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Dear Nigel, Kate and Cornelia,

Proposed connection contract between Network Rail Infrastructure Limited (Network Rail), South Eastern Train Maintenance Limited (SETML) and Rail for London Limited (RfL) at London Willesden Depot (Willemden Depot)

1. On 17 July 2017 the Office of Rail and Road (**ORR**) approved the terms of the connection contract submitted on 7 February 2017 by Network Rail, SETML and RfL (**the parties**) under section 18 of the Railways Act 1993 (**the Act**), relating to the connection at Willesden Depot. Please find enclosed a copy of our direction notice, directing the parties to enter into the contract. This letter sets out the reasons for our decision.

Background

2. In November 2016 we received an application from Network Rail and SETML to novate an existing connection contract for Willesden Depot. We agreed to novate this contract for three months while the parties arranged a new connection contract, which would grant RfL step-in rights¹. This lapsed on 13 February 2017.

Consultation

3. A full industry consultation for the new connection contract was carried out by Network Rail, which ran from 1 December 2016 to 29 December 2016. No outstanding objections to the proposed connection contract were declared.

¹ The novation decision letter is available at:

http://www.orr.gov.uk/_data/assets/pdf_file/0015/23145/novation-willesden-depot-letter.pdf



ORR Review

4. There were changes made from the model connection contract in the proposed connection contract, to reflect that RfL would have step-in rights, which would give it the direct rights to remedy breaches by SETML, as appropriate, and step-in and take over as Adjacent Facility Owner. The changes to allow for this were as in previous connection contracts with step-in rights we approved, in particular for Three Bridges Light Maintenance Depot². Recital A was adjusted to reflect that RfL has the headlease and SETML the underlease.
5. Clause 15.1 was adjusted to reflect that RfL would be paying for the connection costs annually and in advance. We are content with these changes.
6. We queried the costs provided in Schedule 1, in comparison with the Connection Plan included in the contract. The parties provided us with an updated cost matrix, which resolved the difference between the two. This led to a change in the annual connection charge, which is reflected in a modification contained in our directions.
7. In the submission, the Commencement Date was changed to 16 November 2016. We do not approve connection contracts retrospectively. Further, the novated connection contract between Network Rail and SETML was still in force at that time. We therefore proposed to change the definition back to the one in the model contract in our directions. The parties agreed.
8. Schedule 4 was directly populated with SETML's safety and security requirements. We suggested to the parties that they may want to consider referring to these documents instead of including them directly, so the connection contract does not need to be updated each time the safety and security requirements changed. The parties agreed to this and a modification to reflect this is in our directions.

ORR Decision

9. This application is under section 18 of the Act and therefore is agreed between the parties, who are prepared to enter into the agreement, subject to the modifications discussed above.
10. 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;

² Decision letter available at: http://www.orr.gov.uk/_data/assets/pdf_file/0004/18706/nr-gtrl-siemens-connection-contract-three-bridges.pdf

- (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.
11. Under clause 18.2.3 of the connection contract, Network Rail is required to produce a confirmed copy, within 28 days of any amendment being made, and send copies to ORR, SETML and RfL. We look forward to receiving the conformed copy.
12. In entering any provision on the register, we are 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.
13. When submitting the copy of the signed agreement would you therefore please identify any matters which you would like us to consider redacting before publication. You will need to give reasons for each request explaining why you consider that publication would seriously and prejudicially affect your interests.

Yours sincerely

Katherine Goulding