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Network Rail Representations for the 21st Supplemental Agreement submitted under Section 22A of the Railways Act 1993 for the Track Access Contract (TAC) between Network Rail Infrastructure Limited and Transport UK East Midlands Limited dated 01 September 2020.

1 Purpose

- 1.1 This letter provides representations from Network Rail for the 21st Supplemental agreement submitted under Section (S) 22A of the Railways Act 1993 for the Track Access Application between Network Rail and Transport UK East Midlands Limited (EMR) submitted to ORR on 20 May 2024.
- 1.2 This representation builds upon the representations submitted by Network Rail for this application on the 28 June 2024, and the 14 March 2025 General Representation on Complex and/or Competing Applications interacting on Location ECML Kings Cross - Edinburgh and Leeds. The latter of these letters provided important information to support ORR when it comes to making decisions on applications in this geography including context on the work in developing the ECML Policy, ECML Industry Task Force, key performance information, as well as updates on power supply assessment. The annexes to that letter include relevant information including Timetable Performance Analysis and ECML Power Supply Modelling and where there is specific relevance to this application, reference will be made in this representation.
- 1.3 The purpose of this final representation is to provide ORR with Network Rail's final position on this application (and the specific access rights within it) and will do so by providing facts, data, evidence to support our position. As the access rights sought in this application are at the ECML interacting location the evidence and data to evidence our position are all contained in the ECML General Representation letter dated 14 March 2025.

- 1.4 Network Rail can confirm that based on the facts, data and evidence outlined in this representation and the ECML General Representation, it is supportive of this application in part, subject to any comments, suggested amendments or specific issues highlighted in this representation. In particular, Network Rail is unable to support quanta of rights or calling patterns where they diverge from the proposed December 2025 timetable, particularly over areas of congested infrastructure.
- 1.5 Where there are a number of applications seeking capacity at the locations referred to in this letter, and as detailed in Annex A, the basis of our support of applications either in total, or in part (as can be determined by reading the relevant representations), may have a connection to our position on all other applications at that location. You may wish to wait for final representations on related applications and the information provided therein prior to making your decision.

2 Background of the Application and Network Rail Representations

- 2.1 In line with ORR's letter of 24 April 2024 to the industry on 'Competing and/or complex track access applications for December 2024, May 2025 and December 2025 timetable changes', EMR submitted this application to the ORR on 20 May 2024 as a S22A application.
- 2.2 As requested by ORR, Network Rail submitted a High-Level Plan in June 2024, and a further detailed plan was published on Network Rail's website in August 2024 (and updated in January 2025). Network Rail made its initial Representations on this application on 28 June 2024 where an initial view of the application Form P and Supplemental Agreement was provided. Further to this Network Rail issued a General Representation on the East Coast Mainline (ECML) to ORR dated 14 March 2025.
- 2.3 This representation updates ORR on all the access rights in this application where we have progressed in our assurances and/or assessments and are in a position to now provide more facts, data, evidence and or / outputs to keep ORR informed on the latest position of key considerations for this application.

3 East Coast Mainline (ECML) General Representation Letter dated 14 March 2025

- 3.1 Network Rail can confirm that this application is seeking the proposed access rights at the interacting location ECML: Kings Cross – Edinburgh and Leeds and therefore the General Representation to ORR on the ECML dated 14 March 2025 is relevant to this application.
- 3.2 Whilst the entire letter is relevant to this application, we would like to highlight key points of that letter which are more pertinent to this application namely "Unused LNER Firm Directed Rights" and "Congested Infrastructure".
- 3.3 ***Unused London North Eastern Railway (LNER) Firm Directed Rights***
- 3.3.1 The ECML ESG Timetable does not include the Unused LNER Firm Directed Rights as stated in paragraph 5 in Network Rail's ECML General Representation letter to ORR dated 14 March 2025.
- 3.3.2 The ECML Timetable planned for introduction in December 2025 does not include 8 LNER firm rights Monday to Saturday, 7 firm rights Sunday Only, between London King's Cross and Leeds via Wakefield or Micklefield directed by ORR in 2016.
- 3.3.3 The specification for the LNER service to/from London King's Cross had been reduced from 6.5 trains per hour (tph) to 6 tph with agreement from the DfT in 2021. This reduction retained the 0.5 tph London King's Cross – Middlesbrough service, albeit as far as York, with the 0.5 tph London King's Cross – Leeds service being descoped. ECML Programme Board on 21st March 2021 noted the recommendation from East Coast Route to defer the 0.5 tph London King's Cross – Leeds service, including the conditional outcome of journey time reduction between London Kings Cross and Leeds, to a post-ECML ESG [December 2025] future timetable change.
- 3.3.4 As of 14 March 2025 Network Rail have formally declared congested infrastructure on relevant routes between Huntingdon North Junction (Jn) and New England North Jn (Peterborough) and Doncaster Marshgate Jn and Leeds Copley Hill West Jn.

