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To charter operators

Dear colleague,

### **Consultation on capacity charge baselines in CP5 for charter operators**

1. The purpose of this letter is to update you on the proposed approach and draft values for capacity charge baselines for charter operators in CP5, as per the decisions set out in our *Periodic Review 2013: Final determination of Network Rail's outputs and funding for 2014-19*<sup>1</sup>. If you wish to comment on these proposals, please do so by **23 January 2014**.
2. The consultation consists of this letter and an annex prepared by Network Rail which includes a draft baseline value for charter operators in CP5, and explains how this value has been calculated. Following this consultation, baselines will be calculated by Network Rail for our approval (or we will determine them if we do not approve Network Rail's proposed baselines); they will then be published by Network Rail on or before 10 February 2013.
3. In the remainder of this letter we recap on our final determination decisions on the capacity charge and associated baselines, explain changes to contractual wording in Schedule 7, and cross refer to Network Rail's calculation of the baselines. We also set out the next steps for finalising the baselines.

### **Final determination**

4. In our final determination we concluded on how the capacity charge would be levied on charter operators in CP5. This followed a consultation process carried out over the summer of 2013. This process involved input from charter operators and industry stakeholder groups, notably RDG.

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<sup>1</sup> This may be accessed at: <http://www.rail-reg.gov.uk/pr13/PDF/pr13-final-determination.pdf>.



5. For charter operators, we concluded on implementing an option which uses a wash-up as outlined in our 30 September 2013 consultation on proposed changes to implement capacity charge policy options<sup>2</sup>. This means that in CP5:
- a. Charter operators will pay the capacity charge at a rate calculated on an equivalent basis to the CP4 freight rate (reflecting the fact that charter operators have not been subject to a capacity charge in CP4, and therefore do not have a CP4 rate);
  - b. Network Rail will calculate the wash-up annually, at the end of the year. For the purposes of the wash-up, a baseline will be set across all charter operators using 2012-13 actual charter train miles;
  - c. the wash-up will be
    - i. the revenue that Network Rail would have received if the capacity charge wash-up rates<sup>3</sup> were applied to the actual charter traffic above the baseline  
minus
    - ii. the capacity charge revenue it has actually received;
  - d. each charter operator's proportion of the wash-up will be equal to the train miles it runs relative to total train miles run by all charter services; and
  - e. the wash-up will work so that where the charter train miles, across all charter operators, for that year corresponds to or is less than its 2012-13 level, the reconciliation will be zero.

### **Contractual wording**

6. On 30 September 2013 we consulted on the changes we would need to make to track access agreements in order to implement the capacity charge policy options discussed with industry over the summer<sup>4</sup>. This included the option of implementing the proposed charter option outlined above.
7. Subsequent to this, we have refined the Schedule 7 contractual wording including making three substantive changes.

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<sup>2</sup> This may be accessed at: <http://www.rail-reg.gov.uk/pr13/PDF/implementing-pr13-capacity-charge.pdf>.

<sup>3</sup> These wash-up rates are shown on Network Rail's List of Capacity Charge Rates and equate to the rates recalibrated by Arup for Network Rail as part of PR13, sometimes referred to as the "CP5 rates".

<sup>4</sup> The consultation letter and contractual wording may be accessed at: <http://www.rail-reg.gov.uk/pr13/consultations/capacity-charge-implementation.php>.

8. First, we have included a requirement for Network Rail to provide to the train operators such background data and workings as may reasonably be required for a proper understanding of Network Rail's calculations. We expect the wash-up calculation to be transparent.
9. Secondly, we have amended the formulae to correct the adjustment for the weekend discount (which is 25% for the capacity charge rate, but 33% for the wash-up rate), following a response to our consultation from Network Rail.
10. Thirdly, we have postponed the publication of the baselines from 20 December 2013 to on or before 10 February 2014. We think that this is important because it allows us to update you on our and Network Rail's thinking regarding these baselines and gives you the opportunity to comment.
11. We have now completed our work on Schedule 7 contractual wording (which is being issued to you separately as part of a review notice on 20 December). That contractual wording is now finalised and does not form part of this consultation.

### **Proposals for calculating the baselines**

12. As Network Rail explains in the annex, it is proposing to calculate the baseline using train mile data sourced from its track access billing system (TABS). We welcome any comments on its calculations.

### **Next steps**

13. If you wish to comment on the proposed definitions of commodities or baselines or the draft baseline values, please send these comments to Alexandra Bobocica, [alexandra.bobocica@orr.gsi.gov.uk](mailto:alexandra.bobocica@orr.gsi.gov.uk), copied to Caitlin Scarlett, [Caitlin.scarlett@networkrail.co.uk](mailto:Caitlin.scarlett@networkrail.co.uk), on or before **23 January 2014**.
14. In order to implement our decision for charter operators, Network Rail will publish a charter baseline, which will be approved by ORR (or determined by ORR if we do not approve Network Rail's calculation), on or before 10 February 2013.

Yours faithfully

**Emily Bulman**



## **Annex A – Methodology for calculating capacity charge baselines and draft baseline values for CP5**

For CP5, freight operators, charter operators and open access operators will be subject to a new charging arrangement for the Capacity Charge. In particular, these operators will pay the CP4 rates on existing traffic, and pay the newly recalibrated CP5 rates on traffic above the baseline by means of a year-end wash-up (these latter rates are labelled in the price lists as the “wash-up rates”).

Network Rail has prepared this Annex to go alongside ORR’s consultation on Capacity Charge baselines. We invite stakeholders to comment on any aspect of this Annex in their response to ORR.

This Annex explains the methodology which has been used by Network Rail to calculate the baselines for the Capacity Charge wash-up arrangements for CP5.

### *Charter operator baseline*

The charter operator baseline is the total mileage (across all charter operators) for the financial year 2012/13 (note that the charter baseline is in terms of mileage rather than a monetary amount). The following operators currently run charter services:

- DB Schenker;
- Devon and Cornwall Railways;
- Direct Rail Services;
- GB Railfreight; and
- West Coast Railway

The traffic data used to set the draft CP5 baseline has been taken from the Track Access Billing System (TABS) – this will include ad-hoc services that might not have had a corresponding ‘bid’. This data also includes Class 0 traffic (light locomotive movements) which has not been billed for CP4. This traffic will be billed for CP5, and hence it has been included in the baseline.

We have calculated the charter operator baseline to be 500,474 miles.