

Margret Haswell
Executive, Access & Licensing
Email [REDACTED]

9 October 2025

Megan Holman
Customer Relationships Executive
Network Rail Infrastructure Ltd
Waterloo General Office
London
SE1 8SW

Chris Matthews
Head of Planning (Long Term)
Freightliner Heavy Haul Limited
6th Floor, The Lewis Building
35 Bull Street
Birmingham B4 6EQ

Dear Megan and Chris

25th Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and Freightliner Heavy Haul Limited (Freightliner) dated 11 December 2016

1. Today, we issued directions under section 22A of the Railways Act 1993 (the Act) to Network Rail and Freightliner (jointly the parties) to enter into the above supplemental agreement. This letter explains the reasons for our decision.
2. The rights contained within this 25th application relate to aggregates services spanning all routes except Scotland and Kent. In directing these rights, we are providing Freightliner with the certainty to support its existing commercial contracts and for planning its business with a reasonable level of assurance.

Background

3. On 24 April 2024, ORR wrote to industry setting out a process for access applications for December 2024, May 2025 and December 2025, given our expectation (as confirmed by Network Rail) that we would receive numerous complex and competing applications across that period. Applications were submitted to ORR for direction as “unsupported” applications, as Network Rail was not able to agree that there was sufficient capacity and therefore submit agreed applications for our approval.
4. [DfT wrote to us](#) on 20 June 2025 referring to “the cumulative scale and impacts of abstraction when [ORR] assesses Open Access applications” and asking ORR that this should be “factored into all future decision-making”. To ensure that we were able to

proceed with decision making for relevant public service operators in light of this, we had to clarify the DfT letter before finalising our decisions.

5. As we were already at an advanced stage in the decision-making process for this and many other applications by this point, [we wrote to DfT](#) stating that we intended to proceed with our established approach to access applications for the East Coast Main Line (ECML) in order to support the major timetable change coming up in December 2025 and to avoid risk to that timetable's implementation. As we did not receive a response by Monday 7 July, we have proceeded with decision making in line with our published policy.

Application

6. The purpose of this supplemental agreement is to add 35 new one-hour window firm rights for aggregates traffic. The original application was for 40 new one-hour window firm rights, Freightliner has since withdrawn rights it no longer wishes to include in this application.
7. Network Rail granted 37 of the original 40 rights on a contingent basis under its [interim approach](#). These 37 rights are running as Contingent Rights originally for the December 2024 timetable as a General Approval in the FLHH 29th Supplemental Agreement (SA) and now dated until the end date of the May 2025 timetable in the FLHH 32nd SA. Freightliner has upheld its application to hold 35 of these rights on a firm basis to the end of its contract.
8. The rights are to commence on a firm basis upon the date that the supplemental agreement is entered into by the parties and will expire when the contract expires.

Industry consultation

9. The initial industry consultation took place from 24 May 2024 to 24 June 2024. Industry was then invited to comment on Network Rail's final representations from 6 – 20th August 2025.
10. In the initial consultation, 3 comments were received, generally commenting that the parties would wait for Network Rail to complete its capacity analysis.
11. During the opportunity to comment on Network Rail's final representations in August this year, no substantive comments were received in respect of this application.

Statutory Consultation

12. As required under the Act, on 30 May 2024, we sought Network Rail's representations on the application, and it replied on 28 June 2024. We forwarded these representations to Freightliner on 4 July 2024 and asked for its comments. Freightliner provided comments on 18 July 2024.
13. Network Rail sent its final representations on 5 August 2025. Again, we forwarded these to Freightliner and asked for its comments, which it provided on 15 August 2025.

Network Rail's representations

14. In its initial representations dated 28 June 2024, Network Rail stated that it was unable to support the application because the rights pass through multiple interacting locations identified by Network Rail as containing competing aspirations and subsequently listed by ORR in its letter of 24 April 2024.
15. In its final representations Network Rail was partially supportive requiring amendments to 23 of the 35 rights it supported from the original application. The amendments are a combination of changes to arrival and departure windows, intermediate points and timing load to better align the already running services with the working timetable. Freightliner updated its application to amend these details and withdrew the 5 unsupported rights.
16. Network Rail did not note any power supply concerns. One service, 6H50 Wembley Receptions 1-7 to Tunstead Sidings, did not meet Network Rail's performance criteria, however it noted *'There have been no identifiable trends causing delay to this service. In fact, there have been two large unrelated incidents that contributed to these numbers. The train will continue to be monitored and Network Rail will work with Freightliner Heavy Haul to discuss any mitigations/improvements required.'*

ORR review

17. We carried out a full review of the application, taking into account issues that were being considered in relation both to this application and to the competing demands on capacity on the wider network.
18. These are all new one-hour window firm rights, traversing almost all regions of the network, but have been running as contingent rights for 2 timetable periods and before that as TOVRs, providing adequate performance data to give Network Rail confidence to support them as firm rights.
19. This application includes services which Network Rail has included in the ECML ESG timetable for December 2025. Since 2019, Network Rail has offered operators only contingent or time-limited rights, providing limited certainty for businesses. The ECML ESG was set up to transparently develop a timetable which considered the service specifications and aspirations of timetable participants for implementation. This process was cross-industry, involving public service, freight and open access operators.
20. In weighing all of our duties, reviewing the capacity and performance on the ECML and wider network, we consider directing rights which can be used to implement a longer-term baseline timetable, in this case the ECML ESG, is preferable to the alternative. Furthermore, we will continue to hold Network Rail to account to ensure the proposed timetable delivers the expected benefits to passengers, funders and freight operators.
21. Regarding services that use the West Coast Main Line (WCML) South Network Rail notes that *'they do not operate into or out of London Euston on the WCML South fast lines.'* Our review of the wider capacity and performance information on the WCML, evidence from the applicants and the information we requested from Network Rail

leads us to agree with Network Rail's position. In arriving at our conclusions on WCML capacity and performance, we have assured ourselves that Network Rail is taking a fair and non-discriminatory approach to all applications from public and private sector operators on the WCML South. We are satisfied it is taking a consistent approach.

22. For these reasons, in reaching our decision we have placed weight on reducing or ending the uncertainty of this period, in line with our duty of enabling operators to plan their businesses with a reasonable degree of assurance.
23. The 5 unsupported rights in the original application presented conflicts against some other applications, however Freightliner has since withdrawn those.
24. Overall, we concurred with Network Rail's assessment regarding capacity and performance and have directed the rights as included in Freightliner's 25th supplemental agreement.

Our duties under section 4 of the Act and our decision

25. We have considered this supplemental agreement, and we have concluded that its approval is consistent with the discharge of our statutory duties under section 4 duties of the Act: in particular, those relating to:
 - enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g))
 - promoting improvements in railway service performance (section 4(1)(zb))
 - protecting the interests of users of railway services (section 4(1)(a))
 - promoting the use of the railway network for the carriage of passengers and goods (section 4(1)(b))
 - having regard to the funds available to the Secretary of State (section 4(5)(c))
26. We have looked very closely at all the evidence submitted from the parties and consultees. We have concluded that we should approve the application.

Conformed copy of the track access contract

27. 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 Freightliner Heavy Haul Limited. ORR's copy should be sent for my attention.

Public register and administration

28. Electronic copies of the directions notice and the supplemental agreement will be placed on ORR's public register (website) and copies of this letter and the supplemental agreement will be placed on the ORR website.

Yours sincerely



Margret Haswell