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## **ACCESS DISPUTES COMMITTEE**

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### **MINUTES of MEETING No. 30** held in London on 22 September 2011

#### **Present:**

John Beer (First Capital Connect) (Committee Chair)  
Bill Davidson (Network Rail)  
Richard Dean (London & South Eastern Railway)  
Nigel Oatway (DB Schenker Rail (UK))  
Gabrielle Ormandy (Network Rail)  
Andy Wylie (Hull Trains)

#### **In attendance:**

Tony Skilton (Secretary)  
Kathy Couldridge (Assistant Secretary)

#### **Apologies:**

Lindsay Durham (Freightliner Heavy Haul)  
Mike Price (First ScotRail)

#### **30/1 Approval of Minutes of Meeting no.29**

The Minutes of Meeting no.29, held on 14 July 2011, were approved. The Chair signed a copy of the Minutes as a true record of the proceedings.

#### **30/2 Matters arising from the Minutes of the previous Meeting**

All matters arising from the Minutes were listed as agenda items except:-

#### **29/2 (previous 28/2 Implementation of the new Access Disputes Resolution Rules – Contract changes**

It was noted that ORR now had consultation in hand for amending Access contracts to align with the choice of dispute resolution forums offered by the new (August 2010) Rules.

It was noted that certain changes to the new Rules had also been consulted upon in connection with comprehensive proposals for amending Part J of the Network Code; these changes reflected the Committee's contribution to an initial consultation regarding Part J processes and were aimed at offering improved efficiency in the progression of disputes which arise in this area of industry activity.

29/2 (previous 28/11) Promoting the new Access Disputes Resolution Rules and the role of the Committee

The Committee Chair had recently provided ATOC with a brief indicating success with the effective application of the new Rules and associated processes in the first year since implementation. Committee members were asked to be alert to any response to the brief so that the Committee could assess overall feedback from briefings.

29/8 Appointment of Timetabling Panels

Southern Railway had been informed of the outcome of the Committee's deliberations over its concerns regarding the constitution of the Panel that had been appointed to hear reference TTP384; as yet, Southern had not taken the matter any further.

**30/3 Matters determined in correspondence**

No matters had been determined in correspondence since Meeting no. 29.

**30/4 Financial position**

The Committee noted report from the Secretary regarding the current financial position.

One Resolution Service Party had yet to pay its levy for 2011/12, despite reminders; the elected Committee member for the Class concerned was seeking to secure attention to the matter.

**30/5 Internal check arrangements**

Bill Davidson had tabled a report regarding internal check activity which he had carried out since the last meeting and this was noted.

It was agreed that Gabrielle Ormandy would undertake internal check until the next meeting.

**30/6 Position on references**

The Committee noted a report from the Secretary regarding dispute references handled since the last meeting.

Concerned that ORR had yet to determine an appeal submitted by Network Rail against the Timetabling Panel's determination issued on 19 May 2008 in respect of dispute reference TTP210, which related to West Coast Route Modernisation decision document NAUM-30, the Committee asked the Secretary to write to ORR encouraging finalisation of the matter as the delay in issue of an appeal decision (and thereby setting down binding precedent) could lead to uncertainty for any Timetabling Panel called upon to determine a similar scenario.

**30/7 Utilisation of Chairs and Industry Advisors**

The Committee received a report from the Secretary regarding the utilisation of the Allocation Chair, the Hearing Chairs and the Industry Advisors in the year since introduction of the new ADR Rules. It was noted that associated costs were emerging in line with the predictions of the Working Group.

**30/8 Update on the website**

The Secretary reported that the website – including the Directory – was up to date at close of business on 21 September 2011.

**30/9 Management of the Committee's property interests**

The previous meeting had noted that a Company Limited by Guarantee – Access Disputes Resolution (GB) Ltd (“the CLG”) – had now been incorporated for the purpose of managing the Committee's property interests as nominee and managing agent for the Committee and also to hold the Committee's interests in the associated Rent Deposit. Certain aspects of the drafting of the proposed Property Management Agreement between the Committee and the CLG had been referred back to the Committee's solicitors for clarification.

Following consideration of subsequent correspondence exchanged with the solicitors, the Committee decided that the contract should be drafted such that delegations to the Committee Chair or the Secretary might be used to bind new Committee Members for the term of the contract without the need for occasional re-authorisation of the contract. Some other minor adjustments to the drafting of the contract were also approved for progression.

Additionally, in the interests of transparency and effective future control of the Committee's property interests, the Committee considered it appropriate to seek amendment to the Rules along the lines which were under consideration prior to the recent revision; the effect of the envisaged amendment would be that new Committee Members would be required to become members of the CLG and also to adhere to any existing contracts in place between the Committee and the CLG.

**30/10 Arrangements for next meeting**

The Committee identified discussion items for the next meeting, taking place on 14 December 2011. This meeting would be followed by the customary festive repast, for which the Committee determined the guest list, asking the Secretary to make appropriate arrangements.



Chair

14:12:11