

***Defendant's Response to a Sole Reference to a
Timetabling Panel in accordance with the provisions of
Chapter H of the ADR Rules effective from 1 August 2010
December 2016 – Timetabling Dispute TTP985***

1 DETAILS OF PARTIES

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

- (a) Abellio Greater Anglia Ltd (Company number 06428369) whose Registered Office is at 1 Ely Place, London, EC1N 6RY ("AGA") ("the Claimant"); and
- (b) Network Rail Infrastructure Limited (Company number 2904587) whose Registered Office is at 1 Eversholt Street, London, NW1 2DN ("Network Rail") ("the Defendant").
- (c) MTR Corporation (Crossrail) Ltd (Company Number 08754715) whose Registered Office is at Providence House, Providence Place, Islington, London, N1 0NT ("MTR") ("Dispute Party")

2 CONTENTS OF THIS DOCUMENT

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

- The subject matter of dispute in Section 3
- An explanation from the defendant's perspective of each issue in dispute in Section 4
- Details sought of the decision of the Panel in Section 5
- Appendices

3 SUBJECT MATTER OF DISPUTE

- 3.1 Network Rail agrees with the claimant that this is a dispute regarding the allocation of platform capacity at London Liverpool Street Station for a standby train in Platform 18.
- 3.2 Network Rail agrees with the claimant that the dispute arises over the interpretation of Condition D4.6 of the Network Code. Network Rail confirms that the Decision Criteria documented in the claimant's Appendix H is correct.
- 3.3 Network Rail agree with the claimant that they have for many years stabled an 8 car Class 321 set in Platform 18 at London Liverpool Street station on Mondays to Fridays during off peak times. However, Network Rail does not believe that the claimant has any grandfather rights because of this. Both the claimant and MTR do

not have stabling rights at Liverpool Street for the December 16 Timetable, therefore the decision regarding capacity allocation was made using Condition D4.6 of the Network Code.

The claimant states "If during the course of the day a fault develops with another train at Liverpool Street, the driver will quickly swap to Platform 18 and bring the standby train into service therefore avoiding a potential cancellation". Network Rail would like to understand what 'quickly' means in this context.

- 3.4 Network Rail agrees with the statement provided in Section 4.4 of the claimant's dispute document and the train paths supplied by the claimant in Appendix C in so as it relates to the Dec16 Timetable.
- 3.5 Network Rail agrees with the statement provided in Section 4.5 of the claimant's dispute document.
- 3.6 Network Rail agrees with the claimant regarding the MTR bid submission for December 16. Network Rail would like to clarify that for each WTT timetable decisions regarding capacity allocation will be made with the information that is available at that time. Therefore the paths offered to MTR for December 16 will not automatically be granted in future timetables.
- 3.7 Network Rail agrees with the claimant that we found in favour of MTR in the capacity allocation decision for the December 16 Timetable due to a high weighting placed on Condition D4.6.2 c) "maintaining and improving train service performance". Network Rail believes that the MTR crewed standby unit will deliver a significant performance benefit to MTR Crossrail. This view is supported by the Network Rail Route Performance Manager for Anglia Marcus Jones, who has provided the following statement:

"As the Route Performance Manager for Anglia, I believe it would be of greater benefit to the industry to have a fully crewed hot spare available at London Liverpool Street, MTR have given a commitment to ensure this unit would be crewed at all times and that it unit would be available to run between Shenfield and London Liverpool Street if required to assist other operators.

This will also ensure that operational flexibility is available at Liverpool Street, we have had occasions a service affecting failure which required the removal of the stabled unit, but no driver available which caused further disruption to the industry as a whole.

