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11 August 2011

Dear Ian

Coal Spillage Variation Charge Notice: 2011-2012

1. This letter forms ORR's Coal Spillage Charge Variation Notice issued under the terms of paragraph 2.11 of Schedule 7 to the Track Access Contract (Freight Services) between Network Rail Infrastructure Limited ("Network Rail") and all freight operators.

Background

2. In our final determination of Network Rail's output and funding for 2009-14, we said that at the end of each financial year Network Rail, in consultation with freight operators, should propose to us a change to the level of the coal spillage charge. Its proposed charge should be based on the change in the number of points failures attributable to coal spillage, compared to the baseline points failures for 2007-2008. Schedule 7 of the Track Access Contract was amended to provide for an annual review of the coal spillage charge.

Consultation

3. In accordance with the provisions of the Track Access Contract, on 28 April 2011 Network Rail notified us of and consulted the industry on its proposal regarding the variation to the coal spillage charge rate. Network Rail proposed that there should be a reduction of 26.11%.

4. Of the freight operators identified, all accepted the proposal, with the exception of Direct Rail Services Limited which did not respond. Network Rail wrote to Direct Rail Services Limited again on 20 June 2011 to advise that in the absence of a response it would be submitting its proposal to ORR. Network Rail also consulted the Coal Producer's Association which accepted the proposal and the Coal Importers Association which confirmed it had no comments to make.

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ORR Review

5. Network Rail therefore submitted its formal proposal for our review on 20 June 2011. This included a coal in points failures comparison document showing the coal in points failures from 2007-2008 to 2010-2011 and a detailed list of the 150 coal in points failures for 2010-2011. We also noted that there were no objections from consultees to the number of coal in points failures reported by Network Rail.

6. We have reviewed the information provided and are satisfied that the figure reported by Network Rail is correct and that the proposed reduction to the coal spillage charge has been calculated correctly.

ORR Decision

7. Given the above, we determine that a reduction of the coal spillage charge of 26.11% should be applied from 1 April 2011.

8. We are copying this letter to all freight train operators listed below. It also goes to the Association of UK Coal Importers and the Confederation of UK Coal Producers together with colleagues here. A copy of this letter will also be posted on our website at <http://www.rail-reg.gov.uk/server/show/nav.1917>.

Yours sincerely

David Robertson

Copyees:

Simon Ball, Colas Rail

Nigel Oatway, DB Schenker Rail (UK) Limited

Chris Connolly, Direct Rail Services Limited

Lindsay Durham, Freightliner Group

Steve Turner, GB Railfreight Limited

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David Brewer, Association of UK Coal Producers

John Boon, Commercial Manager (Contracts), Network Rail