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18 May 2021



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Network Rail Infrastructure Limited
George Stephenson House
York
YO1 6HP

Andy Wylie
Head of Regulation
Hull Trains Company Limited
4th Floor, Capital House
25 Chapel Street
London
NW1 6DU

Dear Mark and Andy,

Approval of the twenty-first supplemental agreement to the track access contract between Network Rail Infrastructure Limited and Hull Trains Company Limited

1. The Office of Rail and Road (ORR) has today approved the twenty-first supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and Hull Trains Company Limited (Hull Trains), submitted to us formally on 18 May 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 our decision.

Purpose of the agreement

2. This agreement amends the Investment Conditions notification and expiry dates in paragraphs 3.5 and 3.7 in the front end of the track access contract, allowing Hull Trains more time to complete infrastructure work that has been impacted by the COVID-19 pandemic.

3. The supplemental will amend:

- the date by which Hull Trains needs to provide ORR with evidence that it has met the investment conditions from the Principal Change Date (PCD) 2021 to PCD 2023;
- the date by which the ORR must decide whether Hull Trains has satisfactorily met the conditions from PCD 2022 to PCD 2024; and





- the expiry date of the contract should the ORR decide that Hull Trains has not met the investment conditions from PCD 2022 to PCD 2024.

Consultation

4. No consultation was necessary as the agreement does not affect access rights or affect other operators.

ORR's review and conclusions

5. We reviewed the application and submission including details of the infrastructure works planned by Hull Trains.

6. Under The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016, contracts longer than 5 years must be justified by the existence of commercial contracts, specialised investments or risks.

7. Hull Trains' current access contract was approved in 2016 giving it an additional 10 years on top of its then existing contract from December 2019 to December 2029. This duration was justified on the need to secure a long-term contract in order to enable investment in a fleet of new class 802 bi-mode trains, and additionally based on other infrastructure investments in stations and sidings. We recently approved an extension to Hull Trains' contract to December 2032 on the basis that the COVID-19 pandemic represented a material change to the basis on which we originally approved the contract duration, and that an additional three years was required to support Hull Trains' rolling stock investment.

8. Hull Trains has advised us that the infrastructure work on stations and sidings could be delayed by up to two years due to the COVID-19 pandemic and is likely to take place in 2022/23. We view the COVID-19 pandemic as a material change to the basis of which these terms were originally agreed to, and on this basis we are content to push back the investment condition notification and expiry dates.

9. In considering the agreement and in reaching our decision, we have had to weigh and strike the appropriate balance in discharging our statutory duties under section 4 of the Act. We have concluded that approval of this agreement is consistent with our section 4 duties, in particular those relating to:

- protecting the interests of users of rail services;
- promoting the use of the railway network in Great Britain for the carriage of passengers and goods, and the development of the railway network, to the greatest extent that ORR considers economically practicable;
- contributing to the development of an integrated system of transport of passengers and goods;
- promoting competition in the provision of railway services for the benefit of users of railway services; and



- enabling persons providing railway service to plan the future of their businesses with a reasonable degree of assurance.

Conformed copy of the track access contract

10. 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 Hull Trains. ORR's copy should be sent for my attention.

Public register and administration

11. In accordance with section 72 of the Act, we will place a copy of the approval notice and the agreement on our public register. The parties have not asked us to redact anything (as provided for by section 71(2) of the Act) prior to placing it on the register.

12. Copies of this letter, the approval notice and the agreement will be sent to the Department for Transport. 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 dark ink, appearing to read 'David Reed', written in a cursive style.

David Reed