

Jonathan Rodgers
Senior Executive, Access & Licensing



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Dear Alexis and Lanita

Approval of the 23rd supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and Transport UK East Midlands Limited (trading as East Midlands Railway (EMR)) dated 1 September 2020

We have today approved the above supplemental agreement submitted to us formally on 31 October 2024 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration.

ORR's approval of this application ensures that EMR can provide continuity of services on the East Coast Mainline (ECML) from the Principal Change Date (PCD) in December 2024. This letter explains the reasons for our decision. It also explains ORR's position on the concurrent applications that EMR have submitted in accordance with section 22A of the Act.

Concurrent section 22A application

On 24 April 2024 ORR [wrote to industry](#) to set out a process for access applications for the December 2024, May 2025 and December 2025 timetable changes. In that letter we asked industry to comply with a deadline of 20 May 2024 for applications for additional rights (or amended rights that change capacity parameters) for these timetable changes that met specific criteria. EMR submitted three such applications on 20 May 2024.



In reaching a decision on this supported 23rd supplemental agreement, it is important to clarify that:

- ORR has reached its decision in the full knowledge of EMR's concurrent section 22A applications;
- EMR's section 22A applications remain "live" and we continue to try to progress them. However, ORR cannot reach a decision on those applications as Network Rail has not yet completed its analysis. We continue to press Network Rail to complete its analysis as quickly as possible; and
- most importantly, the approval of the 23rd supplemental agreement ensures that EMR has approved access rights in the December 2024 timetable.

Purpose of 23rd supplemental agreement

The purpose of the 23rd supplemental agreement is to grant EMR the access rights necessary to operate its proposed December 2024 timetable. This agreement extends all of EMR's existing ECML contingent time-limited rights from PCD 2024 until PCD 2025, in line with Network Rail's ECML access policy.

Industry consultation

Network Rail undertook the usual industry consultation. No concerns were raised.

ORR review

Our review of the application raised no operational, performance or economic concerns.

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

Jonathan Rodgers