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13 May 2021

Rebecca Mordey
Franchise and Access Manager – South East
Network Rail Infrastructure Ltd
James Forbes House
27 Great Suffolk Street
London
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Raj Patel
Head of Access and Regulatory
Govia Thameslink Railway Limited
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24 Monument Place
London
EC3R 8AJ

Dear Rebecca and Raj

Approval of the 41st supplemental agreement to the track access contract between Network Rail Infrastructure Limited and Govia Thameslink Railway Limited

We have today approved the above supplemental agreement submitted to us formally on 13 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 the reasons for our decision.

Purpose

The purpose of this agreement is to extend the duration of GTR's Firm and Contingent access rights relating to Great Northern Outer and Thameslink Sussex Outer services for one year to expire at the Subsidiary Change Date in May 2022 in line with the rest of the GTR track access contract. This is with the exception of eight access rights that will expire at the Principal Change Date in December 2021.

Industry consultation

Network Rail undertook the usual industry consultation between 8 February and 10 March 2021. No consultation responses were received.

ORR review

The industry consultation issued by Network Rail and GTR, and the application submitted to ORR, stated that "The opportunity is also being taken to rectify a number of errors ... These are not additional rights being sought but amendments to reflect rights that currently exist." ORR's review of the submission identified that the changes proposed did represent

an increase in the quantum of rights for a number of services in ET02 (Thameslink Sussex Outer) and ET05 (Great Northern Mainline) service groups.

We discussed the industry consultation and the proposed changes with the parties. We advised that clear and effective consultation is essential to ensure a fair and transparent access rights process, and ensures that potentially affected parties can raise any issues for the parties and ORR to consider. The parties agreed to remove the additional rights from this supplemental, and will include these in a future submission that will be subject to the usual industry consultation process.

Our review of the supplemental also highlighted some drafting issues that were subsequently corrected by the parties. 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 and Network Rail's Policy and Access Team. 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.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'David Reed', with a stylized, cursive script.

David Reed