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15th July 2020

Dear Gordon

Application for Directions: Proposed 28th Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited and DB Cargo (UK) Limited

I refer to your letter where you invited Network Rail Infrastructure Limited to make written representations in respect of the 28th Supplemental Agreement application made by DB Cargo (UK) Limited (“DB Cargo”) under Section 22A of the Railways Act 1993 (the Act). Our representations to the Office of Rail and Road (ORR) follow herewith.

Background

Network Rail recognises that DB Cargo have sought to make this application under Section 22A of the Act after initial discussions with Network Rail with reference to Network Rail’s East Coast Main Line (ECML) industry letter of 27th June 2019 and now superseded by the letter of 19th June 2020. This led to an understanding that a DB Cargo application for Firm Rights until the end of their contract in 2026 could not be supported.

This application is for the following 5 additional Firm Rights, which are summarised below:

Train Reporting Number	Days per Week	Dep Window From	Dep Window To	Origin	Destination	Arrival Window From	Arrival Window To
4E99	SX	00:00	24:00	GRANGEMOUTH TDG (DBC)	TEES DOCK BSC EXPORT BERTH	00:00	24:00
4S99	SX	00:00	24:00	TEES DOCK BSC EXPORT BERTH	GRANGEMOUTH TDG (DBC)	00:00	24:00
4E96	MSX	00:00	24:00	MOSSSEND EUROTHERMAL	TEES DOCK BSC EXPORT BERTH	00:00	24:00
4E98	SO	00:00	24:00	MOSSSEND EUROTHERMAL	TEES DOCK BSC EXPORT BERTH	00:00	24:00
4S92	SX	00:00	24:00	TEES DOCK BSC EXPORT BERTH	MOSSSEND EUROTHERMAL	00:00	24:00

Current Position

Network Rail does not support the application for the Firm Rights listed above. However, Network Rail would be willing to consider supporting an application for Contingent Rights to expire on the last day of the Working Timetable before PCD (that will fall in December) 2021.

This is in line with Network Rail’s ECML letter of 19th June 2020 and Network Rail will reconsider these, along with any other Rights on the ECML, once the Event Steering Group (ESG) for the ECML reports.

The ECML ESG Programme is in its second phase developing standard hour timetables to provide choices for funders where the capacity cannot accommodate the whole Indicative Train Service Specification (ITSS). DB Cargo, as is the case for all operators, has been a party to and present at the ESG.

The timetable development has sought to include designated freight paths on the ECML. The key intention for these designated freight paths is to accommodate any current freight with Firm Rights. The final freight paths, however, are subject to final detailed development. In a similar vein, any additional 1 hour, or 24 hour window Rights are to be sold as Contingent Rights in line with the ECML Access Rights policy until we have completed the ECML timetable re-write as this will retain as much flexibility as possible.

The second phase of the ESG Programme concludes in July 2020 and there is an exercise to agree which standard-hour timetable structure to take forward into the third phase. The second phase will identify standard-hour slots for freight to use.

It has always been the view of Network Rail that it would review its ECML position on a case by case basis, so that any Rights affected by the policy could become Firm Rights, if evidence demonstrated it could be so. If evidence can be provided to Network Rail demonstrating that there is theoretical capacity for additional Rights on the ECML then this will be considered on a case by case basis. In this DB Cargo application Network Rail's view and analysis suggests that this application should be supported as outlined above.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Mike Pybus', is positioned above the printed name.

Mike Pybus

Access Rights Manager
Network Rail

CC:

Nigel Oatway, DB Cargo
Andy Saunders, Network Rail
Rachel Gilliland, Network Rail
Georgina Collinge, Network Rail