

19/5 Matters arising from the minutes of meetings nos.17 and 18

Minute 17/5 (min.16/1): Reference no.37

The Committee noted that this joint reference from Great Eastern Railway and Railtrack had been resubmitted, and had been the subject of a hearing before the Access Dispute Resolution Committee which had issued determination [AD]15.

Minute 17/6: Procedure for approval of minutes

The Secretary reminded the Committee that, as an unusually long time had elapsed since the previous meeting of the Committee, he had endeavoured to deploy the procedure prescribed in Rule A5.11.8(b), introduced on 10th December 1997, in order to obtain formal approval of the minutes of meetings 17 and 18. However, he had not received the required response in writing from all members who had been present at the relevant meetings.

The Chairman expressed disappointment at the failure to achieve an earlier approval of minutes of meetings held some eight months previously, and exhorted members to respond quickly in similar circumstances in future. It is particularly important, if a matter is going to appeal, that the minutes be approved promptly.

Action: All members

Minute 17/7: Regulator's judgment on the appeal against determination no.32

The Secretary confirmed that he had drawn the attention of the Office of the Rail Regulator to the point concerning Clause 20 in the judgment.

Minute 17/9: Hearing of Reference no. 39

It was noted that the parties had not complied with clause 3 of the determination, but had instead brought reference no.58 for a formal hearing before the Committee.

Minutes of Meeting no.18

There were no matters arising.

19/6 Changes in Committee Membership

The Committee noted that, at the Annual Class meetings held on 10th December 1997 the following persons had been elected to the Committee.

Franchised Passenger Class

Band I Dominic Booth (w.e.f. 11.12.97; appointed alternate is Adrian Caltieri)
Band II Steve Bartlett (w.e.f. 1.4.98; Steve Cornish is appointed alternate)
Band III Tony Crabtree (re-elected from 1.4.98; alternate unchanged)

Non-Passenger Class

Band II Robert Hodgkinson (w.e.f. 1.4.98; appointed alternate is Jason Bird)

Change of alternate

Martin Idale had advised that he had appointed Graham Laycock as alternate in succession to Andy Scott.

Members, noting that Nigel Fulford had ceased to be a member of the Sub-Committee, expressed their appreciation of his contribution as Deputy Chairman to the work of the Sub-Committee.

19/7 Election of Deputy Chairman

Martin Idale was nominated for the position of Deputy Chairman; however members agreed that it would be appropriate for this item to be deferred until the next meeting of the Committee, when more members/alternates would be present.

19/8 Settlement of disputes by the parties

Members agreed that they would encourage parties to advise the Committee about the basis of any settlements 'out-of-court', but it must be recognised that such conclusions cannot be treated as case law, nor can it be construed that the Committee has endorsed any of them, as the Committee will not have heard the evidence. It was therefore agreed that an 'out-of-court' settlement would normally be recorded as "an agreement between the parties that there was no longer any outstanding grounds for dispute" or "the parties had successfully resolved their differences". Riders would be added only if the Committee felt that there was a pertinent point to disseminate for the information of the Industry. The wording of such riders would be such as to make it clear that the Committee did not necessarily endorse by implication the position of any party to the dispute.

The Committee affirmed that its role is judicial rather than policing. It also has an educational role, which it had exercised in the case of formal notes that it had issued in the cases of Hearings into References nos.17 and 46. The Annual Report of the Committees is also designed to be an educational reference document.

The Committee formally noted that the following disputes had been settled in advance of a formal hearing.

Summer 1998 1st iteration offer

ttc42 withdrawn by Silverlink after all outstanding issues had been resolved with Railtrack.

Winter 1998 Rules

ttc48 Regional Railways North East and Railtrack had indicated that they wished to try and reach a settlement on the Rules for the Scarborough line. The issue, which affects no other Operator, is a consequence of a hearing before the Network and Vehicle Change Committee. The two Parties have been negotiating a financial settlement, but have yet to confirm that the matter is fully concluded.

ttc49 withdrawn by Eurostar (U.K.), following resolution of the issues by the parties, Eurostar, Railtrack and Connex SE.

Summer 1998 2nd iteration offer

ttc50 Thameslink and Railtrack had successfully resolved their differences; a third party (Connex South Eastern) had accepted changes that affected them.

Spot Bid

ttc51 English Welsh and Scottish Railway (EWS) withdrew the specific reference concerning a Spot Bid applicable during Christmas week 1997 and entered into further discussions with Railtrack regarding an outstanding point of principle, whilst reserving its right to refer the matter of the point of principle to the Committee if the parties were unable to resolve.

ttc55 A reference concerning a Spot Bid to Wolverhampton Steel Terminal at Easter 1998 was withdrawn by EWS after the parties had successfully resolved their differences; the Committee noted the letter from EWS dated 2nd June and Railtrack's letter of 18th May apologising that assurances previously given had not been upheld.

Winter 1998 1st iteration offer

ttc52 withdrawn by Great Western after all outstanding issues had been resolved.

ttc53 withdrawn by Anglia; the Committee noted the circumstances.

ttc54 withdrawn by Thames Trains after all outstanding issues had been resolved.

Winter 1998 2nd iteration offer

ttc56 withdrawn by Wales & West after the parties had successfully resolved their differences.

Rules of the Route/Plan 1999/2000

ttc57 withdrawn by Central Trains after the parties agreed there was no longer any outstanding grounds for dispute.

ttc59 withdrawn by Northern Spirit after the parties agreed there was no longer any outstanding grounds for dispute.

19/9 Hearing of Reference no.58

Martin Idale advised the Committee that the reference originally submitted contained other elements which had been successfully resolved, or, in the case of one element, was awaiting confirmation of resolution. Whilst he was confident that the outstanding issue concerning cross Anglo-Scottish border issues would be successfully concluded without intervention by the Committee, he wished to reserve the right, in the event of a failure to conclude, to bring the matter formally to the Committee. The Secretary confirmed that this particularly issue had been lodged in timely fashion, and the Committee therefore acknowledged that it would hear the matter if not resolved between the parties.

The Committee formally heard the outstanding elements of reference ttc58, a joint submission from English Welsh & Scottish Railway and Railtrack. The Determination of the Committee is attached.

19/10 Membership of the Committee

It was noted that Steve Cornish would be leaving North Western Trains to join Railtrack in August, and would therefore cease to be alternate to Steve Bartlett. Members present thanked him for his contribution to the work of the Committee.

19/11 Date of next meeting

There being no other references pending, no date was fixed for the next meeting.