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

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### **MINUTES of MEETING No. 35**

held at Kings Cross on 9th June 1999

#### **Present:**

Bryan Driver, Chairman  
Tim Clarke (Anglia Railways)  
Tony Deighan (Eurostar (U.K.))  
Graham Eccles (South West Trains)  
Geoff Knight (Railtrack)  
Graham Laycock (English Welsh & Scottish Railway)  
Ian Osborne (Freightliner)  
Mike Price (ScotRail Railways)

#### **Apologies:**

Grahame Cooper (Railtrack)

#### **In attendance:**

Chris Blackman (Secretary)  
Martin Shrubsole (Clerk)

#### **35/1 Introduction**

The Chairman welcomed Graham Eccles to his first meeting of the Committee.

#### **35/2 Committee Membership Changes: appointment of alternates**

Tim Clarke has appointed Mark Causebrook as his alternate. Ian Osborne advised colleagues that, in the absence of his alternate Karen Bonner on maternity leave, he had appointed Bob Goundry as alternate.

#### **35/3 Minutes of meeting No.34**

The minutes of meeting no.34 held on 10th March 1999 were approved. The Chairman signed a copy of the minutes as a true record of the proceedings.

#### **35/4 Matters arising from the minutes of the previous meeting**

*Minute 34/4 [33/4; 32/7]: Options for imaging the archives*

The Clerk advised that, following the Committee's endorsement at the previous meeting, inspection of the archives was continuing and it had become even more apparent in terms of value to the Committee that it would be preferable to

categorise most of the documentation under topic headings rather than imaging. The alternative of imaging is likely to be of use only where frequent access to documents is required and, in any case, use of the papers will decay in time. Many of the documents are “working papers” and relate to subjects debated at meetings for which formal Minutes are held in an easily retrievable form elsewhere.

In response to a question from the Committee, the secretariat will assess the degree of protection provided by the metal storing cabinets against the risk of fire. This needs to be balanced against the relatively short-term nature of storage on the Committee’s premises.

**Action:** Secretariat

Minute 34/5: Budget: Y2K compliance

The Secretary advised that he had received an assurance from Railtrack Property that the security access and fire evacuation systems at the Committee’s premises are ‘Year 2000 compliant’. Enquiries were in progress to check the status of various items of equipment including the copier, fax and air-conditioning systems.

Minute 34/5: Budget: Committee Insurance

The Secretary reported that, on the recommendation of the Committee’s solicitors Wragge & Co., the issue of insurance had been discussed with an insurance broker whose formal recommendations were awaited.

**35/5 Accounts for 1998/1999**

The Committee noted the paper prepared by the Secretary and approved the accounts for 1998/99. Members were pleased to note that the Auditor had expressed the view that the documents were a fair summary of the income and expenditure for the period and were sufficiently supported by various papers that had been inspected during the audit. The Chairman signed the Income & Expenditure statement for the year ended 31st March 1999 and the balance sheet for that financial year.

The Committee agreed that when the levy for 1999/2000 is raised these documents should be circulated with the invoices, together with a cover letter containing a commentary on the purpose of the levy.

Non-payment of Levy for 1998/99

The Committee noted that all Industry Parties had now made settlement of the levy payments for 1998/99 with the exception of Balfour Beatty Rail Maintenance. As settlement was now 8 weeks overdue, the Committee observed that this was a breach of the Access Conditions and hence of that company’s Access Agreement. The Secretary was instructed to pursue the matter yet again, and to bring the matter to the attention of the Regulator.

**Action:** Secretary

**35/6 Update on References**

The Committee noted that the Timetabling Committee had received five references in respect of Railtrack’s offer in the second iteration of the Winter 1999 Timetable. Although four of the issues had subsequently been resolved by the parties

themselves, the remaining one had been the subject of a formal hearing before the Sub-Committee on the 8th June.

Two references have been submitted which stem from the application of the provisions in Schedule 4; the first is scheduled to be heard by the Committee on 24th June with the second on a date early in July. The Secretary had also recently received notification of a dispute under the Station Access Conditions on the subject of the water supply at Ramsgate Station, and a further notification under the Depot Access Conditions about the arrangements for discharge of controlled-emission toilets at Tyseley Depot. These two references are being progressed and, unless they are resolved between the parties themselves, they will be the subject of a hearing in front of the Committee during July or August.

### **35/7 Technical Sub-Committees**

The Committee reviewed a paper prepared by the Secretariat. After considering the options put forward, members agreed that the appropriate course of action is to 'stand down' the Technical Sub-Committee and arrange for any technical issues to be heard by the Committee (or if appropriate at the Committee's direction, by a sub-Committee) with one or more technical assessors present if required in accordance with Rule A5.10.2. Members took the view that, for references with specific technical content, the parties would in any case be expected to provide technical experts to address the Committee.

As the matter will require some changes to the Access Conditions the Secretary was remitted to provide a paper to the Class Representative Committee seeking support in principle for the proposal.

### **35/8 Proposals for Change to the Access Conditions**

The Committee noted that Regulatory approval of some minor changes to Part D of the Access Conditions was expected shortly, leading to introduction early in July 1999. Members recalled that these changes effectively tidy up some outstanding issues following the major changes introduced in March.

### **35/9 Annual Report**

The Secretary reported that he was in the course of preparing the 4th Annual Report. Members fully endorsed a proposal that this should be in the same format that was developed for the 3rd Annual Report which the industry had previously commented was a most helpful layout with a useful compendium of case law.

Members wished the cover letter to exhort all disputing parties to ensure that they conduct a proper dialogue before submitting any reference. There was evidence that many parties had heeded criticisms in earlier Committee determinations about failures in this regard and, in the general view of the Committee, this is a contributory factor in reducing the number of cases which have come before the Committee and sub-Committees in the 12 month period currently being reviewed.

### **35/10 Date of next meeting**

Thursday 24th June 1999 at 09.00 in Room 230, East Side Offices at Kings Cross.