

SECOND ARBITRATION

IN THE MATTER OF THE ARBITRATION ACT 1996

AND IN THE MATTER OF AN ARBITRATION

B E T W E E N:

GREAT NORTH EASTERN RAILWAY LIMITED

Claimant

and

RAILTRACK PLC

Respondent

SECOND INTERIM AWARD

1. WHEREAS

- (A) On 5 February 2002 I published my First Interim Award in this Arbitration. I set out the status of the parties and my appointment in that First Interim Award.

- (B) The place of arbitration is London.
- (C) The parties have exchanged written submissions in the form of Statement of Claim in respect of issues on quantum and defence on the outstanding quantum issues. The Claimants served the written statements of the following witnesses: Jonathan Barry Colley and Robin Davis. The Respondents served the written witness statement of Mark Leving.
- (D) A hearing was held at Citypoint, Ropemaker Street, London on 11 and 12 February 2002. The parties served written opening skeletons prior to the hearing on 12th February 2002 and the Respondents served written closing submissions on 13th February 2002. In addition to the documents previously before three further volumes of documents were placed before me. I heard the evidence of the witnesses whose witness statements have been served. Both parties were represented by junior counsel and solicitors.
- (E) I have heard the evidence, studied the documents, listened to the arguments and deliberated on the issues which I am required to determine.

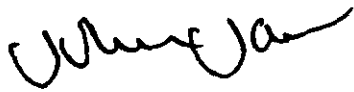
NOW THEREFORE I, John Manners Jarvis, HEREBY MAKE AND PUBLISH THIS MY
SECOND INTERIM AWARD

(1) For the REASONS which are delivered with and form part of this Second Interim Award

I declare:

- (A) That, on the true construction of the provisions of the Track Access Agreement and by reason of the events which have occurred, the calculation of “Minutes Delay” under Schedule 8 of the Track Access Agreement excludes any additional journey time which results from a service calling at more station stops than are shown in the Base Working Timetable where the additional stops were made because of cancellations of other services for which Railtrack was responsible.
- (B) That on the true construction of the Track Access Agreement and by reason of the events which have occurred, Railtrack is not entitled under paragraph 4.1.2 of Schedule 8 of the Track Access Agreement to an assessment (or “recalibration”) of the relationship between Minutes Delay and the percentage of services arriving at their final destination less than 11 minutes after their scheduled arrival time as published in the Passenger Timetable for the periods 7 January 2000 to 6 January 2001.
- (C) This is a Second Interim Award which is subject only to the provisions of the Arbitration Act. At the request of the parties the remaining issues in this Arbitration are reserved to a further hearing and I reserve for myself the power to make a further Award or Awards in relation to costs (including the costs of this Award) and all other matters which I may in future be required to decide pursuant to my appointment.

GIVEN UNDER MY HAND the 19th day of February 2002.

A handwritten signature in black ink, appearing to read 'John Jarvis', written over a dotted line.

John Jarvis QC