

TTP1529 – Network Rail's decisions regarding the New Working Timetable Publication for 2020

1 DETAILS OF PARTIES

1.1 The names and addresses of the parties to the reference are as follows:-

- (a) GB Railfreight Limited (Company number 03707889) whose Registered Office is at [55 Old Broad Street, London, EC2M 1RX] ("GBRF") ("the Claimant"); and
- (b) Network Rail Infrastructure Limited whose Registered Office is at 1 Eversholt Street, London NW1 2DN] ("NR") ("the Defendant").

1.2 Network Rail does not consider there to be any other affected party involved in this dispute.

2 CONTENTS OF THIS DOCUMENT

This Response to the Claimant's Sole Reference includes:-

- (a) Confirmation, or qualification, that the subject matter of the dispute is as set out by the Claimant in its Sole Reference, in the form of a summary schedule cross-referenced to the issues raised by the Claimant in the Sole Reference, identifying which the Defendant agrees with and which it disagrees with.
- (b) A detailed explanation of the Defendant's arguments in support of its position on those issues where it disagrees with the Claimant's Sole Reference, including references to documents or contractual provisions not dealt with in the Claimant's Sole Reference.
- (c) The decisions of principle sought from the Panel in respect of
 - (i) legal entitlement, and
 - (ii) remedies;
- (d) Appendices and other supporting material.

3 SUBJECT MATTER OF DISPUTE

- 3.1 This is a dispute regarding the allocation of capacity during the bi-annual process specified in Conditions D2.6 and D4.2.
- 3.2 Specifically, this dispute relates to the non-provision of Train Slots requested in the December 2019 Working Timetable ("WTT") where Firm Rights are held and have been exercised.
- 3.3 The Train slots in question are:
- (a) 4N23 06:14 SX Doncaster Down Decoy – Tyne Dock
 - (b) 6H12 07:40 Sun Tyne Dock – Drax Power Station
 - (c) 6M79 12:31 SO Angerstein Wharf – Bardon Hill Quarry
- 3.4 Network Rail confirm that the appendices provided with the claimants' sole submission to be relevant.

4 EXPLANATION FROM THE DEFENDANT'S PERSPECTIVE OF EACH ISSUE IN DISPUTE

4.1 Issues where the Defendant Accepts the Claimant's Case

(b) 6H12 07:40 Sun Tyne Dock – Drax Power Station: NR would like it noted that the Sole Submission was the first response we received in relation to this rejection and thus the first opportunity to review.

This was rejected foul of Standard Possession Opportunity (Section 4) of the Engineering Access Statement for Line of Route LN804.11 (Ferrybridge North Jn to Milford Jn). We accept the Claimants case that this train does not pass over this section of line (running via Castleford instead).

4.2 Issues where the Defendant qualifies or refutes the Claimant's Case

(a) 4N23 06:14 SX Doncaster Down Decoy to Tyne Dock. We refute the claim that no offer has been made in respect of this Rolled Over Access Proposal and no explanation has been given as to why this is so.

(c) 6M79 12:31 SO Angerstein Wharf – Bardon Hill Quarry: This schedule was correctly rejected due to conflicting with Section 4 on Line of Route LN3525 (Knighton to Burton Leicester Jn.). This line is closed from 1800 on Saturdays with 6M79 arriving at destination at 1804. NR refutes the claim that this schedule was rejected without reason as the Changes Log stipulates the reason and was notified to GBRf on 10th May 2019. NR does however recognise that a Rejection Letter was not issued in this instance.

4.3 Why the arguments raised in 4.1 to 4.3 taken together favour the position of the Defendant

NR would like it noted that the Sole Submission was the first response we received in relation to these services and thus the first opportunity to review in all instances.