- 3.3.5 Work undertaken for the ESG has shown definitively that this 0.5 tph London King's Cross – Leeds service uplift cannot be accommodated alongside the other ESG outputs. As such the service cannot run in this timetable or future timetables, alongside the other industry endorsed aspirations without additional infrastructure and associated development activity, which is currently unfunded and uncommitted.

3.4 ***Congested Infrastructure***

- 3.4.1 As stated in the ECML General Representation letter dated 14 March (paragraph 6) Network Rail has declared Congested Infrastructure for the December 2025 New Working Timetable for three lines of route on the ECML.
- 3.4.2 The line of route that this Application is proposing access rights for is:
- Between Huntingdon North Jn and New England North Jn (Peterborough)

4 **ECML Proposed December 2025 Timetable**

- 4.1 As referred to in the ECML General representation letter dated 14 March 2025, in February 2024 the ESG closed following an ECML Programme Board endorsement on 17 January 2024 to deploy the new ECML Timetable in December 2024, subject to the outputs of the completed performance modelling.
- 4.2 At the point in time of ORR's letter to the Industry on 24 April 2024, the Department for Transport (DfT) had accepted a recommendation from the Industry Timetable Assurance Project Management Office (PMO) to funders that the ECML ESG Timetable should be deferred from the December 2024 timetable change.
- 4.3 An ECML Industry Task Force (herein referred to as "the Task Force") commenced in June 2024 as an independently led executive-level cross-industry meeting that provides strategic direction for the work programme. The Task Force develops solutions to the problems of the new ECML Timetable, drives consensus on the outcome(s), and delivers recommendations for industry funders and specifiers.
- 4.4 On 17 October 2024 the Independent Chair of the Task Force wrote to the DfT to advise that the Task Force met on 10 October 2024, reviewed the considerations, issues, and risks, and recommended proceeding with implementation of the new timetable for ECML in December 2025. This was on the basis that the timetable is deliverable and meets the Task Force objectives that were set. Concerns were noted from GB Railfreight (representing themselves and other Freight Operating Companies), ScotRail and Transport Scotland. The Task Force recommendation was accepted by the DfT and subsequently endorsed by the Secretary of State in December 2024.
- 4.5 The Task Force had worked collaboratively up to 31 January 2025 to further de-risk the transition of the ECML ESG timetable from development to timetable production.
- 4.6 Advanced work completed by Network Rail Capacity Planning, to inform the December 2025 timetable risk, involved aligning cross boundary paths in the ECML ESG developed timetable with the latest developments in the wider National Working Timetable (WTT) and associated Rolling Spot Bids (RSB). This process has highlighted that, despite previous timetable development work, the national freight and passenger timetable has evolved and this work has been necessary to reduce the risk that capacity decisions may need to be made during the timetable production period between D-40 to D-26.
- 4.7 Therefore, where in this letter and in the ECML General Representation letter we have referred to the proposed ECML December 2025 Timetable, we are referring to the timetable work above namely, either full or in part, the:
- timetable which was developed by the ECML ESG and later deferred in April 2024;
 - Timetable where solutions were developed to the problems of the ECML Timetable as part of the Task Force;

- Advanced Timetable Work (undertaken between April and October 2024) to de-risk the transition of the ECML ESG timetable from development to timetable production; and
- Advanced work to inform timetable risk including aligning cross boundary paths in the ECML ESG developed timetable with the latest developments in the wider National Working Timetable and associated Rolling Spot Bids.

