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15th July 2020

Dear John

Application for Directions: Proposed 11th Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited and GB Railfreight Limited

I refer to your letter where you invited Network Rail Infrastructure Limited to make written representations in respect of the 11th Supplemental Agreement application made by GB Railfreight (“GBRf”) 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 GBRf 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Network Rail with reference to Network Rail’s East Coast Main Line (ECML) industry letter of 27th June 2019 and now superseded by the letter of 19th June 2020.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 GBRf application for Firm Rights until the end of their contract in 2026 could not be supported.

This application is for 7 Firm Rights summarised below:

4D06	134	SX	21:56	22:56	Tees Dock GBRf	15622	Doncaster i-Port GBRf	01:35	02:35
4N06	154	EWD	04:00	05:00	Doncaster i-Port GBRf	23405	Tees Dock GBRf	06:31	07:31
4D08	157	SX	09:08	10:08	Tees Dock GBRf	15622	Doncaster i-Port GBRf	12:30	13:30
4D08	132	SO	08:43	09:43	Tees Dock GBRf	15622	Doncaster i-Port GBRf	12:30	13:30
4N08	214	SX	16:04	17:04	Doncaster i-Port GBRf	23405	Tees Dock GBRf	19:42	20:42
4N13	155	SO	15:05	16:05	Doncaster i-Port GBRf	23405	Tees Dock GBRf	18:05	19:05
4D15	-	EWD	01:55	02:55	Doncaster i-Port GBRf	23405	Doncaster i-Port GBRf	03:16	04:16

Current Position

Network Rail does not support the application for the 7 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). GBRf, as is the case for all operators, has been a party to and present at the ESG.

The timetable development has sought to include an hourly freight path between Doncaster and York via Hambleton North, for intermodal traffic, recognising that this is the only route between Doncaster and York that is cleared to W10/12. The key intention for this hourly freight path is to accommodate any current freight with Firm Rights. The final freight paths, however, are subject to final detailed development especially flighting of trains on dual-track sections of the ECML such as Doncaster to York. Another challenging location for timetable validation is Doncaster station. On this basis, it is Network Rail's view that until this work has concluded these rights should be sold as Contingent Rights as outlined above. In a similar vein any additional 1-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.

With reference to your additional query in conversation with regard to the Northern 28th Supplemental Agreement, 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. For the Northern 28th Supplemental Agreement, a third party capacity study was undertaken and submitted for review by Network Rail. 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 GBRf application Network Rail's view and analysis suggests that this application should be supported as outlined above.

Regards

A handwritten signature in blue ink, appearing to read 'R. Williamson', is positioned above the printed name and title.

Robert Williamson
Customer Relationships Executive
FNPO

CC:

Ian Kapur, GB Railfreight
Andy Saunders, Network Rail
Gordon Herbert, ORR