Each train service is worth 0.4% to PPM for MTR, where each train is worth 0.07% to AGA. The ability to swap units out would therefore benefit TfL Rail PPM greater than AGA, purely based on the number of trains operated on daily basis." (see Appendix A)

Network Rail considered Condition D4.6.2 j) "enabling operators of trains to utilise their assets efficiently" within Condition D4.6.2 2 f) "the commercial interests of Network Rail (apart from the terms of any maintenance contract entered into or proposed by Network Rail) or any Timetable Participant of which Network Rail is aware;" as Network Rail believed that the claimant's concerns surrounding efficiency were due to the increased costs that the longer journeys would incur and the fact that they would need to roster an extra driver. Overall Network Rail considers the impact of the capacity allocation decision to be low against Condition D4.6.2 j) "enabling operators of trains to utilise their assets efficiently" as the capacity allocation decision affects one passenger service and introduces two new ECS's.

Network Rail does not believe that the claimant has demonstrated the performance benefit that their un-crewed standby unit currently delivers.

- 3.8 Network Rail agrees with the statement in Section 4.8 of the claimant's dispute document.
- 3.9 Network Rail agrees with this statement in Section 4.9 of the claimant's dispute document and the train paths supplied by the claimant in Appendix B in so as it relates to the Dec16 Timetable.
- 3.10 Network Rail agrees with the claimant that the removal of their standby unit from London Liverpool Street Platform 18 will have implications on their business in terms of increased unit mileage and additional train crew costs. Network Rail believes that the impact of train delays and cancellations for AGA customers can be

somewhat mitigated if AGA were to use MTR's crewed unit between Liverpool Street and Shenfield. Network Rail considered the impact of the additional ECS paths offered to AGA from Liverpool Street to Southend Victoria and Southend Victoria to Liverpool street and the increased costs these would incur to the claimant under Condition D4.6.2 f) "the commercial interests of Network Rail (apart from the terms of any maintenance contract entered into or proposed by Network Rail) or any Timetable Participant of which Network Rail is aware;". Network Rail placed a low weighting on this decision criteria as Network Rail believe that the increased costs incurred by the claimant are outweighed by the performance benefit to industry resultant from having a crewed standby unit in Liverpool Street Platform 8.

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

4.1 Issues where the Defendant Accepts the Claimant's Case

- 4.1.1 Network Rail has no comment on the claimant's passenger off-peak loadings (Section 5.8 of the claimant's dispute document).

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

- 4.2.1 Network Rail recognises the claimant's concerns, (Section 5.1 of the claimant's dispute document) that their ability to cover for unplanned disruptive events on Great Eastern Main Line services will be reduced. However, Network Rail believes that the claimant has a Class 317 unit stabled on weekdays in Platform 1 of London Liverpool Street.

2H15 08:02 Ely – London Liverpool Street 09:48

1H80 16:28 London Liverpool Street – Cambridge 17:43

Class 317s are route cleared on the following lines of route:

EA1011 Seven Kings to Ipswich

EA1012 Ipswich to Trowse

EA1013 Trowse to Norwich

EA1070 Witham to Braintree

EA1040 Romford to Upminster (restrictions apply)

EA1120 Manningtree to Harwich

Network Rail would like to understand whether the claimant could use this unit as an alternative standby in times of perturbation or whether there is the opportunity to change their diagrams to stable a more suitable unit in Platform 1 at London Liverpool Street for these purposes.

- 4.2.2 Network Rail would like further detail surrounding the data made available by AGA control (Section 5.2 of the dispute document) as to the usage of the standby unit.

Network Rail would be interested for the claimant to outline the details of the incidents highlighted and to demonstrate how the usage is split. MTR replaced AGA as the franchise owners to run London Liverpool Street to Shenfield services on the 31st May 2015. Therefore the figures supplied by the claimant regarding the standby usage between 1st January 2015 and 30th April 2015 may apply to the AGA operated London Liverpool Street to Shenfield services and may therefore not be an accurate representation of how the unit is used now.

