

Paul McMahon
Deputy Director of Competition and Regulatory Economics



29 August 2008

Paul Plummer Esq
Director, Planning & Regulation
Network Rail Infrastructure Limited
Kings Place
90 York Way
London N1 9AG

Dear Paul

Network Rail's consultations on access charges

I am writing to you about the outstanding work Network Rail has to undertake to develop its proposals for access charges for CP4 as part of the 2008 periodic review. This letter sets out how we would like to proceed so that the work can be completed before we publish our final determinations on 30 October 2008.

As you know, the development of access charges for CP4 is a key part of the periodic review. In 2006 we gave Network Rail responsibility for leading the work to develop recommendations for the majority of access charges. The new arrangements have generally worked well but your progress has been slow in a number of areas. There is now little time left to complete the outstanding work before we publish our final determinations. This limits the time that consultees will have to respond to your proposals and the time we have to review your recommendations. It is important, both for the credibility of the new arrangements and successful completion of the work for CP4 that Network Rail addresses the outstanding issues as a matter of urgency.

Our draft determinations highlighted a number of charges issues where we expected Network Rail to undertake further work and consultation with the industry. These were:

- variable usage charge suspension band discounts – where we asked for a more robust and quantified set of discounts to be developed for CP4 based on the latest available evidence (para 19.37 of draft determinations);

- coal spillage charge – where we asked Network Rail to develop firm recommendations for how the proposed rebate would be assessed and applied (para 19.51 of draft determinations);
- traction electricity charge – where we asked for the proposed electricity consumption model and rates to be published and consulted on (para 19.66 of draft determinations);
- capacity charge – where, following the recalibration of the Schedule 8 benchmarks, we asked Network Rail to produce and consult on new capacity charge rates (para 19.85 of draft determinations); and
- station long term charges – where we asked Network Rail to submit material new evidence if Network Rail considered that the level of charges between portfolios should be rebalanced following industry consultation.

The draft determinations stated that the consultations on each of the above items should be published by the end of July 2008.

On 22 July 2008 [name redacted] submitted a paper to the industry steering group, stating that, apart from station long term charges, the consultations on other items had been delayed until early/mid August.

On 4 August 2008 I sent an email to [name redacted] and [name redacted] which highlighted concerns about the delay to the consultations on some of the charging issues.

On 14 August 2008 [name redacted], [name redacted] and [name redacted] met [name redacted] and [name redacted] where I understand that Network Rail indicated that some of the industry consultations had been further delayed.

It is also worth noting that we have previously expressed our concerns with the progress on development of your access charges proposals, including in a letter I wrote to [name redacted] on 4 February 2008 as well as in our draft determinations.

Our current understanding of the timescales for your consultations is set out in the following table.

Timescales for outstanding access charges consultations

	Consultation document published	Consultation period closes
Station long term charges		
Initial consultation	01/08/08	15/08/08
Further consultation	22/08/08	05/09/08
Modelled electricity consumption rates		
Method	22/08/08	05/09/08
Rates	09/09/08	23/09/08
Coal spillage rebate	21/08/08	12/09/08
Suspension banding	15/09/08	29/09/08
Capacity charge		
Method	22/08/08	05/09/08
Rates	One week after you receive the new Schedule 8 rates	Two weeks after consultation starts

We recognise that the capacity charge rates are dependent on the recalibration of the Schedule 8 benchmarks and payment rates, which is jointly managed by us, Network Rail and ATOC.

Whilst the issues related to these access charges have been subject to various discussions over the last few months, we consider it important that the relevant parties are provided with sufficient opportunity to participate in consultation at this stage. We will also need adequate time to consider your recommendations following your consideration of the consultation responses.

We have previously stated that your consultations on charging issues should feed into Network Rail's response to our draft determinations on 4 September 2008. This is clearly no longer viable. We therefore require that Network Rail's recommendations on each of the charging issues should be no later than two weeks after the end of the consultation period on that charging issue, i.e. for station long term charges the consultation closes on the 5 September 2008 and so we would expect your recommendation no later than 19 September 2008. Copies of all the consultation responses that you have received should accompany your recommendations.

To ensure that we have time to consider your recommendations before we complete and publish our final determinations, they must all be sent to us by 30 September 2008 at the latest. For some of the charging issues, for example variable usage charge suspension bands, you may not have been able to have completed your recommendations by this date. I would therefore be grateful if you ask consultees to copy responses to us so that we can give them proper consideration before making our final determinations.

We recognise that the timescales for the completion of this work is compressed. However, given where we stand today we consider that this is the appropriate way forward and represents a balance between providing the opportunity for consultation and completion of the work. We still consider that there is merit in continuing to consider these changes in terms of the whole industry benefits they bring in terms of increasing cost reflectivity and transparency. It is therefore essential that Network Rail adheres to the timescales to allow consultation to take place.

This letter is being copied to potential consultees and will be published on our website.

Please do not hesitate to contact me if you would like to discuss any issue raised in this letter, or alternatively to contact [name redacted] or [name redacted].

Yours sincerely

A handwritten signature in blue ink that reads "Paul McMahon". The signature is written in a cursive style with a large initial 'P'.

Paul McMahon