
ACCESS DISPUTE RESOLUTION COMMITTEE

**MINUTES OF MEETING No. 11
HELD ON 9.1.96**

Present:

Terry Worrall (Chairman)
Philip O'Donnell (Railtrack)
Lloyd Rodgers (Gatwick Express)
Geraint James (Railfreight Distribution)
Mike Romans (European Passenger Services)
Keith Hasted (Railtrack)
Julian Worth (Transrail)

In attendance:

Chris Blackman (Secretary)
Martin Shrubsole (Alternate Secretary)
Donald Macleod (Korn/Ferry Carré/Orban International)

Apology:

Bob Urie (Regional Railways North East)

11/1 Introduction

Julian Worth was welcomed to his first meeting. The Chairman introduced Donald Macleod, a partner from Korn/Ferry Carré/Orban International; he was welcomed by the Committee.

It was noted that no apologies had been received from Glen Kennedy.

11/2 Minutes of Meeting No. 9

Members approved the minutes of the meeting, including the Record of the Hearing of References AD1/2, held on 4th December 1995; The Chairman signed a copy as being a true record for retention on file.

It was noted that the minutes would be circulated to the Industry; however, the Record, in accordance with the agreed procedures, would be subject to limited distribution to the Committee members/alternates and the parties attending the hearing. The Secretary confirmed that the Determination of the Reference, signed by the Chairman, had been widely circulated within the Industry.

11/3 Minutes of Meeting No. 10

Members approved the minutes of the meeting, including the Record of the initial Hearing of Reference AD3, held on 12th December 1995; The Chairman signed a copy as being a true record for retention on file.

11/4 Resumption of Hearing of Reference No. AD3

The Committee continued to hear Reference No.AD3 from North West Regional Railways. The record is attached.

11/5 Appointment of New Chairman

The Secretariat reported that the Department of Transport had assumed the role of the client for the process of appointment of Chairman and had been represented at a meeting they had held on Thursday 4th January with Korn/Ferry Carré/Orban International who have been engaged as executive search consultants to find a suitable Chairman for both the ADRC and RIDR.

The Committee approved the Secretariat to supply information to the consultants about the procedures and processes of the Committee, copies of Determinations by the Committee and Timetabling Sub-Committee, together with a sample set of minutes of meetings of the ADRC and Timetabling Sub-Committee.

Donald Macleod, a partner at Korn/Ferry Carré/Orban International, described the procedures and arrangements that his company had put in hand. These include arranging national advertising, and adopting a thorough search using a variety of well established high level contacts. The opportunity to attend a meeting of the Committee had given him valuable insight and would enable him to answer questions from potential clients from a perspective of sound understanding of the status, objectives and working processes of the Committee.

The target date for appointment of Chairman for the ADRC by the 1st week of April is considered to be achievable but tight. The opportunity for holding interviews on either or both Saturdays February 10th and 17th is considered helpful to the process, although a realistic assessment of the timescales indicated that it would be prudent also to set aside an extra date about a week later for interviews. In noting the tightness of the timescales the Committee agreed that members would also be available for an interviewing panel on Saturday 24th February 1996.

The Chairman reminded members that a number of senior people who had been employed within recent years within the industry had been approached informally during the previous summer. The Committee agreed that he should contact again those who had expressed an interest and advise them of the arrangements that had been made for national advertising of the post.

11/6 Committee Budget: Bank Account

It was noted that the Department of Transport had not accepted the proposition that it should act as guarantor of the Committee's bank account. The Committee therefore agreed to proceed with the contingency plan as previously minuted in meeting No.10, and also agreed that disbursements from the account should be made on the authority of signatures from any two of the following four personnel: the Independent Chairman, Bob Urie (Deputy Chairman), Lloyd Rodgers, or the Secretary, Chris Blackman. Pending the appointment of the Independent Chairman, the Committee agreed that Martin Shrubsole, Alternate Secretary, should be acknowledged as an authorised signatory. The Secretary was instructed to open the account and to raise the levy on the industry parties.

11/7 Review of the Committee's First Year

It was noted that no comments had been received on the Secretariat's paper. The Committee decided that it should be circulated to all parties within the industry, including those who are the holders of a train operator's licence, or intending in good faith to become train operators. The Review, together with a covering letter signed by the Chairman, would be disseminated by members to their constituents, and by the Secretary to other bodies.

Action: Secretary

11/8 Matters arising from the Hearing of Reference AD1

11/8.1 Clarification of 'implementation' of a Network Change

Philip O'Donnell explained that Part G of the Access Conditions applies to projects involving substantive change or enhancement. It follows that the manner in which a scheme is implemented also falls to be handled under the Part G arrangements. The Committee endorsed this and agreed that Part G should be applicable to the intermediate stages of a major Network change as well as to the end state.

The question of materiality as previously discussed may still be subject to test.

11/8.2 Determining which committee should hear a reference

The Committee noted that it had the power to determine, in accordance with Rules A4.7 and A7, which sub-Committee should hear a particular reference.

Members also considered that, in the case of a complex reference which fell within the jurisdiction of more than one sub-committee, or within the jurisdiction of the Committee and one (or more) of its sub-Committees, it might wish either for discrete elements to be heard by the relevant sub-Committee before being referred to the Committee for final Determination or the Committee should hear the whole reference. In either case there must be no denial of opportunity for appeal to the Regulator on those aspects which had been referred under Conditions D5, F5, G6 or H11.9(a). The Committee wished, in such circumstances where it had made a Determination, to be able to give leave to the parties involved to

appeal to the Regulator as if those aspects of the Reference had been heard by the designated Sub-Committee as prescribed in the Access Conditions.

The Committee, aspiring to formalise this option as a Rule of Procedure, remitted the Secretariat to seek further advice and to prepare a formal notification of the Committee's intentions for transmission to the Regulator's Office for comment.

Action: Secretary

11/9 Date of future meetings

21st February 1996; 14.00, Room 216, Railtrack HQ.

24th February 1996; *Date for interviewing panel (affects Members only)*