4.8 So where Network Rail highlight in this representation and the ECML General Representation letter (in the relevant annexes to that letter) whether the access rights sought on ECML in each application are as Network Rail expects in the proposed ECML December 2025 Timetable, we are referring to whether the access rights align to the above Timetable work.

4.9 **Access Rights Contained in the Application as Part of the ECML Policy**

- 4.9.1 The rights in this application were supported under a Section 22 application using the ECML Policy and was applied for the December 2024 Timetable via the 23rd Supplemental Agreement.
- 4.9.2 In addition to this, we would like to highlight to ORR that the rights applied for under the ECML Policy in the 23rd Supplemental Agreement expire at the December 2025 timetable change but are expected to continue as part of the proposed December 2025 ECML Timetable without the need of the ECML Policy. ORR are to note that any footnote relating to the ECML Policy will need to be deleted.

5 **Access Rights Sought in the Application**

5.1 Annex B of this letter contains a table which shows all of the access rights requested in this application when set against the proposed December 2025 ECML Timetable.

5.2 The Table in Annex B provides details of the access rights characteristics i.e:

- Origin
- Destination
- Quantum by Day of Week (Peak or Off Peak)
- If the access rights are currently held in the contract and proposed change is an amendment to those rights for e.g. calling pattern change, contingent to firm etc.
- Which locations it interacts with from ORR's list of nine locations in their letter to the industry 24 April 2024.

The table also identifies if the access rights origin and destination, quantum and calling patterns sought in the application, are as expected for the Proposed ECML Timetable for December 2025.

5.3 This application seeks to convert the existing contingent rights in Table 2.2 of Schedule 5 ofn EMR's Track Access Contract to firm rights.

5.4 The rights included in this application and described in the table below directly include specific locations listed in the ORR's Letter to the industry regarding 'Competing and/or complex track access applications for December 2024, May 2025 and December 2025 timetable changes' dated 24 April 2024.

<u>The rights included in the 21st SA</u>	<u>Specific locations identified in ORR's Letter</u>	<u>Interaction</u>
2 x Lincoln – Newark North Gate SO	(f) ECML Kings Cross-Edinburgh and Leeds	ECML at Newark Northgate
1 x Cleethorpes – Newark North Gate SX	(f) ECML Kings Cross-Edinburgh and Leeds	ECML at Newark Northgate
1 x Nottingham – Peterborough SX	(f) ECML Kings Cross-Edinburgh and Leeds	ECML between Peterborough and Grantham
2 x Norwich – Sheffield SX	(d) Derby-Sheffield	ECML between

	(e) Sheffield area (f) ECML Kings Cross-Edinburgh and Leeds	Peterborough and Grantham
1 x Norwich – Sheffield SO	(d) Derby-Sheffield (e) Sheffield area (f) ECML Kings Cross-Edinburgh and Leeds	ECML between Peterborough and Grantham
1 x Sheffield – Norwich SX	(d) Derby-Sheffield (e) Sheffield area (f) ECML Kings Cross-Edinburgh and Leeds	ECML between Peterborough and Grantham
1 x Sheffield – Norwich SUN	(d) Derby-Sheffield (e) Sheffield area (f) ECML Kings Cross-Edinburgh and Leeds	ECML between Peterborough and Grantham

- 5.5 The services above use the existing contingent rights held under the ECML policy and have been operating since December 2020; the services are included in the proposed ECML December 2025 timetable.
- 5.6 However, Network Rail confirms, and Annex B indicates, that the rights sought (in their entirety) in this application are not in line with what was expected in the proposed December 2025 ECML Timetable.
- 5.7 A comparison between the rights sought or held in the Track Access Contract, and the quantum of rights that Network Rail would expect EMR to require for the proposed December 2025 timetable can be found later in the “Quantum of rights” section of this representation. Further detail can be found in Annex B.