(a) 4N23 06:14 SX Doncaster Down Decoy to Tyne Dock:

On July 12th 2019, GBRf submitted a TOVR for the inclusion of 4N14GA 06:36 SX Doncaster Down Decoy – Tyne Coal Terminal. Whilst being processed NR queried the path of this service with GBRf as it was similar to 4N23 (which NR had sight of as an Offered Train in Train Planning System) whereby GBRf responded back to 'replace' 4N23 with 4N14 (Appendix 1). As such, an offer for 4N14 was provided and 4N23 was removed. NR considers this matter to be resolved.

4N23 was not referenced as rejected within the communication provided to GBRf on Publication of the WTT, but instead, owing to the manner in which data is exchanged within the Timetabling community, this schedule was simply missing from that data set. The transfer of data between parties is known to be inefficient and this scenario is a bi-product of this.

(b) 6H12 07:40 Sun Tyne Dock – Drax Power Station:

This was rejected foul of Section 4 of the Engineering Access Statement (EAS) for Line of Route LN804.11 (Ferrybridge North Jn to Milford Jn). This has been reviewed and NR agree that 6H12GA is not foul of this possession; since receipt of the Claimants Sole Submission, NR have been working with GBRf to reinstate this path close to its previous Timetable form. This path arrives at Drax Power Station at 11:15 (vice 11:04). NR considers this matter to be resolved.

(c) 6M79 12:31 SO Angerstein Wharf – Bardon Hill Quarry:

This schedule was correctly rejected due to conflicting with Section 4 on Line of Route LN3525 (Knighton to Burton Leicester Jn.). This line is closed from 1800 on Saturdays with 6M79 arriving at destination, which is within the possession limits, at 1804.

NR notified GBRf of this conflict via email on 10th May 2019 where they were provided with a copy of our Changes Log (Appendix 2 and Appendix 3), however, NR recognises that no rejection letter was sent. This rejection was not based on conflicting rights of multiple operators for which 6M79 hold Firm Rights but was instead a conflict with the EAS. Owing to the consultation process stipulated in Annex 1 of The Network Code – Timeline for the timetable development process - the timings for the above stated possession were issued at D-59. The operator therefore is enabled with the opportunity to make representations or objections between D-59 and D-54. NR then issues revised rules at D-44 providing operators all necessary information to provide a Priority Notification at D-40 with those rules considered.

As part of NR validation activity, we ensure the Timetable published at D26 adheres to these rules unless further notification is received that the rule has been amended or changed to accommodate this conflicting service. This amendment is known as an easement.

Having notified GBRf on 10th May 2019 of this conflict the opportunity was provided for them to approach the Engineering Access Planning team to request an easement on the possession which GBRf had previously accepted during the EAS Consultation Period between D59 and D41. NR considers it the responsibility of the Operator to request easements to the EAS (The Rules). This request is to be made of the Engineering Access Planning Department within each Route team.

In all instances, Network Rail believe that GBRf were provided the opportunity to work collaboratively through informal discussions which would have resulted in rectification of all items in dispute prior to the Sole Reference Submission. Since submission has been received, all three train slots have been revisited by Capacity Planning and in our opinion, resolved by way of formal offer being provided to GBRf.

5 DECISION SOUGHT FROM THE PANEL

- 5.1 Network Rail consider the Subject Matter of Dispute 3.3 (a), (b) and (c) to be resolved since receipt of the Sole Submission document.

6 APPENDICES

APPENDIX 1 – 4N23 – FW GBRF REF NO. PELE20PSB000023

APPENDIX 2 – 6M79 – CHANGES LOG EMAIL

APPENDIX 3 – 6M79 – GBRF – CHANGES LOG 100519

APPENDIX 4 – CHANGES LOG POPULATION PROCESS AS REQUESTED IN DIRECTIONS

The Defendant confirms that it has complied with Access Dispute Resolution Rule H21

7 SIGNATURE

For and on behalf of
[usually Network Rail Infrastructure Limited]

Signed M Allen

Print Name MALLEN

Position

Head of IT products NR