
ACCESS DISPUTE RESOLUTION COMMITTEE

MINUTES of MEETING No. 29 held on 11th and 18th March 1998

Present:

Bryan Driver, Chairman
Brian Burdsall (Railtrack)
David Franks (Thames)
Nigel Fulford (Great Western)
Gordon Hunt (EWS)
Geoff Knight (Railtrack)
Ian Osborne (Freightliner)
Bob Urie (RRNE)
Michael Woods (Eurostar (U.K.))

In attendance:

Chris Blackman (Secretary)
Martin Shrubsole (Alternate Secretary)

29/1 Introduction

The Chairman welcomed Brian Burdsall to his first formal meeting of the Committee.

29/2 Minutes of meeting No.28

The minutes of meeting no.28 held on 21st January 1998 were approved without modification. The Chairman signed a copy of the minutes as a true record of the proceedings.

29/3 Matters arising

Minute 28/6: The Committee's Archives

The Secretary reported that the BRB has confirmed that it does not propose to image any of the 61 boxes of archives for which the ADRC is now acting as Custodian. The BRB is content for these archives to be stored at the Committee's premises and be available for inspection by Industry Parties. If the Committee were, at any time, unable or unwilling to continue to house them, then they would be moved to the BRB's own archives, and a decision would be made then whether to store them also in electronic form.

The Committee wished to explore the costs of having an electronic copy of all the documents and asked the Secretary to undertake a review of this and of the options of holding the record either on micro-fiche or imaged in such a way as to be accessible by a keyboard which would enable a word search for documents.

The technology adopted would require to be compatible with that used by BRB.

Action: Secretary

29/4 Record of the Hearing of Reference [AD]14

The Record of the Hearing of Reference no.14 on 21st January 1998 was approved without modification. The Chairman signed a copy of the minutes as a true record of the proceedings.

29/5 Tenancy agreement with Railtrack Property

The Secretary reported that a final draft of the tenancy agreement had been received, incorporating the points made at the negotiation meeting in November. There were now two minor points outstanding which the lawyers would finalise before the end of the current week. It was expected that the process of signing would be complete before the end of March.

It was noted that, when the tenancy is signed, the RIDR may wish to proceed to install a partition in Room 226 and to underwrite the total cost. The Secretary confirmed that the planning permission for such works was valid for five years from January 1997.

29/6 Report from the remuneration sub-committee

In the absence of the Chairman and designate clerk for this item, the deputy Chairman, Bob Urie reported on the three issues that the sub-committee had considered. The Committee agreed the terms of remuneration for the Chairman upon the extension of his contract for a further two years, and wished a suitable supplemental letter detailing the required amendments to be drawn up speedily by the Secretary, and for the Committee's legal advisers to enable formal exchange with the Chairman before 31st March 1998.

On the second issue the Committee endorsed the principles of the structure of the contract with the (designate) clerk and gave guidance on the outstanding terms to be negotiated.

The Committee also acknowledged the advice and contribution of its legal advisers Wragge & Co., and agreed to renew the contract for a further twelve months.

29/7 Committee Budget for 1998/99

The Committee approved the paper from the Secretariat and endorsed a prudent budget of £230,000 for the financial year 1998/99.

The Committee observed that the expenditure in the current year was well within the budget provision, and a rebate on the levy in 1998/99 was likely; furthermore it noted that invoices for the levy for the year 1997/98 had been sent to all Industry Parties on 20th February and settlement was due by 22nd March.

The Committee agreed that it would be to the benefit of the industry in future to circulate, with the annual statement of accounts, and also to accompany the invoices for the levy, an explanatory note expanding on the issues relating to the budget.

This should set out the main features of the process of budget setting and stress the need to avoid a deficit. It should distinguish between elements for which costs can, on past behaviour, be accurately predicted and managed, those elements for which a simple contingent allowance has to be made, and those elements where heavy external costs can be incurred, e.g. on legal fees, with no degree of predictability as to likely frequency of occurrence and for which a large margin of prudence has therefore to be inserted. The Committee is mindful to take particular care not to incur an overdraft, and noted that unused portions of the budget are returned to Industry Parties as a reduction in the next levy.

The rebate is calculated strictly 'pro rata' on the levy imposed the previous year, according to the ratio of total expenditure to total levy income for that year.

29/8 Hearing of reference No.[AD]15

The Committee formally heard joint reference no.15 from Great Eastern Railway and Railtrack. The Determination of the Committee is attached.

29/9 Handling of disputes at St. Pancras station

The Committee noted the paper from the secretary and endorsed the proposed processes for setting up a sub-committee to meet the requirements of the Station Access Agreement between Midland Main Line and London & Continental at St. Pancras. The Committee noted that the circumstances at this station were unusual and unlikely to be replicated elsewhere.

It acknowledged that the Chairman of ADRC should be the chairman of such a sub-committee, which would probably consist of two or three persons, and should be available to meet within days on notification of a dispute. Although it was not envisaged that the workload would be extensive and frequent, additional resource could, if required, be provided by the appointment of an independent Vice-Chairman.

There was general support for a suggestion that the sub-committee might be composed of one nominee from each relevant party, but it was agreed that other options also needed to be examined. Any such sub-committee needed to be fully protected on issues such as liability, and its ability to recover the direct costs of its operation.

The Committee concluded discussion by asking the Secretariat draw up appropriate rules and procedures, consistent with the Access Dispute Resolution Rules, for the setting-up and working of the sub-committee, and to present these for approval at the next quarterly meeting in June [*in order that a sub-committee may be formally constituted by 1 August 1998*].

29/10 Date of next [quarterly] meeting

Wednesday 10th June 1998 (in Room 230, East Side Offices at Kings Cross)

[It was noted that the Committee may have to meet shortly to hear a reference from Central Trains on the subject of delay attribution.]