5.8 **Quantum of rights**

- 5.8.1 While the table above lists the rights to be converted in this application, the table below illustrates the discrepancies between the rights associated with the services listed
- if the changes proposed in this 21st Supplemental Agreement were applied to Schedule 5 of the Track Access Contract (left side columns), and
 - the rights required to run these services in the proposed December 2025 timetable (right side columns).
- 5.8.2 The three rightmost columns indicate the quantum of rights Network Rail is prepared to support, while numbers in **red** indicate where Network Rail would expect to see further rights relinquished or requested.

Path	Quantum after 21 st SA applied			Quantum in proposed December 2025 TT		
	SX	SO	Su	SX	SO	Su
Cleethorpes - Newark Northgate	1	0	0	1	1	0
Lincoln - Newark Northgate	12 (8)	12 (8)	10	3	3	8
Norwich-Sheffield	2	2	0	1	1	0
Nottingham - Peterborough	1	0	0	1	1	0
Sheffield – Norwich	1	1	3 (2)	1	1	2

- 5.8.3 The 19th Supplemental Agreement, submitted to ORR on 20 May 2024, relinquishes four Lincoln – Newark Northgate rights on weekdays and Saturdays, as indicated by the numbers in parentheses. Network Rail only supports the three rights reflected in the proposed December 2025 timetable.

- 5.8.4 The 20th Supplemental Agreement, also submitted to ORR on 20 May 2024, relinquishes a Sunday right between Sheffield and Norwich. As a result, the remaining quantum of Sunday rights for this service will align with the proposed December 2025 timetable, as indicated by the number in parentheses.
- 5.8.5 EMR have informed Network Rail that their two contingent Lincoln-Newark Northgate Saturday-only rights (to be turned firm under this application) are to be relinquished through the upcoming 24th Supplemental Agreement. Network Rail does not support the conversion of these rights to firm as they are in excess of the quantum in the proposed December 2025 timetable. The rights in question did not form part of EMR's December 2025 Timetable bid.
- 5.8.6 As the 24th Supplemental has yet to be finalised, Network Rail is not in a position to support rights not in the December 2025 timetable as to do so would introduce the risk of overselling capacity where the quantum in this application is higher than expected.
- 5.8.7 Thus, the quantum reduction (negative numbers) or rights applied for (positive numbers) we would expect to see are:

EMR 21st SA vs Proposed December 2025 timetable					
Service		TID	SX	Sat	Sun
Lincoln	Newark N	2T	-9	-9	-2
Cleethorpes	Newark N	2T52	0	+1	0
Nottingham	Peterborough	2E01	0	+1	0
Sheffield	Norwich	1L	0	0	-1
Norwich	Sheffield		-1	-1	0

- 5.8.8 Network Rail does not support the quantum being sought under this application, as it is higher than that expected in the proposed ECML December 2025 timetable. Network Rail does not expect the higher quantum to be directed by ORR and then to be followed by a subsequent Supplemental Agreement to seek to amend to a lower quantum.
- 5.8.9 In addition, for where Network Rail expected the quantum to be higher (in line with the proposed ECML December 2025 Timetable) than what is sought in the application and for any calling patterns missing from the application, then Network Rail would expect these to be addressed in a separate application (such as the proposed EMR 24th SA).
- 5.8.10 Network Rail would like to state that an additional Supplemental Agreement to rectify the higher quantum and calling pattern issues described above would not necessarily be supported under Section 22.
- 5.8.11 It will be dependent on timing of the application and whether other applications seeking capacity at the same interacting locations will have been directed by ORR by then. This is in line with ORR's position in its letters of 24 April to the Industry and 1st November 2024 that it may not make decisions on access rights notified after 20 May 2024 until it makes directions on those applications submitted in time.
- 5.8.12 Network Rail might also consider whether any such amendments sought could be supported under the Interim Approach. However, this will also be dependent on timing.

