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Director, Economic Regulation

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Andy Sparkes
Business Development Director
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by email only

Dear Andy,

Access to the East Coast Main Line

1. This letter updates our post-hearing letter to all stakeholders on next steps, it responds to key points made in your 28 August letter to us and asks you about the internal sign-off your proposal has. It also explains how we will handle confidentiality of future correspondence.
2. In our letter to stakeholders of 12 August 2015, we asked you to hold the morning of Wednesday 14 October in diaries for a possible discussion of capacity and infrastructure works. Network Rail remains on course to answer our questions by Friday 2 October which will now also include feed-back from a performance workshop it ran last week.
3. This means we can now confirm we expect to publish Network Rail's response to us by close on 2 October and, as previously advised, we would like your written comments by **Friday 9 October**. We also confirm we will be going ahead with a discussion for applicants, Network Rail and DfT representatives on the capacity, infrastructure and performance issues on **Wednesday 14 October**. Please email us by Monday 28 September at rme.admin@orr.gsi.gov.uk to say who, space permitting, you would like to come. You will be able to update your list later in light of Network Rail's response.
4. In our 12 August letter we also set out the next steps for the CH2M HILL economic report. Meetings between CH2M and all applicants, DfT and affected current open access operators have now taken place and the key inputs requested at these meetings have now been received.
5. However, assembling and carefully checking these inputs has taken longer than planned and it is now unlikely CH2M will be able to publish a full draft report on Friday 23 October as we had hoped. It should, however, be able to circulate parts of the draft report

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dealing with methodology and input assumptions on **23 October**, so we would welcome your comments on those sections by **30 October** and we could usefully discuss them on **Wednesday 4 November**. Please therefore keep **4 November** free in your diaries for this.

6. We now expect CH2M's full draft report will be circulated on **20 November** for written comments by **Friday 27 November**. It is also likely we will want to go through the full draft report in a meeting with applicants and DfT; please can you put an additional placeholder in diaries for the morning of **Tuesday 1 December**. We will confirm nearer the time if we need this and the agenda.

Internal sign-off

7. Please can you confirm by **Monday 28 September** what level of sign-off your application has internally. In particular under what circumstances do you need to secure further internal clearance (and for what and from whom) should your application be successful.

Timings

8. In your letter of 28 August 2015 you say that a minimum of 21 days should be allowed from receipt of each of the Network Rail report and the revised CH2M report before any meetings to discuss them. You have raised this issue before and our earlier response still stands. We acknowledge that the timescales we propose are challenging but consider they are reasonable in the circumstances.

9. The information we have requested from Network Rail is not a detailed capacity and timetable assessment. We already have those which you have seen. We have asked Network Rail a number of questions about the infrastructure works required to deliver the capacity required, the cost of those works and their status. We consider a week for you to provide any written comments and a meeting five days later should be adequate time for you to consider the implications and formulate your response.

10. The CH2M report is a development of its previous report and we have had extensive discussions with you, the other applicants and DfT on the additional work to be undertaken. We are also now splitting the discussion on the revised report into two sessions, one on the methodology and one the results. All parties have advance notice of the deadlines and so are able to plan for them. Taken together, these factors reduce the time needed for your own analysis and preparation.

11. We have not said the ORR Board needs to decide these applications this year. As already stated, we believe that the deadlines are reasonable and provide sufficient time for the parties to prepare and respond. The complex nature of the applications means that it is necessary to set robust but fair deadlines to avoid the process, and associated uncertainty, lasting indefinitely. That said, it is for the ORR Board to decide when it has sufficient information to make a decision, taking into account our duties.

12. You also raised the link between the Hendy Review and ECML decision-making. The ORR Board is aware of the Hendy Review and it will be for the Board to decide when a decision should be made.

Performance modelling

13. Your letter of 28 August also restated your position that further performance analysis is essential before a decision can be taken. We have previously set out that we do not believe further detailed analysis to be vital, and have also agreed to further work including the recent Network Rail workshop and bilaterals between Network Rail and applicants.

14. Whilst it is correct to say that ORR has the duty to promote improvements in railway service performance and that this is important to passengers, this duty is balanced by the ORR Board against a number of other duties when taking decisions. The other duties include promoting the use of the railway network in Great Britain for the carriage of passengers and goods, and the development of that railway network, to the greatest extent that ORR considers economically practicable, and enabling persons providing railway services to plan the future of their businesses with a reasonable degree of assurance. No one of the ORR's duties is overriding.

15. In light of the points you have made regarding performance risks, and noting that your application did not comment on these, it would be helpful if you could confirm what performance impact you believe running the full VTEC proposal would have were it alone to be approved, how you have assured yourself so far that that impact would be acceptable/manageable, and what further performance analysis you think is needed on your own proposals before ORR could approve them. Please can you provide this by **Monday 28 September**.

Timetables

16. In recent email correspondence you have made a number of observations about the timetable files that have been developed by CH2M. CH2M is considering these and others' points as it finalises the timetable files to be tested.

Confidentiality

17. To aid transparency and to streamline our ECML processes, we will assume all future correspondence from applicants on the ECML applications is not confidential and can be published in full through our website.

18. Anything that you believe should be kept confidential should be clearly marked as such when it is sent to us. You should explain at the same time how publication would or might seriously and prejudicially affect your interests.

19. Please contact me, Rob Plaskitt, Ian Williams or David Reed if you need to discuss. We will be publishing this letter on our website.

Yours sincerely



John Larkinson