

1 DETAILS OF PARTIES

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

- (a) Freightliner Group Ltd whose Registered Office is at The Podium, 1 Eversholt Street, London, NW1 2FL, representing Freightliner Limited and Freightliner Heavy Haul Limited ("Freightliner") ("the Claimant"); and
- (b) Network Rail Infrastructure Limited whose Registered Office is at 2nd Floor, 1 Eversholt Street, London NW1 2DN ("Network Rail") ("the Defendant").

1.2 Third parties: all other Access Beneficiaries.

2 THE CLAIMANT'S' RIGHT TO BRING THIS REFERENCE

2.1 This matter is referred to a Timetabling Panel ("the Panel") for determination in accordance with Condition D2.2.8(a) of the Network Code.

3 CONTENTS OF REFERENCE

This Sole Reference includes:-

- (a) The subject matter of the dispute in Section 4;
- (b) A detailed explanation of the issues in dispute in Section 5;
- (c) In Section 6, the decisions sought from the Panel in respect of
 - (i) legal entitlement, and
 - (ii) remedies;
- (d) Appendices and other supporting material.

4 SUBJECT MATTER OF DISPUTE

4.1 This is a dispute regarding the Timetable Planning Rules proposal for signal box opening hours at Craigo.

4.2 This dispute arises over Network Rail's implementation of Timetable Planning Rules under Condition D2 of the Network Code.

5 EXPLANATION OF EACH ISSUE IN DISPUTE AND THE CLAIMANT'S ARGUMENTS TO SUPPORT ITS CASE

- 5.1 A change was made to the signal box opening hours in respect of Craigo signal box in the 2015 Timetable Planning Rules version 1.0 (Appendix A, page 47) to show it to be closed, rather than the previously applicable times of 06:00 to 23:00 Monday to Saturday.
- 5.2 Freightliner's comments and Network Rail's responses on the TPR change is shown in Appendix B.
- 5.3 Freightliner disputed the change, as it was apparently pursuant to a Network Change (reference NC/G1/2013/SCOT/0504 of 21 March 2013, attached as Appendix C). Correspondence over the Network Change established that it was Network Rail's intention to de-staff the signal box under normal circumstances. However, if it proved necessary for reasons of performance or capacity to provide signalling staff again at any point in the future then Network Rail would do so at its own expense.
- 5.4 Given Network Rail's position, it was agreed that the proposal did not in fact constitute Network Change as Network Rail was acting within its entitlement and no material effect would occur. The Network Change was therefore withdrawn on 21 March 2014 (Appendix D).
- 5.5 It has been agreed by Network Rail that Section 2.2 of the TPRs relates to the contractual opening hours of routes, rather than the specific prevailing opening hours. If Network Rail wished to permanently change the opening hours of a route or make changes to Section 2.2, an established Network Change would need to be in place. If however there is no traffic or performance requirement, Network Rail is perfectly within its entitlement to de-staff signalboxes to avoid the expense of personnel who would otherwise have nothing to do. As long as Network Rail will provide staff (with reasonable notice) at its own expense within the opening hours in Section 2.2 of the TPRs, there is no need to declare Network Change or amend Section 2.2 of the TPRs.
- 5.6 A series of workshops took place between 2010 and 2013 to establish the above principle and a methodology was established outlining each party's responsibilities and obligations depending on whether trains were to be planned within or outside Route Opening Hours, and similarly within or outside current signal box opening hours. A compendium of signal box opening hours was compiled for that purpose and is published on Network Rail's website.
- 5.7 Network Rail advised that it has briefed all General Managers and all those within Operational Planning of the system and how to use it.
- 5.8 An example of the meeting notes is provided as Appendix E.

- 5.9 Freightliner maintains that the change to Section 2.2 of the TPRs in respect of Craigo signalbox is therefore unjustified as no associated established Network Change is in place.
- 5.10 It was recognised under the workstream that a considerable amount of unauthorised change to Section 2.2 (not just in Scotland) had taken place and a further work was required to establish the correct position on a national basis.

6 DECISION SOUGHT FROM THE PANEL

The Claimant should is requesting that the Panel determine:

- 6.1 That Section 2.2 of the Timetable Planning Rules represents the contractual opening times for each route and that this may only be varied by an established Network Change proposal;
- 6.2 That the change to the opening times at Craigo signalbox was unauthorised and should revert to the previous entry; and
- 6.3 A workstream should commence to identify and correct the all the regional Section 2.2 entries.

7 APPENDICES

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

Appendix A: Scotland TPRs 2015 version 1.0

Appendix B: extract from Freightliner's TPR 2016 version 4.0 response

Appendix C: Network Change proposal

Appendix D: withdrawal of Network Change proposal

Appendix E: meeting minutes

8 SIGNATURE

For and on behalf of Freightliner Limited and Freightliner Heavy Haul Limited

Signed

J. K. Bird-----

Print Name

Track Access Manager
Position