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13 December 2019

Dear David

Application for directions: proposed track access contract between Network Rail Infrastructure Limited and Grand Union Trains Limited

This letter provides the representations of Network Rail as requested in ORR's letter of 18 November with regard to the above application.

Introduction

ORR wrote to the industry on 11 October 2019 setting out how it intended to take forward several aspirations it was aware of to run additional services on the West Coast Main Line (WCML). It also required any aspirants, including those of which it was already aware, to submit an access application to it by 15 November 2019.

As ORR noted in its letter, it was unclear to what extent there might be capacity to accommodate all of these aspirations; what the performance implications might be; and, where there were trade-offs, what those choices would entail.

To inform its decision making ORR subsequently asked Network Rail to provide an appraisal of WCML capacity and the potential impact on performance that would result from additional services and to report on this work by the end of February 2020. Network Rail has also been made aware of aspirations to operate materials trains for the construction of HS2, although no corresponding track access application has yet been made for these services. Network Rail recognises that until it reports on this work, while it is able to comment on specific aspects of applications, it is not in a position to comment on available WCML capacity or the potential impact on performance that would result from additional services. It has been possible, however, to identify some aspects of applications which it would in any case not be able to support or with regard to which it would require further information to inform its decision. Our representations are provided in this context.

The Application

Grand Union Trains Ltd has submitted a Section 17 track access application for services between London Euston and Stirling. The services would commence on the Subsidiary Change Date 2021 and expire on Subsidiary Change Date 2031.

The application seeks to secure quantum rights (table 2.1 of Schedule 5) as described in the draft track access contract (TAC) and which appears to be based on the Passenger (Non-Franchise) Track Access Model Contract, with Open Access modifications.

The Application Form P

Section 3.2 of the application Form P regarding “Terms not agreed with the facility owner” states that:

“Grand Union has engaged at the earliest opportunity with the Freight and National Operators (FNPO) team who manage the relationship with aspirant Open Access Operators on behalf of Network Rail. FNPO is fully supportive of the principle of this application and is working closely with us to develop our proposition and identify where specific analysis or modelling may be necessary.

Due to the requirements of the Economic Equilibrium Test for a Track Access Contract (TAC) submission to be made when new rights are sought and no TAC is in place, this section 17 application reflects the fact that other than ‘in principle’, agreement on specific areas of this application have not been able to be sought due to the limited time timescales.”

NR would always endeavour to negotiate an agreed Section 18 application as our preferred approach to working with customers, it is recognised that in this instance it has not been possible to engage with NR early enough to undertake assessments of the impact of the application prior to submitting a Section 17 application, owing to the request by ORR for operators to submit any known track access applications affecting West Coast Mainline by 15 November 2019, and the requirements of the Economic Equilibrium Test for the applicant to seek a TAC whilst submitting the Form OA.

Journey Time Protection

Section 4.4 of the application Form P regarding Journey Time Protection states that:

“Grand Union will look to discuss with Network Rail rights that may offer a degree of journey time protection. We are aware of Network Rail’s view that additional characteristics beyond quantum may restrict the flexibility available to them in constructing the timetable and fully intend to work closely with them on this matter and provide the justification for these additional characteristics where necessary, and support the request by a demonstrable need

Network Rail notes that the Form P sets out an aspiration for a degree of journey time protection, which is not further referenced in the draft track access contract. Whilst Network Rail recognises the aspirations of the applicant to maintain journey times as far as is possible in line with other traffic, Network Rail would need to receive evidence from the applicant as to why such protection is required, in accordance with our access rights policy.

Infrastructure Capability

Regarding infrastructure speed and capability, the applicant has requested NR undertakes or accelerates work to deliver enhancements to the permissible speed on WCML to enable speeds greater than 110mph.

There is currently no committed works to increase line speeds on the routes specified in the application. NR would need to understand what works the applicant envisaged in connection with this the application to facilitate these improvements. NR will engage further with the applicant to consider whether there are opportunities to increase the line speed.

Investment Conditions

Network Rail notes that the TAC does not include any investment conditions, which it might expect to accompany an Open Access application seeking rights for a longer duration than five years. Network Rail notes, however, that the form P references investments at stations. The extract below is from section 6.1 of the Form P:

“Planned enhancement schemes (mostly around stations and depots/stabling) are at an early stage of discussion with Transport Scotland, ScotRail, Regional Transport Partnerships and local authorities, and details will be provided to the ORR as they become available.”

Network Rail would be keen to understand the investments being proposed by the applicant as there are no references to the investment conditions in the draft TAC.

The Proposed Contract

Form of contract

The draft contract appears to be based on the Passenger (Non-Franchise) Track Access Model Contract, with Open Access modifications.

Model Contract

The application is based on the Passenger (Non-Franchise) Model Track Access Contract.

The Services

NR's view of the deliverability of the quantum of passenger train slots sought by The Applicant in Table 2.1 of Schedule 5 is included in the Timetable Capacity & Performance section below.

Calling Patterns

NR cannot currently support the sale of the calling patterns specified by The Applicant in Table 4.1 of Schedule 5 until the capacity study has been concluded (see Timetable Capacity & Performance section below).

The Specified Equipment

Route Clearance processes have not taken place for the Specified Equipment (Class 91 Electric Locomotive, Mark 4 Driving Van Trailer and Mark 4 Passenger Vehicles). Therefore,

rolling stock compatibility has not been demonstrated throughout the route specified in the application.

The Specified Equipment includes electric locomotives. Therefore, it will be necessary to undertake further assessments of the infrastructure capability, to understand whether it is possible to operate a higher quantum of electric vehicles beyond those train slots which have already been accommodated.

Timetable Capacity & Performance

The applicant has proposed to run up to 4 trains in each direction a day on between London Euston and Stirling. Network Rail has not been provided with any detailed proposals from the applicant regarding the timetable aspirations for train slots. As outlined earlier, NR is currently undertaking an appraisal of available capacity and the potential impact on performance that would result from additional services. This will inform its position regarding this.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "D. Fredriksson", with a long horizontal flourish extending to the right.

Daniel Fredriksson

Customer Relationship Executive, Network Rail