

Bill Hammill

Manager, Track Access

Telephone 020 7282 2088

E-mail: bill.hammill@orr.gsi.gov.uk

- | | | |
|--|---|--|
| 1. Rob Harrison
UK Property Manager
Southern Track Renewals
Company Limited
Hartford House
1 Cranwood Street
London EC1V 9QA | 2. Wendy Roberts
Depots delivery manager
Govia Thameslink
Railway Ltd
London James Forbes
House
27 Great Suffolk Street
London SE1 0NS | 3. Ruth Humphrey
Project Director
Siemens plc
Mobility Division
Rail Systems
The Podium
1 Eversholt Street
London NW1 2DN |
|--|---|--|

3 July 2015

Dear Rob, Wendy, Ruth

CONNECTION CONTRACTS BETWEEN SOUTHERN TRACK RENEWALS COMPANY LIMITED, GOVIA THAMESLINK RAILWAY LIMITED AND SIEMENS PLC AT THREE BRIDGES

1. On 3 July 2015 the Office of Rail Regulation approved the terms of the connection contract submitted by Southern Track Renewals Company Limited (STRCL), Govia Thameslink Railway Limited (GTRL) and Siemens plc (Siemens) under section 18 of *The Railways Act 1993* (the Act), relating to the connection at Three Bridges Light Maintenance Depot. Please find enclosed a copy of our direction notice, directing STRCL and GTRL to enter into the contract.

Network Rail's submission to ORR

2. On 26 June 2015 GTRL submitted to us the proposed connection contract for the connection of STRCL's depot to GTRL's new light maintenance depot at Three Bridges for approval under section 18 the Act.

3. The application consisted of:

- Form C.
- Proposed connection contract with plans.
- Commentary on departures from ORR's model contract.

The parties also kept us informed in the months leading up to their application. We are grateful to the parties for providing all this information.

Consultation

4. In accordance with ORR's advice, no consultation was undertaken on the proposed connection contract. This was because the connection in question is an 'internal' connection between two privately owned and operated companies' depot networks. There are no interested persons or train operators potentially affected by it.

Three Bridges – a further connection agreement

5. By comparison, consultation was undertaken on a connection contract recently submitted to us for approval relating to numerous new network connections at Three Bridges. This is between Network Rail Infrastructure Limited and GTRL and Siemens. We have today also approved that contract.

Departures from the model contract

6. We note that whilst the starting point for the development of the connection contract was our model connection contract, there have necessarily been some departures from the model contract provisions to reflect the specific circumstances and special characteristics of the development of (all) the connections at this facility.

Step in rights

7. The proposed contract is a tri-partite agreement between STRCL, GTRL and Siemens. GTRL is the Depot Facility Owner, STRCL is described as the Adjacent Facility Owner and Siemens is included as a party to the connection contract is to enable it to have direct rights to remedy any breaches by STRCL and step in and take over as Depot Facility Owner. It can then assign or novate the contract to another under-tenant who will become the licensed facility owner. These are so called step-in rights. The contract deviates from ORR's model to accommodate this situation.

8. ORR accepts that in this case step rights can form part of the connection contract, although they are unusual. This reflects the franchise arrangements; the commercial position between GTRL and Siemens; and the level of new investment involved at this site. Also Network Rail, as the other party to the agreement, supported this arrangement. The step in rights do not appear to disadvantage any other third parties.

Initial condition statement

9. ORR's model connection contract being maintained in accordance with the Initial Condition Statement at Schedule 1. The parties have agreed that this is not applicable and we have accepted this given the unique nature and characteristics of the connection.

Schedule 5 – Liability

10. Schedule 5 to the connection contract details limitations on liability. We note that, given the commercial circumstances surrounding the arrangements for putting this contract in place, the parties have decided to dispense with the indexation provision in Schedule 5. As this is an agreed position, we are content to approve it.

Clause 15.1.1 Payment of amount

11. We note the amount of the annual payment which has been agreed between the parties and we are aware of the reasons for that decision. As such, we are content to approve it.

ORR decision

12. We consider that in this case the bespoke arrangements and changes to ORR's model contract fulfil a practical requirement.

13. This is an application under section 18 of the Act and therefore an agreed agreement between the parties who are prepared to enter into it as submitted. We therefore expect them to be fully aware of all the rights and obligations it contains and the consequences of them.

14. In making this decision, we are satisfied that this decision reflects our duties under section 4 of the Act, in particular:

- (i) to protect the interests of users of railway assets;
- (ii) to promote the use of railway network in Great Britain for the carriage of passengers and goods and the development of that railway network, to the greatest extent economically practicable;
- (iii) to promote efficiency and economy on the part of the persons providing railway services; and
- (iv) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.

15. Once the contract is signed, in accordance with section 72(5) of the Act, you must send a copy to the ORR within 14 days and in accordance with section 72(2)(b)(iii). This will be placed on the ORR's public register.

16. In entering any provision on the register, the ORR is required to have regard to the need to exclude, as far as is practicable, the matters specified in section 71(2)(a) and (b) of the Act. These sections refer to:

- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the ORR, seriously and prejudicially affect the interests of that individual; and
- (b) any matter which relates to the affairs of a particular body of persons, whether corporate or incorporate, where publication of that matter would or might, in the opinion of the ORR, seriously and prejudicially affect the interests of that body.

17. When submitting a copy of the signed contracts would you therefore please identify any matters which you would like the ORR to consider deleting from the Public Register and website copy. You will need to give reasons for each request explaining why you consider that publication would seriously and prejudicially affect your interests.

18. A copy of this letter and the directions have also been sent to John Beer and Niel Wilson of GTRL by e-mail.

Bill Hammill