Network Rail received an email from AGA Control on the 9th June stating that the standby unit was used on 45 different days between 01st May 2015 and 08th June 2016. Reasons for usage were given as service disruptions, unit faults and Network Rail requests for Platform 18 to be clear due to other platforms at Liverpool Street being blocked (appendix B). Network Rail does not believe that all of the uses given demonstrate proper use of a stand-by unit. Network Rail Control can only remember one occasion when the standby unit was used.

Network Rail received the information concerning the claimant's usage of the standby unit 28 times between the 1st January 2015 and 30th April 2015 on the 20th May 2016 so this information was considered against the decision criteria. Network Rail received the information concerning the claimant's usage of the standby unit on 45 different days between 01st May 2015 and 08th June 2016 on the 9th June 2016 at 18:54 (see Appendix B). This was after Network Rail made a decision regarding capacity allocation on the 02/06/2016 and the evening before Network Rail were due to offer

back the timetable, therefore this information was not considered against the decision criteria.

Although not considered as part of the decision criteria Network Rail is aware of a an occasion on the 04th July 2016 where Network Rail had asked AGA to move their spare unit so Network Rail could implement its contingency plan due to an infrastructure fault and AGA were unable to move it as they had no driver available (Appendix C).

- 4.2.3 Network Rail question the relevance of current PPM figures (Section 5.3 of the claimant's dispute document) and suggest that they show a worsening for MTR in Period 3.
- 4.2.4 Network Rail query why the claimant considers that the paths and consequential alterations offered by Network Rail are not considered to be reliable and robust (Section 5.4 of the claimant's dispute document). The paths that Network Rail have offered are compliant with the December 2016 Timetable Planning Rules. The lengthened journey time for 1F31 is contractually compliant as AGA have had journey time protection removed from their Track Access Agreement in the December 2016 Timetable.
- 4.2.5 Network Rail query why the claimant considers that the path for 5F37 is slow and fragile (Section 5.5 of the claimant's dispute document). The path that Network Rail has offered is compliant with the December 2016 Timetable Planning Rules.
- 4.2.6 Network Rail recognises the claimant's statement that AGAs Class 321 standby unit has a wider route clearance than MTRs Class 315 standby unit (Section 5.6 of the claimant's dispute document). MTR have offered other operators the use of their Class 315 unit in times of disruption. This will provide other operators the opportunity to carry passengers out to Shenfield where passengers will be able to connect into other services. AGA do not currently share their standby unit with any other operators and have not offered to do so in the December 2016 Timetable. In addition, as mentioned in 4.2.1 AGA have a spare unit in Platform 1 that may also be able to be used.
- 4.2.7 Network Rail would be interested for the claimant to evidence when the standby unit has been used to cover services to Southend Victoria, Braintree, Colchester Town,

Ipswich, Clacton-On-Sea and Norwich (Section 5.7 of the claimant's dispute document).

- 4.2.8 Network Rail have considered the additional costs that will be incurred by the claimant (Section 5.9 and 5.10 of the claimant's dispute document) to run two additional Empty Coaching Stocks against Condition D4.6.2 2 f) "the commercial interests of Network Rail (apart from the terms of any maintenance contract entered into or proposed by Network Rail) or any Timetable Participant of which Network Rail is aware;". Network Rail found in favour of the claimant against this criterion but placed low weighting on it overall against a high weighting on Condition D4.6.2 2 c) "maintaining and improving train service performance".
- 4.2.9 Network Rail queries whether an additional two drivers would be required to operate two ECS trips, and would be interested to have sight of AGA's information in regard of this issue (Section 5.11 of the claimant's dispute document).
- 4.2.10 Network Rail does not feel that what AGA identified as significant errors and omissions in the Decision Criteria (Section 5.12 of the claimant's dispute document) impinge on the final decision made surrounding capacity allocation. Network Rail considered average peak and off peak turnaround times rather than off peak turnaround times at terminal stations; this is due to the fact that the standby unit arrives in London Liverpool Street before the end of the morning peak. Even when considering that both AGA and MTR have the same off-peak turnaround time at London Liverpool Street, the average overall turnaround times at terminal stations is greater for AGA than MTR meaning that the potential for recovery is greater for AGA than MTR.