5.9 Calling patterns

- 5.9.1 Annex B also indicates that the calling patterns for the access rights in the application are not as expected for the proposed December 2025 ECML Timetable, while the table below indicates the discrepancies between the timetable and the calling pattern for the associated services in the 21st Supplemental Agreement.
- 5.9.2 Network Rail notes that the Norwich-Sheffield calling pattern is not currently listed in Table 4.1 of Schedule 5 of the Track Access Contract (the origin, destination, and "via" stations are present in Table 2.1). EMR have informed ORR that Table 4.1 will be amended by an upcoming Supplemental Agreement whereby the Sheffield-Norwich calling pattern will be included.

- 5.9.3 Network Rail notes that station calls not listed in Table 4.1 for a particular service are listed in relation to other services in Table 4.1. For example, EMR's Liverpool Lime Street – Norwich service incorporates all calls on the Sheffield – Norwich service.
- 5.9.4 Stations listed in italics in the table below are in the calling patterns for the services in the proposed December 2025 timetable but not listed in this Supplemental Agreement. Stations listed in bold are listed in Table 4.1 of Schedule 5 of the Track Access Contract but not in the proposed timetable.

Service	Calling pattern requested in Supplemental	Calling pattern in proposed Dec 2025 timetable
Cleethorpes - Newark Northgate	Grimsby Town, Habrough, Barnetby, Market Rasen, Lincoln, Hykeham, Swinderby, Collingham	Grimsby Town, Habrough, Barnetby, Market Rasen, Lincoln, Hykeham, Swinderby, Collingham
Lincoln - Newark Northgate	Hykeham, Swinderby, Collingham	Hykeham, Swinderby, Collingham
Norwich-Sheffield*	Ely, Peterborough, Grantham, Nottingham, Erewash Valley, Dronfield	<i>Wymondham, Attleborough, Thetford</i> , Ely, <i>March</i> , Peterborough, Grantham, Nottingham, <i>Langley Mill, Alfreton, Chesterfield</i>
Nottingham - Peterborough	Bingham, Aslockton, Bottesford, Grantham	Bingham, Aslockton, Bottesford, Grantham
Sheffield - Norwich	Chesterfield, Alfreton, Langley Mill, Ilkeston, Nottingham, Grantham, Peterborough, Ely, Thetford	Chesterfield, Alfreton, Langley Mill, Ilkeston, Nottingham, Grantham, Peterborough, Ely, <i>Brandon</i> , Thetford, <i>Attleborough, Wymondham</i>

*Calling pattern shown here is listed in Table 2.1 but not Table 4.1 of Schedule 5 of the Track Access Contract

- 5.9.5 Network Rail does not support calling patterns included in this application that are not as expected in the proposed ECML December 2025 Timetable. For any calling patterns missing from the application, then Network Rail would expect these to be addressed in a separate application (such as the proposed EMR 24th SA).
- 5.9.6 Network Rail would like to state that an additional Supplemental Agreement to rectify the calling pattern issues described above would not necessarily be supported under Section 22.
- 5.9.7 It will be dependent on timing of the application and whether other applications seeking capacity at the same interacting locations will have been directed by ORR by then. This is in line with ORR's position in its letters of 24 April to the Industry and 1st November 2024 that it may not make decisions on access rights notified after 20 May 2024 until it makes directions on those applications submitted in time.
- 5.9.8 Network Rail might also consider whether any such amendments sought could be supported under the Interim Approach. However, this will also be dependent on timing.

6 Assurance / Assessments / Updates

- 6.1 The following section will address specific areas of consideration, opportunity and risk relevant to the application or where applicable to specific access rights in the application. Where the outputs relate to specific access rights instead of the application as a whole this will be highlighted in the relevant section.

6.2 ECML

- 6.2.1 The East Coast Mainline Events Steering Group (ECML ESG) was formed in 2019 with a view of delivering the access rights on the ECML as directed by the ORR in 2016. As ORR is aware in October 2024 the Industry ECML Task Force had sufficient support of participants to recommend the ongoing development and implementation of the ECML ESG Timetable in December 2025 and Secretary of State endorsed that recommendation in December 2024.

