

Mark Langman
Regional Managing Director
Network Rail Wales & Western
St Patrick's House
Cardiff
CF10 5ZA

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Richard Coates
Deputy Director, Planning & Performance
Office of Rail and Road
25 Cabot Square
London
E14 4QZ

Dear Mark

Network Rail's engagement with ORR (under our Managing Change Policy) regarding divestment of Core Valley Lines in the Wales & Western region

Thank you for your letter dated 15 July 2020 outlining the changes to the CP6 regulatory benchmarks following divestment of the Core Valley Lines (CVL) from Network Rail to Amey Keolis Infrastructure Ltd (AKIL) in the Wales & Western region in March 2020.

ORR recognises that changes can occur during the control period, which may impact on region and/or SO accountability and funding. Therefore, we developed our Managing Change policy¹ to ensure any changes relative to region or SO settlements, set in ORR's Final Determination², are managed appropriately. This balances the need for Network Rail to respond flexibly to changing circumstances and provide greater certainty to the regions and SO (and their customers and funders) whilst ensuring accountability for the delivery of CP6 commitments. Our policy also supports us in comparing regions' performance, across CP6 and beyond. Network Rail is required, under its Network Licence³, to comply with this policy.

¹ https://orr.gov.uk/_data/assets/pdf_file/0008/39329/pr18-managing-change-policy.pdf

² <https://orr.gov.uk/rail/economic-regulation/regulation-of-network-rail/price-controls/periodic-review-2018/publications/final-determination>

³ https://orr.gov.uk/_data/assets/pdf_file/0012/3063/netwrk_licence.pdf

As noted in your letter, this change is classed as a Level II Relevant Change under ORR's Managing Change Policy and, at this level, Network Rail must discuss the changes with ORR and relevant stakeholders before a decision is made.

In regards to the CVL divestment, Network Rail demonstrated that this occurred as it engaged with ORR, Transport for Wales (TfW) and Department of Transport (DfT) from 2019 onwards in relation to the safety, financial and performance-related impacts of the change. Further comment on these impacts is given below.

Impacts of the change

As outlined in your letter, we note the CVL divestment will result in changes to the CP6 Wales & Western financial settlement, with a net reduction of funding requirement of £52.4m across CP6. This was calculated by taking the income lost by divesting the CVL away from the costs avoided.

Following discussions at our working level analytical meetings on the methodology and ORR's review of the associated outputs, we are content with the revised CP6 figures presented in your letter. ORR will however, continue to monitor these changes, reviewing them on an annual basis for any fluctuations. We agree that the original level of challenge set in ORR's Final Determination remains, despite this change.

It is noted that no baseline trajectory or regulatory floor changes will occur to the Wales & Western CP6 regulatory measures of Consistent Regional Measure (Passenger) Performance (CRM-P) and Regional Freight Delivery Metric (FDM-R) as a result of the divestment. In relation to the Composite Sustainability Index (CSI), we are content with Network Rail's proposal to fix the CVL inventory to the end of 2019-20 financial year for the purposes of calculating CSI. This means that there will be no further impacts from changes to the CVL inventory on the remainder of the control period beyond this date. We also note that no changes will occur to the CSI regulatory floor.

We have had separate engagement on changes to the calculation of CRM-P and FDM-R following a Network Rail update to the train mileage data, which will impact all regions (including Wales & Western) from August 2020. ORR has provided opinions (under our Managing Change Policy) to Network Rail on these changes⁴.

In addition to FDM-R and CRM-P, the inclusion or exclusion of CVL data from all periodic datasets reported to ORR continues to be discussed between ORR and the relevant data teams within Network Rail. We expect these discussions to be concluded by the end of August 2020.

⁴ <https://orr.gov.uk/rail/economic-regulation/regulation-of-network-rail/holding-network-rail-to-account>

We understand that the CVL divestment is likely to affect the region's efficiency plans for CP6 and expect continued engagement on this impact.

Stakeholder engagement

As set out in our Managing Change policy, we expect Network Rail to engage with its stakeholders about changes relative to its settlement. This approach should be consistent with the principles of good stakeholder engagement⁵. As noted in your letter, Network Rail undertook extensive engagement with ORR, TfW and DfT during the transfer to AKIL, and we welcome Network Rail's continued support to TfW and AKIL during these early days. However, should any stakeholders raise any concerns on this change, please inform ORR as soon as possible.

Summary

In line with the Level II Relevant Change requirements under ORR's Managing Change Policy, we confirm that Network Rail has undertaken sufficient discussions with ORR prior to any changes being made as part of the Core Valley Lines divestment.

We will continue to hold Network Rail to account for the delivery of the CP6 committed levels of performance in the Wales & Western region, and expect Network Rail to continue its ongoing engagement with ORR to keep us updated on any potential future impact and/or changes as early as possible. We also expect any changes as a result of the divestment to be reflected accordingly in updates to Network Rail's delivery plans.

Yours sincerely



Richard Coates

⁵ The engagement should be effective, inclusive, well governed and transparent (p10)
https://orr.gov.uk/data/assets/pdf_file/0008/39329/pr18-managing-change-policy.pdf