract duration: For new agreements or extensions to existing agreements, please provide justification for the proposed duration and, if more than 5 years, with reference to the [Railways \(Access, Management and Licensing\) Regulations 2016](#).

n/a

3.5 Performance: Are there any implications for overall network performance? Please outline your assurance process that shows that any performance risk is tolerable in comparison to the benefits of the application. Please explain any risk mitigations. Please attach any associated evidence to support your case.

n/a

3.6 Maintenance and renewals: Are there any implications for the facility owner's maintenance and renewal activities?

n/a

3.7 Terms not agreed with the facility owner (for applications under sections 17 or 22A only): Please explain any areas of the application which have ***not*** been agreed, the reasons for the failure to agree and the reasons for seeking these provisions.

All aspects of this application are not yet agreed with Network Rail. This application was due to progress through NR internal consultation but insufficient time is available to complete this ahead of the ORR deadline to receive applications of 20th May 2024.

3.8 Bespoke provisions (departures from ORR's model access contracts)

Does the proposed contract include any departures from ORR's model access contract:

Yes

No

If yes, please set out and explain any:

- areas where the drafting of the application changes ORR's published template access contracts (as appropriate, cross-referencing to the answers below). Please also explain why these departures have been made.

n/a

- instances where the proposal departs from the charging and/or performance regimes established by ORR's latest periodic review (or subsequent interim reviews) as reflected in ORR's model

access contracts, including the financial implications (e.g. establishment of an access charge supplement or rebate).

n/a

- new processes (e.g. a self-modification provision) which have been added. Please also demonstrate fully how this new process is robust and complete.

n/a

3.9 Consolidated contract

For amendments to existing contracts, is the version of the consolidated contract on our [website](#) fully up to date? If not, please explain why not.

Up-to-date version is on the ORR website

4. The expression of access rights

4.1 Changes to rights: please provide full descriptions of any new rights required, as compared to the previous contract (in the case of an amendment). Please attach a fully marked-up version or document comparison of any tables in Schedule 5 which are being modified as a result of this application.

Please see attached marked up **Schedule 5 table** indicating requested changes. These are summarised below:

New rights

		Origin	Destination
SG 4134			
6M37	SUN	HUMBER OIL REFINERY	KINGSBURY OIL SDGS
6E46	MO	KINGSBURY OIL SDGS	HUMBER OIL REFINERY

Amended rights

		Origin	Destination
SG 4134			
6E54	EWD SX	KINGSBURY OIL SDGS	HUMBER OIL REFINERY
6E54	EWD SO	KINGSBURY OIL SDGS	HUMBER OIL REFINERY

SG 4180			
6A11	SUN	ROBESTON SDGS	THEALE _____ MURCO THEALE PUMA
6A11	SX FSX	ROBESTON SDGS	THEALE _____ MURCO THEALE PUMA
6A11	SX FO	ROBESTON SDGS	THEALE _____ MURCO THEALE PUMA
6B33	SX	THEALE _____ MURCO THEALE PUMA	MARGAM _____ T.G. ROBESTON SDGS
6B33	SO	THEALE _____ MURCO THEALE PUMA	MARGAM T.C.

4.2 Firm rights: Do the Firm Rights in the proposal contract relate to service freight haulage contracts which you hold or will hold? If so, how? How does the duration of these haulage contracts compare with the duration of the proposed track access contract?

DBC holds freight haulage contracts for traffic moving in the Train Slots for which it is seeking Firm Rights. The contracts extend beyond DBC's existing Track Access contract (expiry PCD 2026).

4.3 Contingent Rights: Please set out the extent to which you expect to use the Contingent Rights in the application. In particular, please state whether the proposed rights are seasonal (eg 3 months each year) or occasional (eg MO, SX, etc)..

n/a

4.4 Window size: Please set out the reasons for the origin and destination window sizes used in the Rights Table in Schedule 5.

