
ACCESS DISPUTE RESOLUTION COMMITTEE

MINUTES of MEETING No. 50
held in London on 23 May 2001

Present:

Bryan Driver, Chairman
Karen Bonner (Freightliner)
Tim Clarke (Anglia Railways)
Julia Glenn (Railtrack)
Geoff Knight (Railtrack)
Mike Price (ScotRail Railways)
Nigel Oatway (English Welsh & Scottish Railway)
Tim Shoveller (Eurostar (U.K.))

Apologies:

David Franks (North Western Trains)

In attendance:

Chris Blackman (Secretary)
Martin Shrubsole (Clerk)

50/1 Minutes of meeting No.49

The minutes of meeting no.49 held on 28 March 2001 were approved. The Chairman signed a copy of the minutes as a true record of the proceedings.

50/2 Record of Hearing of reference AD23

The Record of Hearing of reference AD23 held on 28 March 2001 was approved, subject to some modifications. The Chairman signed a copy of the Record, duly modified, as a true record of the proceedings.

It was noted that circulation of the Record is to Committee Members and to those Parties involved at the hearing.

50/3 Matters arising from the minutes of the previous meeting

There were no matters arising

50/4 Procedural issues relating to references nv5 and AD25

The Committee noted the paper from the Secretary, which outlined the background and history of reference nv5, originally notified by Connex South Eastern in February 1999, and of reference AD25 submitted by Railtrack in March 2001. Members also noted the accompanying brief from the Committee's legal advisors.

The Committee took the view that a reference once notified should normally be expected to proceed, without undue delay, to formal submissions by the parties and a hearing in front of the Committee, unless the parties make speedy efforts to achieve a settlement themselves of the issues, or the referrer formally withdraws the reference.

It was noted that the view of the Committee's legal advisors was that, unless the parties achieve a settlement themselves of the issues, and/or the referrer formally withdraws the reference, the Committee has an obligation to determine an appeal submitted under Access Condition F5.1.

The Committee therefore acknowledged that there was unfinished business that had to be addressed by NVCC; until this was concluded, there could not be any follow up consideration by ADRC (for example of the AD25 reference from Railtrack). That said the Committee was concerned that the provisions of Access Condition F for appeals against Railtrack proposals should not result in a block being put on progress towards the resolution of a dispute. The way around this problem would be for the relevant Committee to give directions to ensure that any case could be heard and determined within a set time frame.

After discussion the Committee agreed that the Network and Vehicle Change Sub-Committee should:

1. meet at the earliest possible date to consider the relevant papers, and this minute;
2. formulate directions to the principal parties to the dispute, Connex South Eastern and Railtrack; and
3. in setting such procedures for the conclusion of NV5, NVCC should work to complete all consideration of papers, hearings, and the issuing of a final determination by no later than 31 July 2001.

The Committee noted that, although there were other parties with an interest in the outcome of the appeal lodged in accordance with Track Access Condition F by Connex South Eastern, none of those parties had themselves lodged such appeals. The appropriate course of action for NVCC would therefore probably be to notify other interested parties to the dispute in the usual way, and invite them:

- (a) to submit, in writing, relevant views on their position regarding the issues raised in the dispute; and
- (b) to attend the hearing and, if they so wish, to make a statement and be prepared to answer questions put to them by the Committee.

The Committee agreed that reference AD25 should be stayed in the meantime.

50/5 Hearing of Reference no.26 from Silverlink and Railtrack

The Secretary advised the Committee that he had received a message from the Managing Director of Silverlink advising that the parties, at a meeting convened earlier that morning, had agreed a resolution of their differences. This however required to be ratified by the respective Boards of the companies concerned. In the circumstances the Committee agreed to defer the hearing pending confirmation from the parties that the dispute had been formally resolved.

50/6 Any Other Business

The Chairman advised the Committee that a message had been received from the Rail Regulator's office confirming that the Regulator wished to attend a Committee hearing as observer on 21 November 2001

50/7 Date of next meeting

13 June 2001 – Quarterly meeting