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

Dear Mark,

Hull Trains Company Limited – Proposed 27th, 28th and 29th Supplemental Agreement to the Track Access Contract Dated 17th March 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carried out as part of the validation process of the determined timetable rather than be done, based on incomplete or out of date information, by the applicants themselves.

In respect of the 27th Supplemental, we are currently in the process of finalising the depot location for the proposed cl.222 stock. It is an existing location, well versed in maintaining

cl.222 stock but, depending on the paths available, this may have an impact on our ability to serve Meadowhall.

Regarding the 28th Supplemental, we see the objections to moving just one pair of SO and SuO rights from contingent to firm as another example of where the NR ECML access policy has gone a bit mad. We find it bizarre that the policy extends to weekend times when the ECML is not exactly crowded with trains and we believe that operating this policy for seven days a week is unduly restrictive and seems to favour the needs of the monopoly infrastructure provider more than it does for existing operators, who are running under these rights today.

The 29th Supplemental is primarily drafted to take into account all the possibilities of an ESG Timetable (as recast). Recognising that the recent timetable assumption is for one extra path (EWD), in one direction only, we have also included one “back right” (also EWD), should the situation demand it. This is for administrative ease only, so that the ORR doesn’t have to opine on a myriad of applications from one small operator, all regarding the base ESG ECML timetable. If the ESG work finalises on one direction only, or indeed no additional trains at all, the application can be amended/withdrawn, as required.

Yours Sincerely

(signed)

Andy Wylie.