
TIMETABLING COMMITTEE

Determination no. 190

(following a hearing at Kings Cross on 10th October 2003)

[Note: previous published determination was determination no 194]

1. The Committee was asked by Silverlink Trains Services (STS) to direct Network Rail (NRI), in relation to the proposed Rules of the Route for the 2004 Timetable “*to prepare complete information for the entire period covered by the Rules of the Route review and enter into a proper dialogue including a regulating review and performance modelling*”. By implication STS was maintaining that, without the benefit of further such dialogue, it was not in a position to confirm that the proposed Rules of the Route were compatible with the practical delivery of its train service aspirations, and therefore that the proposed Rules of the Route should not become the “*applicable Rules of the Route*”.
2. The Committee noted that STS contended that
 - 2.1. a proposal to amend Rules of the Route, the effect of which was not to close a route, but rather to constrain its capacity, had to be underpinned by a demonstration of the practical consequences for all Train Operators of such constraints;
 - 2.2. such a demonstration required the execution of some form of performance modelling, informed by a Draft Timetable, and by the relevant policy for Train Regulation during the times of capacity constraint;
 - 2.3. this was a reasonable expectation derived from the findings of the Network and Vehicle Change Committee’s Determination NV40, namely that “*provision should be made for such reasonable work to be carried out, in response to reasonably formulated requests from STS or other Train Operators, before bringing forward any proposals for Two Track Midweek Nights Railway for the 2004/5 and subsequent Timetables.*”; and that
 - 2.4. the services most at risk of adverse performance in any constrained Timetable were the STS stopping services, which, by definition, consumed the most line capacity per train, and were therefore most likely to suffer, or to cause knock-on effects if delayed to accommodate “weaving” of other services.
3. The Committee noted
 - 3.1. the extent to which the parties could give evidence of bilateral, or multi-lateral discussions of the issues involved;
 - 3.2. the fact that there had been a VISION model commissioned with results only just available;

- 3.3. that, subsequent to commissioning the VISION modelling, there had been further dialogue on the appropriate values for Engineering Allowances (“Box times”) (longer than those on which the VISION model was based), but that these had not been the subject of any firm Rules of the Plan revision proposal;
 - 3.4. that the current Train Regulation policies do not make any explicit qualifications as regards the priority, relative or absolute, to be accorded to STS stopping services during the hours in question.
4. The Committee took into account that
 - 4.1. the Track Access Conditions serve to impose a sequence to events, except in the case of agreeing Train Regulation Statements, which may need to proceed in parallel. In this case the due process would require the finalisation of the applicable Rules of the Route, with any consequential adjustments to the Rules of the Plan, followed by the production of the Draft Timetable, incorporating the applicable Rules of the Route and the applicable Rules of the Plan. In practice, only at this stage can the parties proceed to the formulation of any consequential changes to the Train Regulation Policy. In this instance STS appeared to be asserting a right to sustain an objection to the Rules of the Route until it had been given detailed assurances that could not be given until more of the process had been completed. The Committee considered that this would not be a reasonable interpretation of the directions given in NV40.
 - 4.2. the extent of the dialogue between STS and NRI in respect of the proposals to amend the Rules of the Route and Rules of the Plan for the 2004 Timetable appeared, in broad terms, to have been aimed at achieving “*such reasonable work to be carried out, in response to reasonably formulated requests from STS or other Train Operators*”, in fulfilment of the intention of NV40. However, the Committee was not convinced that VISION modelling, in particular in advance of publication of even the Draft Timetable, was the appropriate way for either party to have achieved its goals; more could usefully have been achieved by more face-to-face dialogue and simple desk top exercises involving the respective operating functions.
 5. The Committee therefore determined that
 - 5.1. there did not appear to be any substantive reason for upholding an objection to the Rules of the Route for 2004 as proposed at Version 2, and therefore STS’ objection to the Rules of the Route should be rejected; however,
 - 5.2. the Rules of the Plan for 2004, in respect of the values for “Box time” during the late evening, do not appear to have been the subject of a definitive proposal at Version 2. NRI should therefore decide what amendments to the Rules of the Plan “*it proposes to make or, if no changes are proposed, that fact*” (Track Access Condition D2.1.2(a)), and introduce them into the planning process by whichever of the provisions of Access Condition D2 shall prove most expeditious. For the avoidance of doubt, whichever action NRI takes, STS, and the other affected Train Operators, should be permitted a right of appeal, in accordance with the provisions of Access Condition D2.1.6, as if the Box times had in fact been introduced at Version 2;

5.3. NRI should, without further delay, invoke the procedures in Track Access Condition H11, with a view to amending the provisions of the relevant Train Regulation Statement, to the extent necessary to ensure that, between the hours of 2130 and 2400 on weeknights, the timetable is implemented in a way that most nearly fulfils the Train Regulation objective. If, having carried out the procedures, including consultation, as required by Track Access Condition H, it is the considered view of NRI that no amendment is necessary, then a statement should be made to this effect. In either case (amendment or no change) all Train Operators affected will retain all their rights of appeal as provided in Track Access Condition H11.9.

Bryan Driver

Chairman of Committee