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24 March 2021

Rebecca Mordey
Franchise and Access Manager
Network Rail Infrastructure Ltd
James Forbes House
27 Great Suffolk Street
London
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Tom Causebrook
Track Access Contracts Manager
Govia Thameslink Railway Ltd
1st and 2nd Floor
24 Monument Place
London
EC3R 8AJ

Dear Rebecca and Tom

Approval of the Thirty Third supplemental agreement to the track access contract between Network Rail Infrastructure Limited and Govia Thameslink Railway Limited (GTR) ('the parties) dated 2 March 2016

We have today approved the above supplemental agreement submitted to us formally on 24 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 add a new Schedule 12 to the parties' track access contract in order to contractualise a bespoke performance regime retrospectively between 27 May 2018 and 31 March 2019. The regime reflects the significant GTR timetable changes in May 2018, which included a large number of changes to the structure of their service groups.

The parties had, after receiving independent advice, concluded that the nature, scope and timing of the timetable changes created too much financial risk and uncertainty for a conventional recalibration approach to be taken. They decided to develop a proposal for a variation to Schedule 8 that would temporarily replace that regime for the period referred to above and would be possible to calibrate to broadly maintain the same financial flows based on the delivered performance.

Industry consultation

As this agreement does not impact on any other operator an industry consultation was not appropriate.

ORR review

Our review of the application raised no concerns. We identified some minor drafting issues and these were resolved when the agreement was formally submitted.

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 Department for Transport and Network Rail's Regulatory Reform Team. 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.

Yours sincerely

A handwritten signature in dark ink, appearing to be 'Jonathan Rodgers', is written over a light blue horizontal line.

Jonathan Rodgers