Please see the Commercial Justifications set out in 3.1 above

4.5 Long Term Planning Process: Is the Long Term Planning Process (or similar devolved authority or regional service delivery project) relevant to this application? If so, please explain how the proposed rights are consistent or inconsistent with this.

n/a

6. Incentives

6.1 Train operator performance: please describe any planned projects associated with the operation of the proposed services aimed at improving your performance.

n/a

6.2 Facility owner performance: please describe any planned projects associated with the operation of the proposed services aimed at improving the facility owner's own performance.

n/a

6.3 Restrictions of use: set out and explain the reasons for any changes from the Restrictions of Use regime in the model freight track access contract (Schedule 4)

n/a

7. Enhancement

7.1 Enhancement details: Please provide details of any relevant enhancement schemes. Where the proposal delivers part of, or the associated services are subject to, a network enhancement, please summarise the outputs and timescales of the scheme and explain the extent to which the Part G Network Change procedure has been completed.

n/a

7.2 Enhancement charges: please confirm that the arrangements for the funding of any network enhancements are consistent with the [investment framework](#), and summarise the level and duration of payments, and the assumed rate of return.

n/a

8. Associated access contracts

8.1 Associated applications to ORR: please state whether this application is being made in parallel with, or relates to, any other previous, current or forthcoming applications to ORR (e.g. in respect of track access, station or light maintenance depot access contracts). Where the application is being made in parallel with any other application from the same operator, please ensure the applications are consistent with one another. Where the application relies on another operator relinquishing access rights, please provide details.

This application is made under Section 22a of the Railway Act in accordance with the ORR's letter of 24 April 2024 advising on the process for managing competing and/or complex track access applications until the Dec 2025 timetable change.

Other supplementary applications are being made as part of this process by DBC and include the following:

72a, 73a, 79a, 81a, 83a, 84a, 85a, 86a, 87a, 88a, 91a, 92a

8.2 Unregulated access: please comment on whether any contracts are being negotiated for access to a facility adjoining Network Rail's network (e.g. to a freight light maintenance depot), including where ORR's approval is not required. For more information, see [The Railways \(Class and Miscellaneous Exemptions\) Order 1994](#). (This is relevant in the context of clause 6.4 of the model contract.)

n/a

9. Pre-application consultation

9.1 The consultation:

If consultation has not been carried out, explain why not.

This application is made under Section 22a of the Railway Act in accordance with the ORR's letter of 24 April 2024 advising on the process for managing competing and/or complex track access applications until the Dec 2025 timetable change.

If a consultation has been carried out please:

- state who conducted the consultation;
- list all train operators and any other parties that were consulted, stating which parties responded and attach their responses and any associated documentation to this form; and
- state the period allowed for the consultation. If this was less than one calendar month, please explain the reasons for this.
- If the consultation was concluded some time ago, please explain why you consider it is still valid.
- have there been any material changes since consultation that could affect the validity of the responses received?
- please list any information that you have redacted from any documentation sent to consultees and the reasons for the redactions.

n/a

9.2 Resolved issues: please explain any issues raised by consultees which have been resolved.

n/a

9.3 Unresolved issues: Please explain any issues raised by consultees which have ***not*** been satisfactorily resolved and why you think these issues should not stop ORR approving the application. Include details of steps taken to resolve the dispute such as meetings or counter offers and provide copies of correspondence where available.

n/a

10 Certification

Warning: Under section 146 of the Railways Act 1993, any person who, in giving any information or making any application under or for the purposes of any provision of the Railways Act 1993, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and so liable to criminal prosecution.

In the case of agreed applications under section 18 or 22, the facility owner should fill in the information in the box below. For disputed applications under section 17 or 22A, the applicant should fill in the required information.

I certify that the information provided in this form is true and complete to the best of my knowledge

Signed Date 20 MAY 2024
Name (in caps) ANDREA ROSSI Job title CHIEF EXECUTIVE OFFICER
For (company) DB CARGO (UK) LIMITED

For section 18/22 applications, please provide a letter of support from the beneficiary or ask them to sign here:

Signed Date.....
Name (in caps) Job title
For (company)

11. Submission

11.1 What to send: please supply the application form, the proposed contract or amendment and, where possible, any other supporting information, in electronic form by e-mail, **in plain Microsoft Word or Open Document Text format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting).

11.2 Where to send it:

Freight Track Access Manager Email: track.access@orr.gov.uk