

Andrew Whittington
Track Access Executive
Telephone: 020 7282 3773
Fax: 020 7282 2043
Email:
andrew.whittington@orr.gsi.gov.uk



2 June 2014

Clare Smith
Customer Manager
Network Rail Infrastructure Limited
Cottons Centre 2nd Floor
Hays Lane
London SE1 2QE

Kai Hills
Head of Franchise & Access
Contracts
Southern Railway Limited
Go Ahead House
26-28 Addiscombe Road
Croydon
Surrey CR9 5GA

Dear Richard and Kai,

Approval of the Twenty-Ninth Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited and Southern Railway Limited

1. The Office of Rail Regulation (ORR) has today approved the Twenty-Ninth Supplemental Agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and Southern Railway Limited (Southern) (jointly the parties), submitted to us formally on 2 June 2014 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. The purpose of this letter is to set out the reasons for our decision.

Purpose of the agreement

2. The purpose of this agreement is to permit Southern to amend Schedule 7 of its Track Access Contract to permit the extension of on-train metered (OTM) billing of traction electricity charges.
3. This application is to add further units as follows:
- Class 377 x 5 cars (8 units)
4. Class 377 is currently included in the Traction Electricity Rules (TER) for DC operation only. The parties have therefore also submitted an application to amend the TER in respect of AC operation for this class. Since the application related to the addition of AC operation the application is to amend Appendix 2 only.

Consultation

5. Southern and Network Rail took the view that reduced consultation of 7 days was suitable since that this application was only to add further units to the classes of stock that was already listed in the Appendix 7D of Schedule 7 and to extend their metered operation into the AC network. Passenger Focus supported the application and no adverse comment was received to the consultation.

ORR review

6. We considered the submission from an engineering perspective and accepted that there was no need for an amendment to Appendix 4. We raised no other issues from a technical point of view and a drafting error he raised in relation to the title of the appendix was corrected.

ORR's conclusions

7. In considering the agreement and in reaching our decision, we have had to weigh and strike the appropriate balance in discharging our statutory duties under section 4 of the Act. We have concluded that approval of this supplemental agreement is consistent with our section 4 duties, 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 contract

8. 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.
9. Copies of this letter, the approval notice and the agreement will be sent to John Miller at DfT. Copies of the approval notice and the agreement will be placed on ORR's public register and copies of this letter and the agreement will be placed on the ORR website. I am also copying this letter without enclosures to Chris Armitage at Network Rail.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Andrew Whittington'.

Andrew Whittington