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23 August 2016

Dear Rob

Network Code Part M – Appeal Related to Timetable Panel TTP985

Introduction

MTR Crossrail disputes the determination made by the Access Disputes Committee on 17 August 2016, following a hearing that was held on the 5 August 2016 under Part D of the Network Code. Therefore MTR Crossrail wishes to appeal the matter to the Office of Rail and Road for determination.

The original dispute was raised by Abellio Greater Anglia (AGA) on 4 July 2016 concerning Network Rail's decisions regarding the New Working Timetable for December 2016.

MTR Crossrail became a Dispute Party on 18 July 2016.

The dispute relates to the provision of a 'stand-by' empty train in London Liverpool Street between the rush-hour periods Monday to Friday.

Both AGA and MTR Crossrail submitted a request to stable a stand-by train at London Liverpool Street at the Priority Date for the December 2016 timetable.

Network Rail subsequently offered the 'stand-by' train to MTR Crossrail in the Timetable Offer, having applied the 'Decision Criteria' defined in Network Code Part D.

This decision was then challenged by AGA, which resulted in the hearing that was held by the Access Disputes Committee on 5 August 2016.

The Access Disputes Committee found in favour of AGA and directed Network Rail to offer the 'stand-by' train to AGA instead of MTR Crossrail.

Grounds for Dispute

The Access Disputes Committee decided that Network Rail's application of the 'Decision Criteria' was flawed.

The Access Disputes Committee then applied the 'Decision Criteria', based on the evidence provided to the panel by AGA, MTR Crossrail and Network Rail. Their application of the 'Decision Criteria' found in favour of AGA.

MTR Crossrail does not agree with the application of the 'Decision Criteria' or the justification provided by the Access Disputes Committee to support their decision.

The determination states that their decision:

1. *'provides a better opportunity for services to be maintained to provide the greatest benefit to passengers'*;

2. reflects the *'additional costs that AGA would undoubtedly face if it could no longer stable its Class 321 at Platform 18'*;
3. and *'the option of stabling MTR's Class 315 at Gidea Park might on occasions be even more beneficial than stabling at Liverpool Street'*.

MTR Crossrail considers that these reasons for the Access Disputes Committee's decision are flawed as explained below.

Point 1

MTR Crossrail does not agree with the statement that the decision *'provides a better opportunity for services to be maintained to provide the greatest benefit to passengers'*.

The AGA stand-by train will not be crewed, whereas the MTR Crossrail standby train will be crewed at all times. Provision of a crewed train will provide a greater opportunity to recover late running train services or to swap over defective rolling stock. MTR Crossrail has also offered to make the stand-by train available to other operators (subject to route clearance and train crew knowledge).

In addition MTR Crossrail does not believe that the Access Disputes Committee has recognised the different requirements of AGA as a longer-distance operator and MTR Crossrail as a high-frequency metro operator. The Access Disputes Panel has given greater weight to longer-distance journeys (i.e. to Braintree) than shorter distance 'metro' type journeys. Whilst MTR Crossrail accept that some AGA services operate less frequently (i.e. the Braintree service) this is irrelevant if AGA cannot provide train crew to operate a replacement train service.

There have also been occasions when recovery from service disruption has been hindered because it has not been possible for AGA to move the stand-by unit from London Liverpool Street to free up platform capacity, as no driver has been available.

MTR Crossrail does not believe that the Access Disputes Panel has considered these issues sufficiently when making their decision.

Point 2

MTR Crossrail does not believe that AGA has adequately demonstrated that they will incur additional costs if they can no longer stable a stand-by train at London Liverpool Street.

MTR Crossrail accept that AGA will incur some additional costs, but do not believe that the Access Disputes Panel has considered the impact on both operators.

The Access Disputes Committee determination suggested that MTR Crossrail could stable at Gidea Park (Network Sidings) instead of London Liverpool Street. The additional costs that MTR Crossrail will incur has not been taken into account. In addition the option of AGA stabling at Gidea Park sidings, and the savings therefore made by not having to take their stand-by train to Southend Victoria, have not been fully considered either.

Point 3

The Access Disputes Committee's determination suggested that *'the option of stabling MTR's Class 315 at Gidea Park might on occasions be even more beneficial than stabling at Liverpool Street'*. MTR Crossrail does not agree with this view as moving the stand-by train from Gidea Park to Liverpool Street will take around 40 minutes. MTR Crossrail operates a 10-minute interval service off-peak with a 43 minute journey time between London Liverpool Street and Shenfield and as a result having a stand-by train at London Liverpool Street provides a far greater opportunity for service recovery.

MTR Crossrail acknowledge that a stand-by train at Gidea Park may help service recovery from Shenfield, but this has less value as there is no fitter located at Shenfield and the

maintenance depot at Ilford is more easily reached from Liverpool Street. It is therefore more likely that MTR Crossrail will swap over defective rolling stock at Liverpool Street.

In contrast, AGA may have more time to arrange for a stand-by unit to be moved to Liverpool Street as their service frequency on some routes is lower and more notice may be available in the event of a train cancellation or delay (assuming that train crew are available). In addition MTR Crossrail has offered to make their stand-by train available to other operators. For example, in the event of a Braintree train being cancelled, MTR Crossrail could provide a replacement train from London Liverpool Street to Shenfield and AGA could then source their stand-by train from Gidea Park sidings to take passengers forward from Shenfield.

MTR Crossrail do not believe that the Access Disputes Committee has adequately considered these options when applying the 'Decision Criteria'.

Supporting Information

I have separately provided the following documentation:

- Directions issued by the Access Disputes Committee dated 18 July 2016.
- Abellio Greater Anglia Statement of Claim.
- Network Rail Defendant's Response.
- MTR Crossrail's response to the claimant's reference.
- The determination from the Access Disputes Committee dated 17 August 2016.

I look forward to hearing from you concerning your proposals for progressing this dispute.

Yours faithfully,



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