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

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### **MINUTES of MEETING No. 75** held in London on 24 March 2005

#### **Present:**

Tony Holland, Chairman  
John Boon (Network Rail)  
Julia Glenn (Network Rail)  
Nigel Oatway (English Welsh & Scottish Railway)  
Ian Osborne (Freightliner)  
Stewart Palmer (South Western Trains)

#### **In attendance:**

Chris Blackman (Secretary)  
Martin Shrubsole (Clerk)

#### **Apologies:**

Tony Deighan (Eurostar (U.K.))  
Mike Price (First ScotRail)  
Alan Wilson (Wessex Trains)

#### **75/1 Minutes of meeting no.74**

The minutes of meeting no.74 held on 9 March 2005 were approved subject to minor modification. The Chairman signed a copy of the minutes, as modified, as a true record of the proceedings.

#### **75/2 Record of hearing of reference AD40**

The Record of the Hearing of reference AD40 held on 9 March 2005 was approved subject to some modifications. The Chairman signed a copy of the Record, as modified, as a true record of the proceedings.

#### **75/3 Matters arising from the minutes of the previous meeting**

##### *74/5: Proposals for Change to the Access Dispute Resolution Rules*

Members noted, from the paper provided and circulated at short notice by the Secretary, that the Office of Rail Regulation (ORR) had now approved the Proposals for Change to the Access Dispute Resolution Rules, and these were expected to come into force at a date during April.

Members were pleased to hear that the ORR had also “approved” a proposal put forward by the Committee that, as an interim measure, pending completion of the processes prescribed in Part C of the Network Code for electing Members of the new Access Disputes Committee (A.D.C) and the Panels, the existing Members of the ADRC should constitute the Members of the new A.D.C., and that the Members and Alternates of the ADRC and the Timetabling Committee should constitute the Members of the respective Pools from which Members of a Panel would be drawn for a particular hearing.

Members agreed that any references to the Timetabling Committee not resolved by the parties would fall to be handled by that Committee until introduction of the new Access Dispute Resolution Rules, and by a Timetabling Panel thereafter.

Members agreed that the references NV75 – NV84 inclusive referred in respect of the Network Rail Major Project notice, and planned for a hearing before the NVCC on 19 April and 25 April, should be handled by a Timetabling Panel on the dates already published to the parties.

#### **75/4 Reference AD43**

The Chairman explained that the joint submission, received on 25 February, had referred to a report by an independent firm of engineering consultants, which in turn referred to another report that, although it had been sent to Network Rail, was apparently not available.

The Chairman explained why this report should be made available, and be shown to the consultant engineers for comment as to whether it necessitated them to make any revision to their own findings. He considered it vital that the consulting engineers see all available information, and he expressed concern that Network Rail had not shared this information with its consulting engineers. For this reason he had, on the previous day, instructed that the hearing should not proceed and the case should be adjourned pending provision of the requisite information.

Members agreed that any hearing of reference AD43 would now fall to be handled by an Access Disputes Panel.

#### **75/5 Update on References**

AD31 This has now been formally withdrawn by the referrer.

AD35 The parties, Great Eastern Railway and Network Rail, have been remitted to take the issue to mediation; the matter is temporarily stayed pending the outcome of the mediation of reference AD36.

AD36 Mediation between Thames Trains and Network Rail: it is reported that this was successfully concluded, but this has not yet been confirmed.

AD37 The parties, Thames Trains and Network Rail, will prepare a joint submission informed by the outcome of the mediation on reference AD36.

AD38 from Arriva Trains Wales and Network Rail regarding allocation of delays; the Delay Attribution Board, at its meeting on 8 March, has given advice to the parties.

AD41 from Central Trains on the issue of Local Output Commitments; the Secretary has written to the referrer asking whether or not, in the light of the publication of Determination AD40, it wishes now to proceed to a hearing of its dispute. A response from Central Trains was awaited.

AD42 from Wessex Trains on the issue of Local Output Commitments; the Secretary has written to the referrer asking whether or not, in the light of the publication of Determination AD40, it wishes now to proceed to a hearing of its dispute. A response from Wessex Trains was awaited.

Members agreed that any hearing of these references, if unresolved by the parties themselves, would now fall to be handled by an Access Disputes Panel.

**75/6 Any Other Business**

Members agreed that it would be appropriate for the Secretariat to circulate before the first meeting of the new Access Disputes Committee a list of resolutions and appointments for that Committee to consider.

**75/7 Date of next meeting**

The Committee's successor, the Access Disputes Committee (ADC) will meet on Tuesday 19 April at 09.30.