
ACCESS DISPUTE RESOLUTION COMMITTEE

MINUTES of MEETING No. 59

held in London on 11 March 2003

Present:

Tony Holland, Chairman
Bill Davidson (Network Rail)
Tim Clarke (Anglia Railways)
Tony Deighan (Eurostar (U.K.))
Nigel Oatway (English Welsh & Scottish Railway)
Ian Osborne (Freightliner)

In attendance:

Chris Blackman (Secretary)
Martin Shrubsole (Clerk)

Apologies:

Julia Glenn (Network Rail)
Mike Price (ScotRail Railways)
Niel Wilson (North Western Trains)

59/1 Minutes of meeting No.58

The minutes of meeting no.58 held on 11 December 2002 were approved. The Chairman signed a copy of the minutes as a true record of the proceedings.

59/2 Matters arising from the minutes of the previous meeting

58/2 [57/5]: Proposals for Change to the Access Dispute Resolution Rules

The Secretary advised that the Class Representative Committee met on 30 January 2003 and approved all the changes proposed to the Access Dispute Resolution Rules with the exception of the Proposal 19 to withhold a rebate to Industry Parties who failed to pay the Annual levy within the 30 days prescribed. However, the proposal to provide a mechanism to make an interest surcharge on late payers had been approved. Members noted that, although the proposals had been sent to the Regulator on 5th February, his approval was still awaited.

Members noted that Direct Rail Services and West Coast Railway had now paid the annual levy for 2002/03.

59/3 Changes in Membership

Members noted that Network Rail had appointed Adrian Thear as Alternate to Bill Davidson following the resignation of Tim Robinson.

59/4 Review of outturn for 2002/03 and approval of Budget for 2003/04

Members noted the Committee's expenditure for the current year was satisfactorily within budget, and that the outturn for 2002/03 indicated a surplus of income against expenditure, due to a reduction in the number of hearings before the ADRC, and a marked reduction in the expected workload for the Timetabling Committee in the New Year.

Members asked that some adjustment be made to the level of certain individual elements of the budget, but approved the overall budget for 2003/04 at £270,000.

59/5 Preparation of the 8th Annual Report

Members declared that the 8th Annual Report should be prepared in the same format as the 7th report published in 2002. A draft should be circulated in mid-April for review at the next meeting, prior to publication in May 2003.

It was agreed that there was opportunity for the Business Review section of the report to review the state of the dispute resolution process. Furthermore it would be opportune for the Chairman to write a suitable cover letter addressing the issue, setting out the position and objectives of the Committee in the context of the dispute resolution processes and seeking views on what changes in process industry parties feel might be required.

The Committee also agreed that the Clerk should update part 2 of the report, absorbing the decisions of the Committees during the 12 month period, and, in the business review to incorporate some brief comments on the implications of the Regulator's decision on the appeal against determination ttc132 of the Timetabling Committee.

Action: Secretariat

59/6 Update on References

The Secretary advised members that he had received notification of a reference, associated with the application of the Railtrack Independent Station Access Conditions, from Thameslink Rail and two other Train Operators on the subject of Qualifying Expenditure. A hearing had been provisionally earmarked for March 2003, but the parties had requested more time to engage in further discussions to try and resolve the issues.

Submissions were expected shortly from the parties to reference AD29, Great Eastern Railway and Network Rail, on the subject of Schedule 8 application to delays on the Great Eastern main line. This is an issue which it had been

anticipated might have been referred to the Delay Attribution Board for guidance under the prospective changes to Part B of the Track Access Conditions.

Notification had been received of a reference from Maintrain under the Depot Access Conditions. The Secretary was checking that the Committee had locus to hear the issues involved. If this turns out to be the case the Committee should expect to hear the reference at its May meeting.

59/7 Wensleydale Railway Company agreement with EWS

Nigel Oatway tabled a memorandum concerning the sale of the Redmire branch by Network Rail to the Wensleydale Railway Company, and the proposal by that Company and English Welsh & Scottish Railway to enter into an agreement for the latter to operate trains on the branch in a manner similar to the present. The dispute resolution terms proposed in the agreement between the two companies provide for certain types of disputes to be referred to the Industry Committee and the two companies wished to know whether this proposal was acceptable to the Committee.

After a brief discussion, Members agreed that the Committee would be happy in principle to fulfil such a role, and wished to receive a copy of the relevant parts of the signed Agreement in due course.

59/8 Appeals referred to the Rail Regulator

The Committee noted the Regulator's judgment on the appeal in respect of determination ttc132 (Railtrack v Eurostar (U.K.)) and his comments concerning the failure of Timetabling Sub-Committee to take proper cognisance of the aspects of law in its determination made in late 2001. The Chairman indicated that, since his appointment in April 2002, he was taking appropriate action to ensure that relevant legal aspects were properly addressed by the Committee.

59/9 The Committee's contract with the Clerk

The Chairman advised that he had reviewed the position of the Clerk and recommended his contract be extended to a second year. The Committee endorsed the Chairman's recommendation.

59/10 Date of next meeting

Thursday 24 April.