

Mark Garner
Customer Manager
Network Rail
George Stephenson House
Toft Green
York
YO1 4JT

Andy Wylie
Head of Regulation & OA Contracts
First Rail Holdings
8th Floor, The Point
37 North Wharf Road
London W2 1AF

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David Reed
Senior Executive, Access and Licensing
Office of Rail and Road
25 Cabot Square
London WC2B 4AN

Dear Mark,

East Coast Trains Limited (Lumo) – Proposed 11th and 12th Supplemental Agreement to the Track Access Contract Dated 3rd October 2016

Thank you for the comments in your letter dated 28th June.

We note that Network Rail (NR) intend to grant rights on a time-limited and contingent basis. This intention is unacceptable because of the severe effect that it has on the ability of Open Access Operators (OAO) to contract with suppliers, especially of rolling stock.

The granting of access rights and the nature and duration of those rights is the required proof that suppliers require in the contracting of certain goods and services. As such, this proposed policy will form a barrier to entry and, if it becomes the norm, threatens the existence of the OAO sector.

We regard the wish to use Part D of the Code in conjunction with the granting of time-limited and contingent rights as a perversion of the Network Code, designed to let NR escape its obligations for timetable recasts, as set out under Part J of the Code (J 10.2 – the “Better Use” provisions) and does not give the degree of protection and certainty that OAO require in order to run their businesses.

As far as the application particulars are concerned, it is recognised that there may be some drafting corrections to be made, We also recognise the overall position regarding these applications and their start dates is uncertain, given the current position with a future ECML timetable.

We note the comments regarding power supply and performance modelling but, given the present uncertainties, we would expect this to be carried out as part of the validation process of the determined timetable rather than be done, based on incomplete or out of date information, by the applicants themselves.

The 11th Supplemental is designed to obviate the need to stable in London, Newcastle Heaton being the depot we would use if this application is successful. We can confirm that the rights

sought are for an additional right each way SX and in one (opposing) direction on each of SO and SuO.

Regarding the restriction at Stevenage, we see this as spurious and unnecessary. This is the NR ECML policy gone a bit mad. As an additional station, there is no right to stop there with every train and the purpose here is to avoid the well-known anomalies created in ARS/DRS if box time is used in production of the timetable. We feel that the fact that Lumo is prepared to introduce this NR flexibility for performance reasons and therefore not to attempt to hard wire these stops into the base stopping pattern should be welcomed by NR.

With reference to the 12th Supplemental, we confirm that the combining clause is required to cater for the possibility of any train being run as two separate portions (Glasgow QS-Edinburgh and Edinburgh-Kings Cross), should the timetable require it. We fundamentally disagree with any additional wording regarding the joining of 5 cars together. We regard this proposed clause as both discriminatory and unduly restrictive, concerning something that should be included on a general basis (for all operators) in the Train Planning Rules.

Yours Sincerely

(signed)

Andy Wylie.