6.3 Capacity

- 6.3.1 The application seeks to convert EMR's contingent rights to firm on a one-to-one basis. The services using these rights have been running since 2020.
- 6.3.2 The ECML December 2025 specification developed by the ECML ESG and subsequent ECML Industry Task Force took a holistic view of capacity and performance whilst considering service specifications, service aspirations and journey time outputs from ECML ESG and Task Force members. ORR in awarding the capacity to EMR, in line with the proposed ECML December 2025 specification, would be allocating a proportion of the available capacity.
- 6.3.3 If ORR does direct this application, then it will impact on the capacity available to other Operators' applications, or elements of applications, which were not included in the ESG specification and that have additional capacity requests.
- 6.3.4 If ORR were not to direct in line with our position for this application the most applicable alternative option would be to allocate capacity to an Operator who has aspirations for an access right with similar characteristics. However, it would change the assumptions on which the proposed ECML December 2025 Timetable, was developed, modelled and recommended for progression into the development period. Consequentially, this could have an impact on the forecast operation and performance of the Timetable.

6.4 Performance

- 6.4.1 The quantum Network Rail is happy to support in this application was included in the ECML performance modelling (where relevant within the time/geographic scope of the modelling). EMR have aspirations to amend their services on the Nottingham-Newark-Lincoln route for December 2025 and this will be referenced in our representation on EMR's 19th Supplemental Agreement.
- 6.4.2 For further ECML performance information please see Network Rail's General Representation to ORR on the ECML dated 14 March 2025.

6.5 ECML Power Supply Modelling

- 6.5.1 Network Rail can confirm that this Application directly relates to paragraph 11 of Network Rail's General Representation to ORR on the ECML dated 14 March 2025 and is included in the power modelling report which is an Annex (Annex M) to the 14 March 2025 General Representation.
- 6.5.2 Network Rail wish to collaborate with EMR on any necessary power mitigations and, where applicable, set these out in the TAC until such point future power upgrades alleviate the risk. For the avoidance of doubt this includes any ad-hoc request to run in 10-car formation.

6.6 Key points from the initial representation

- 6.6.1 Network Rail's representation letter of 28 June 2024 did not provide support for this application due to the ongoing uncertainty over the decision to proceed with the ECML ESG Timetable in December 2024. With the decision to proceed now having been taken, Network Rail is supportive of EMR's quantum of contingent rights interacting with the ECML being converted to firm rights to the extent that they reflect the proposed December 2025 timetable.

6.7 Any other risks or cross-route concerns

- 6.7.1 No additional risks or cross-route concerns have been identified.

7 Conclusion

- 7.1 In this representation letter we have confirmed that Network Rail supports those access rights (and calling patterns) sought in this application which match what Network Rail expected in the proposed ECML December 2025 Timetable. In addition, we have also provided an explanation to ORR of what the proposed ECML December 2025 Timetable is an amalgamation of in terms of Advanced Timetable Work and confirmed that our position is based on these assessments. In order to prevent the oversale of capacity, Network Rail does not support quanta of rights in this application, in excess of those in the proposed December 2025 timetable and expects further relinquishments of rights so that the rights tables of the Track Access Contract properly reflect the proposed timetable.
- 7.2 Network Rail has also noted that where we anticipate a future Supplemental Agreement to be submitted by EMR, whether this is done under Section 22 or 22A will be dependent on timing and on the status of other applications seeking capacity at this location.
- 7.3 Network Rail has also highlighted in this letter a number of points we raised in our original representation later a number of points of clarification and amendments required to the proposed Supplemental Agreement submitted with this application, that Network Rail believes have still not been fully addressed or ORR need to take the points into consideration when making a direction on the application.
- 7.4 The proposed ECML Timetable for December 2025 is the output of all the hard collaboration the industry has undertaken since the ECML ESG was formed in 2019. Our position on this application is an output of that work.

Yours sincerely,



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List of annexes:

Annex A – Interacting Locations Matrix – Applications Interacting With This Application
Annex B – Table of Access Rights