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4 March 2021

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Robert Holder
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Dear Richard and Robert

Approval of the 69th supplemental agreement to the track access contract between Network Rail Infrastructure Limited and First Greater Western Limited dated 4 March 2016

We have today approved the above supplemental agreement submitted to us formally on 4 March 2021 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. This letter explains the reasons for our decision.

Purpose

The purpose of this agreement is to grant GWR an extension to its track access contract from the Principal Change Date (PCD) in December 2021 to the Subsidiary Change Date (SCD) in May 2022.

Background

This application replaced a disputed Section 17 application that was withdrawn by GWR. The previous Section 17 application was for an extension of GWR's rights to the PCD in December 2023. Network Rail would not support this application initially because it viewed the rights as potentially conflicting with those included in Grand Union Trains' London – Carmarthen Section 17 application, and additionally because of potential conflicts with MTR Elizabeth Line services from the SCD in May 2021. Following ORR's rejection of Grand Union Trains' London – Carmarthen Section 17 application on 10 February 2021,

Network Rail agreed it could support a shorter extension to GWR's existing rights, up until the SCD in May 2022.

Industry consultation

Network Rail undertook an industry consultation for the previous Section 17 application, which this application represents a subset of, in January and February of 2021. Comments were received from:

- CrossCountry, which supported the application;
- Go-Op, which asked a number of clarification questions regarding the interaction of GWR's services with its aspirations;
- Grand Union Trains, which viewed that its aspirations could be accommodated alongside GWR's services and that Network Rail should therefore support the GWR application;
- MTR Elizabeth Line, which initially objected to the application based on Network Rail's position of not supporting applications for access rights on the Great Western Main Line beyond the December 2021 until a decision had been made on Grand Union Trains' application. Following the rejection of Grand Union Trains' application and Network Rail agreeing to this extension which is only until May 2022, MTR Elizabeth Line confirmed it had no outstanding concerns; and
- Transport Focus, which supported the application.

ORR review

We sought assurances from GWR regarding the level of services it intends to operate from December 2021, which it provided.

Our review of the application raised no other operational, performance or economic concerns.

Our duties under section 4 of the Act and our decision

We have concluded that approval of this supplemental agreement strikes the appropriate balance in discharging our statutory duties under section 4 of the Act; 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 agreement

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.

Public register and administration

Electronic copies of this letter, the approval notice and the agreement will be sent to the Department for Transport. Copies of the approval notice and the agreement will be placed on ORR's public register (website) and copies of this letter and the agreement will be placed on the ORR website. I am also copying this letter without enclosures to Network Rail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Reed', is positioned below the 'Yours sincerely' text.

David Reed