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## ***TIMETABLING SUB-COMMITTEE***

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### ***Determination No 9***

**(Hearing at Euston House, Friday 10 November 1995)**

The Committee noted the application by Regional Railways North East Ltd that asked the Committee to determine that Railtrack London North East Zone, had acted in breach of the Track Access Conditions in that

- i. it had imposed changed sectional Running Times for Class 153 and other services without respecting the processes for changing the Rules of the Route/Rules of the Plan defined in Access condition D3.4.4 and D3.4.5 (April 1995 edition) and without consultation or implementation of an amendment procedure in accordance with D3.4.7.
- ii. it had not responded formally to a submission by RRNE for changes in Sectional Running Times over the Manchester - Sheffield Hope Valley route, and
- iii. in responding to the Committee's Determination No 5 it had amended the Engineering Recovery Allowances as directed but had not produced a Timetable that met the Train Operator's aspirations because of the introduction of new Pathing Time allowances on the Cleethorpes - Doncaster service.

The Committee considered that the references, in the terms in which they were made, fell within the locus of the Timetabling Sub-committee, and that Access Condition D3.4 and D3.2 and D3.3 were pertinent. The Committee based its judgement upon the Track Access Conditions as in force from 1 April 1995, but also took account of the changes to the Track Access Conditions approved by the Class Representative Committee and in force since October 1995.

Taking the issues in relation to Sectional Running Times (i and ii above) the Committee took the general view that the case for making changes to parameters like Sectional Running Times must be made by the party wishing to make the change, and must be implemented through the formal processes for amending Rules of The Plan. It is therefore for the parties to judge whether or not they

believe they can make the case for making such a change, and make such arrangements as they think are appropriate to support that case.

In the context of the specific points that were made in the terms of the submission (in support of i), the Committee felt that in relation to the implementation of changed Sectional Running Times for Class 153 units no case had been made by Railtrack and due process had not been respected. Furthermore, the Sectional Running Times that had been used in the past should be restored and used until a formal case for change had been brought through the prescribed change processes for Rules of the Plan, and the agreement of the Train Operators properly obtained. Failing such agreement no change should be made.

With regards to other changes to the Sectional Running Times, the same general principle should obtain, namely, that where changes for Sectional Running Times are sought by either Railtrack or a Train Operator, the case must be made through the formal procedures: where the Train Operator wished for change, it would be for the Train Operator to conduct such reviews as are necessary, in order to make the case formally. Pending formal adoption by due process of new Sectional Running Times, the Sectional Running Times shown in the Bidding Information should stand.

Specifically for the case of Hope Valley, the Train Operator has formally to initiate any review; the Committee is not of a mind to give any decision that the results of any such review should be binding on the parties - the results of any review would require to go through the formal procedures in Access Condition D3.4.

The Committee drew the parties attention to the fact that the Access Conditions as revised do provide in D3.4.8 and D3.4.9 for the development and introduction of procedures for making changes to the Rules of the Route or the Rules of the Plan at an intermediate date within the Timetable Development cycle, but they do require agreement on what those procedures should be. The Committee acknowledged that, in default of the adoptions of a procedure for handling intermediate changes in accordance with paragraphs D3.4.8 and D3.4.9 of the revised Conditions, no new Sectional Running Times could be introduced by either party before the May 1997 Timetable.

With regard to the Determination in relation to iii above, the Committee's view was that the effect of its Determination 5 on 11 June 1995, was that there should have been an expectation amongst the parties that the Bidding Information would have been revised; to the extent that that was not done, there was confusion in

the handling of the first iteration bids. The Committee felt that this was unfortunate, but noted that a position had since been reached where there appeared to be a basis for agreement which was acceptable to both the parties. The Committee noted that the Train Operator was concerned that this agreement would be vulnerable to change at the second iteration. The Committee's view was that, as this was an issue which arose out of the first iteration, the Committee was empowered to direct that the proposed settlement should be implemented, and, in this case, deemed to have taken effect as if it had been achieved during the first iteration. In other words, that it should be deemed to have such protections in relation to subsequent flexing, as would have been achieved had it actually been resolved in the first iteration and before the Priority Date.

Finally, the Committee noted that LNE Zone had sought to justify the unilateral imposition of Class 153 Running Times on the grounds that these were times generated by Derby Research, and that the Committee had stated in another Determination that these should apply. The Committee responded that the previous Determination No 2 (of 15 December 1994) had related to the Sectional Running Times to apply on the introduction of new rolling stock. The Committee did not consider that calculated Sectional Running times should automatically be substituted for established times when the latter had been proven by practice.

*Nigel Fulford*

**N Fulford**  
**Deputy Chairman**  
**Timetabling Sub-Committee**  
**10 November 1995**