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## ***ACCESS DISPUTE RESOLUTION COMMITTEE***

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### **MINUTES of MEETING No. 22 Held on 18th March 1997**

#### **Present:**

Bryan Driver (Chairman)  
Tim Clarke (Anglia Railways)  
Richard Fearn (Connex South Eastern)  
Nigel Fulford (Great Western Trains)  
Grahame Cooper (Railtrack)  
Geoff Knight (Railtrack)  
Ian Osborne (Freightliner)  
Michael Woods (Eurostar (U.K.))

#### **In attendance:**

Chris Blackman (Secretary)

#### **Apologies:**

Ian Braybrook (English Welsh & Scottish Railway)

#### **22/1 Minutes of meeting No.19**

Members approved, subject to one modification, the minutes of the 19th meeting held on 7th January 1997. The Chairman signed a copy of the amended minutes as a true record of the proceedings.

#### **22/2 Record of hearing of Reference AD8**

Members approved, subject to two modifications, the Record of the Hearing of the joint reference from North London Railways and Railtrack on the issue of Network Letters. The Chairman signed an amended copy as confirmation of approval.

#### **22/3 Record of hearing of Reference AD9**

Members approved, subject to one modification, the Record of the Hearing of the joint reference from North London Railways and Railtrack on the issue of alternative monitoring points. The Chairman signed an amended copy as confirmation of approval.

#### **22/4 Minutes of meeting No.20**

Members approved the minutes of the 20th meeting held on 13th January 1997. The Chairman signed a copy of the minutes as a true record of the proceedings.

## **22/5 Record of hearing of Reference AD11**

Members approved the Record of the Hearing of the joint reference from ScotRail Railways and Railtrack on the issue of rail adhesion. The Chairman signed a copy as confirmation of approval.

## **22/6 Minutes of meeting No.21**

Members approved the minutes of the 21st meeting held on 11th February 1997. The Chairman signed a copy of the minutes as a true record of the proceedings.

## **22/7 Record of hearing of Reference AD12**

Members approved the Record of the Hearing of the joint reference from CrossCountry Trains and Railtrack on the issue of Moderation of Competition. The Chairman signed a copy as confirmation of approval.

## **22/8 Matters arising**

### Minute 20/3: Reference AD10

Members understood that, following the Committee's discussion on the issue of relocation of snow ploughs and the advice it had given to the parties, the matter had been resolved locally. It was noted that the matter had not been referred either to the Network and Vehicle Change Sub-Committee or back to the ADRC; members therefore asked the Secretary to clarify the position. **Action:** Secretary

### Minute 21/8: Regulator's consultation

The Secretary advised that a date in mid-April was being sought for the proposed informal discussion with the Regulator on the working of the Access Conditions and the Dispute Rules in particular. **Action:** Secretary

### Minute 21/2 [18/13]: Declarations of Interest

The Secretary reported that he was still awaiting legal advice on compliance with the Data Protection Act. However it will suffice to hold the information on file in hard copy format.

### Minute 21/7: Hearing of Reference AD12

It was noted that, following the Committee's determination no. 12, South Wales & West Railway had brought a reference to the Timetabling Committee on the same subject of Through Trains between Portsmouth/Penzance and Liverpool/Manchester via Newport. South Wales & West had now appealed to the Regulator in accordance with Access Condition D.5.1 against the decision of the Timetabling Sub-Committee.

Members felt it would be appropriate for the Secretary to attend any formal hearing that the Regulator may convene in respect of an appeal against a decision of one of its Sub-Committees.

Furthermore, as the Timetabling Sub-Committee determination 32 stemmed from ADRC's determination 12, it was agreed that in this case the approved Record of the Hearing of reference 32 should be circulated to ADRC members and alternates.

#### **22/9 Accommodation and office equipment**

The Secretary advised that negotiations had been continuing with Railtrack Property Board about the terms of the tenancy of rooms 226-230 at Kings Cross East Side Offices, and a final draft of the Agreement was now awaited.