The table below shows turnaround times for passenger services only on a Wednesday in December 2016 Timetable after the end of the Shenfield Blockade. No Empty Coaching Stock workings were included and all figures greater than 60 minutes were discarded. Figures were taken for a Wednesday, after the end of the Shenfield Blockade Timetable.

	Minimum Turnaround Time	Maximum Turnaround Time	Average
MTR			
Shenfield	7	17	10
AGA			
Clacton-On-Sea	5	47	22
Norwich	5	57	27
Southend Victoria	8	56	20
Braintree	4	10	8
Colchester Town	4	20	7
Ipswich	5	58	20

With regards to Network Rail's use of Condition D4.6.2 j) "enabling operators of trains to utilise their assets efficiently" Network Rail's statement is as per 3.7 of this document.

4.2.11 Network Rail would like to confirm that it has considered the corresponding impact on Schedule 8 costs to the claimant (Section 5.13 of the claimant's dispute document) and Network Rail's statement is as per 3.7 of this document with particular reference to the statement from Network Rail's Anglia Route Performance Manager Marcus Jones.

4.2.12 With reference to AGA's statement regarding previous use of Platform 18 (Section 5.14 of the claimant's dispute document) Network Rail would like to state that neither the claimant, nor MTR have rights to stable in London Liverpool Street.

4.2.13 Network Rail agrees that the claimant does not have a depot access agreement in place to use Gidea Park CS (Section 5.15 of the claimant's dispute document). However, as Gidea Park CS is a network siding a depot access agreement is not required by AGA in order to use it. The claimant states that the lack of a depot access agreement is the only reason they cannot use Gidea Park CS, therefore Network Rail are of the opinion that Gidea Park CS may be an alternative stabling location close to London Liverpool Street.

4.2.14 Network Rail do not believe the claimant's statement about Ilford Platform 5 (Section 5.16 of the claimant's dispute document) to be relevant to the capacity allocation decision.

4.3 Issues not addressed by the Claimant that the Defendant considers should be taken into account as material to the determination

Not applicable

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

- 4.4.1 Network Rail believes that there are unanswered questions about the current usage of AGAs standby unit.
- 4.4.2 Network Rail has correctly used and applied the decision criteria in Condition D4.6.2 to determine capacity allocation. Network Rail placed a high weighting on criteria c) 'maintaining and improving train service performance' as this reflects the purpose of a standby unit. Network Rail found in favour of MTR against this condition as the unit will be crewed meaning that it can be deployed quickly. MTR have also offered the use of this standby unit to other operators, this should further help performance. For the industry overall this has the potential to incur a higher PPM benefit.
- 4.4.3 Network Rail considers itself to have justified the decision to grant MTR the paths for a standby unit in the December 16 Timetable against the detrimental impact to AGA.

5. DECISION SOUGHT FROM THE PANEL

- 5.1 Network Rail is asking the panel to uphold our decision to offer Platform 18 to MTR to stable at London Liverpool Street between the peaks. In this instance Network Rail do not feel it is appropriate for the panel to find error with Network Rail's processes, but not rule on who should be allocated the capacity. Network Rail is asking the panel that unless AGA have adequately demonstrated that they should have been awarded the capacity to stable in Platform 18 then Network Rail's decision should remain.

APPENDICES

Appendix A: Email from Marcus Jones, Anglia Route Performance Manager

Appendix B: Email from AGA control, 09/06/2016

Appendix C: Email showing control log, event date 04/07/2016

SIGNATURE

For and on behalf of Network Rail
Infrastructure Limited

Signed

Hazel Chalk

Print Name

HAZEL CHALK

Position

OPERATIONAL PLANNING
PROJECT MANAGER

