
TIMETABLING SUB-COMMITTEE

Determination No. 25

(Hearing held at Euston House on 28th October 1996)

The Committee was asked by Regional Railways North East to rule in relation to:

1. The application of certain paragraphs in a document entitled "Access Planning Process - Winter 1997 Timetable" amended November 1996, and issued for consultation by Railtrack, as part of the Rules of the Plan.
2. A conflict between a procedure proposed by North West Zone for Outside the Rules Possessions and Appendix IV to Schedule 4 in Regional Railways North East's Track Access Agreement.
3. A proposed 4-week blockage for maintenance works on Horsefall Tunnel.
4. A request that reasons be given for the application of Temporary Speed Restrictions on Sundays.

The Committee acknowledged that these matters fell within its locus.

In relation to the Access Planning process document the Committee upheld Railtrack's interpretation of Access Conditions D3.3.3 and D3.3.5(b), but noted that there were grounds for reaching differing interpretations on the wording proposed for paragraphs 6.4.4 and 6.5.4. The Committee was concerned that some of those interpretations were at odds with the wording within the Track Access Conditions, and gave the general direction that such a conflict was undesirable, and should be resolved. In particular the Committee noted that Railtrack's rights in relation to revisions to accepted bids in D3.3.3 and D3.3.5(b) were overstated in the wording of paragraph 6.4.4.

It was drawn to the Committee's attention that Railtrack was minded that these concerns could be answered were the paragraphs in question to be amended as follows:

- a) 6.4.4 to read: "bids made in the second Bidding Cycle to amend paths agreed in the first Bidding Cycle will require specific agreement from Railtrack which will not be unreasonably withheld". The second sentence to be deleted.
- b) 6.5.4 - third and fourth sentences to read: "Any offer outside the Firm Contractual Rights of an Operator's Track Access Agreement must be agreed with the Train Operator concerned, and the approval of the Rail Regulator must be obtained for a formal amendment to the Agreement. In the second Bidding Cycle, Railtrack may flex paths agreed in the first Bidding Cycle only with the specific agreement from the Train Operator concerned."

The Committee noted these proposed amendments and considered that they conformed with its general direction.

In relation to the second item, the Committee was advised by the parties that they had reached a clarification in relation to the processes to be used for short term amendments to Rules of the Route. This clarification made clear that the Track Access Conditions, and the processes in Condition D3.4.8 and D3.4.9, took precedence over the details in individual Rules of the Route or individual Track Access Agreements. The Committee noted that North West Zone, in the process described in Appendix K to the Rules of the Route, was seeking to achieve the same purpose as was already achieved for some Train Operators by an appendix to Schedule 4 of their Agreements. The Committee noted, and approved, that the parties had devised wording which acknowledged that where a Track Access Agreement made specific provisions within Schedule 4, those provisions should prevail; Appendix K applies where no such agreements are in force.

In relation to the third item, concerning Horsefall Tunnel, the Committee noted that Regional Railways North East was seeking a quid pro quo under which, in return for agreement that the blockage for Horsefall Tunnel should be aligned with works already proposed between Hebden Bridge and Preston, Regional Railways North East would agree, if necessary, to reduced notice as to the precise dates involved.

The Committee determined that the proposal from Regional Railways North East that the two items of work be aligned was reasonable, but subject to the findings of the detailed consultancy report to be undertaken into the condition of Horsefall Tunnel. The Committee noted and approved Regional Railways North East preparedness to be flexible on the precise dates for the work to be undertaken in the Winter 1997 Timetable, and directed that Railtrack North West Zone should:

1. on receipt of the consultancy report, consult fully with Regional Railways North East as to the options open for undertaking the work, and their reasons for arriving at their preferred option, and
2. ensure that precise dates for the work are given to Regional Railways North East in advance of the second iteration bid dates for the Winter 1997 Timetable.

In relation to the fourth item, the Committee directed that Railtrack London North East Zone should give its reasons, as required by Track Access Condition D3.4.2(b) for its proposed Temporary Speed Restriction Allowances on Sundays, and that those reasons should be given in full to Regional Railways North East no later than Monday 4th November. The Committee observed that, were there grounds, on receipt of those reasons, for subsequent dispute, Regional Railways North East would then have 7 days within which to lodge an appeal to this Committee.

Bryan Driver
Chairman of the Committee
28th October 1996