Quotations for the provision of partitions in rooms 226, 228 and 229 were being sought, and similarly quotations from contractors for provision of air conditioning units in the offices. All other equipment had been installed and arrangements for ordering of stationery and separate accounting of stationery, telephones, postage etc. were complete and operational.

#### **22/10 Appointment of legal advisors**

Members endorsed the draft contract with Wragge & Co. that had been prepared, and affirmed that the Secretary should finalise and sign the contract on behalf of the Committee. In particular members agreed that the amendment to clause 2 was acceptable; in the event of there being a conflict of interest, legal advice would be obtained from an alternative source.

Members confirmed that they were happy for the Committee's name to be listed on Wragge & Co.'s portfolio of clients. Members wished it to be acknowledged that the firm's role is to assist the Committee by advising on legal issues.

The Chairman advised the Committee that he had received a micromail message from Mike Romans, who had declared that he had been involved with personnel from Wragge & Co. both in a social context and as a fellow director of a charitable trust in the railway heritage sphere. The Chairman and members present wished to place on record that they had no previous knowledge of such a connection.

The Chairman formally concluded that there had been no conflict of interest in this respect, and that Mike Romans had had no involvement in the selection procedure.

#### **22/11 Financial matters**

The Secretary advised members that invoices had been sent to all industry parties imposing the levy for the current year 1996/97. The Secretary would now be preparing a budget for 1997/98; the preliminary draft, which had taken advantage of the data and experience of the last twelve months, indicated that the forecast expenditure would be in the region of £200k-£230k, a figure similar to that for the current year. The detailed budget for 1997/98, and the accounts for 1996/97 would be available for the next quarterly meeting of the Committee.

Members were reminded of the relevant dispute rules about raising the levy, and for the need, as previously discussed, to be prudent in ensuring that there was no need to have recourse to an overdraft facility. Members agreed to review and finalise the

budget at the next quarterly meeting. In the meantime the Secretariat should consider what changes to the dispute rules might be necessary or appropriate to permit the Committee to follow more standard budgetary procedures without excessive reliance on avoiding an overdraft.

The annual budget will in future be agreed at the March meeting of the Committee.

#### **22/12 Matter arising from the Timetabling Committee**

Members noted the paper from the Secretary which highlighted the potential delay in approving minutes of a meeting of either the Timetabling Sub-Committee or Network & Vehicle Change Sub-Committee in the circumstances where a Sub-Committee did not meet for a considerable period of time. Members agreed that minutes of a meeting should be approved within a matter of weeks rather than up to six months as had occurred in practice. They considered the four options postulated by the Secretariat and judged that it would be reasonable for minutes to be approved in correspondence. If there were difficulties in achieving this then approval would have to take place at the next meeting of the Committee, called if necessary for the purpose. The draft minutes should be circulated to those members/alternates present at the meeting.

#### **22/13 Guide to the Committee's Procedures**

Members noted the proposal to add a short note in the guide to the Committee's procedures relieving the parties of the need, when preparing a submission to the Committee, to furnish extracts of the Access Conditions as this document is held by all members and alternates.

The proposed amendment was approved unanimously and will be incorporated in the second edition of the procedures to be published commensurate with the issue no.3 of the Access Conditions.

#### **22/14 Appointment of Clerk to the Committee**

The Chairman advised the Committee that he had reviewed the work of the Secretariat and concluded that the tasks currently undertaken at hearings by the alternate Secretary were more appropriate to the duties ascribed in the Access Dispute Resolution Rules to a Clerk to the Committee. He remarked that the role of an alternate Secretary is to deputise in the absence of the Secretary in preparing and arranging meetings, taking the formal minutes and looking after a range of other duties such as budgetary and accounts control, accommodation and equipment issues.

Members observed that such appointments were for the Chairman to make, but they signified assent to the Chairman's intention to appoint the current alternate Secretary to the post of Clerk to the Committee.

#### **22/15 Date of next meeting**

Tuesday 10th June 1997 commencing at 10.00 in Room 230, East Side Offices at Kings Cross.