
ACCESS DISPUTES COMMITTEE

MINUTES of MEETING No. 17 held in London on 16 July 2008

Present:

Sir Anthony Holland, Chairman
John Beer (First Capital Connect)
Nigel Oatway (English Welsh & Scottish Railway)
Gabrielle Ormandy (Network Rail)
Mike Price (First ScotRail)
Wallace Weatherill (Southeastern)

In attendance:

Tony Skilton (Secretary)

Apologies:

Bill Davidson (Network Rail)
Tony Deighan (Eurostar (U.K.))
Lindsay Durham (Freightliner)
Martin Shrubsole (Secretariat)

17/0 Introduction

The Chairman welcomed Wallace Weatherill, as the Member representing Franchised Passenger Class, Band 2, to his first meeting of the Committee.

17/1 Approval of Minutes of Meeting no.16

The Minutes of Meeting no.16, held on 26 March 2008, were approved. The Chairman signed a copy of the Minutes as a true record of the proceedings.

17/2 Matters arising from the Minutes of the previous Meeting

16/2 The Access Disputes process

A Working Group had now been formed with Office of Rail Regulation ("ORR") facilitation to review the Access Dispute Resolution Rules and associated arrangements. The Working Group had met twice, under Network Rail chairmanship, and a remit was being developed for endorsement by Industry Steering Group. The Secretary intended to provide a copy to Committee members when this endorsement had been received.

16/3 Formation of a Company Limited by Guarantee ("CLG")

Work on the formation of a CLG was currently being progressed to enable the CLG to commence operation upon introduction of the revised Access Dispute Resolution Rules, which was envisaged as being in April 2009.

The Committee was informed that the constitution documents and the agency agreement to be entered into between the Committee and the CLG were still receiving drafting attention.

Assurance had been received from the Committee's solicitors that, whilst current taxation rules applied, the agency arrangements being anticipated for the management of contracts through the CLG would not impact adversely with HMRC upon the consultancy arrangements which currently existed.

16/5 Legal interpretation of industry documents

The paper reviewing ORR's determination in the appeal of reference ADP20 had been shared with ORR and an acknowledgment received.

17/3 Accounts for 2007/08 and budget for 2008/09

The auditors had indicated satisfaction with the accounts for 2007/08 and the Committee accordingly gave approval to the Chairman formally signing the Income & Expenditure Statement; this would be circulated to Access Parties when the levy for 2008/09 is imposed.

The Committee agreed minor changes to the 2008/09 budget as proposed by the Secretary, setting the expenditure budget for the year at £321,400.

The Secretary reported that the Wrexham Shropshire and Marylebone Railway Company Ltd had commenced service operation in April 2008 and sought authority from the Committee, in the absence of any safety levy data, to raise a fair and reasonable levy on the company for the current year. Recognising that it is not unusual for new Access Parties and Potential Access Parties to emerge during the course of a year, the Committee decided for administrative efficiency to delegate to the Secretary until further notice its duty under Rule E1.44 to assess levy payments in the absence of safety levy data.

Whilst considering levy arrangements, the Committee noted that cashflow risk routinely arose in late Summer because of the timescale involved in securing up to date safety levy data from ORR and then invoicing and receiving the Committee levy. The Committee asked the Secretary to review the practicability of changing the Committee's budget/accounting year to address the issue and to provide a recommendation to the next meeting.

17/4 Update on references

The Committee noted the current position regarding the references on hand.

17/5 Update on the website

It was reported that the website was up to date at close of business on 15 July except that attention was required to the directory to reflect the outcomes of recent Panel hearings and appeals: this updating was actively in hand and was expected to be completed over the coming few weeks.

17/6 Meeting arrangements

The Committee noted that this meeting had taken place with only the quorum of 5 Committee Members in attendance; arrangements to meet on the intended date of 25 June had been cancelled due to a quorum not being available. Reflecting that lack of quorum had previously necessitated cancellation of meetings, the Committee asked the Secretary to examine what measures might be introduced to enable the Committee to transact business by such means as telephone conference, video conference or written resolution.

Jonathan Heas
17. September 2008