

TTP1248: Defendant 11 05 18

1 DETAILS OF PARTIES

1.1 The names and addresses of the parties to the reference are as follows:-

- (a) First Greater Western Limited, a company registered in England under number 05113733 having its registered office at Milford House, 1 Milford Street, Swindon SN1 1HL ("GWR") ("the Claimant"); and
- (b) Network Rail Infrastructure Limited, a company registered in England under number 2904587 having its registered office at 1 Eversholt Street, London, NW1 2DN ("Network Rail"); ("the Defendant").
- (c) Richard Turner, customer relationships executive, Network Rail, Western House, 1 Holbrook Way, Swindon, SN1 1BD

1.2 It is possible that third parties may be affected by the Panel finding in any of the ways sought in this sole reference. The Hearing Chair (via the Secretary) should be aware already of these parties.

2 CONTENTS OF THIS DOCUMENT

This Response to the Claimant's Sole Reference includes:-

- (a) Confirmation, or qualification, that the subject matter of the dispute is as set out by the Claimant in its Sole Reference, in the form of a summary schedule cross-referenced to the issues raised by the Claimant in the Sole Reference, identifying which the Defendant agrees with and which it disagrees with.
- (b) A detailed explanation of the Defendant's arguments in support of its position on those issues where it disagrees with the Claimant's Sole Reference, including references to documents or contractual provisions not dealt with in the Claimant's Sole Reference.
- (c) Any further related issues not raised by the Claimant but which the Defendant considers shall be determined as part of the dispute;
- (d) The decisions of principle sought from the Panel in respect of
 - (i) legal entitlement, and
 - (ii) remedies;
- (e) Appendices and other supporting material.

3 SUBJECT MATTER OF DISPUTE

Initial discussions with all operators identifying the requirement for the 2 Track Timetable (2TT) began in summer 2017 leading to fuller discussions with all operators in August '17 at the National consultation meeting (**Appendix A**)

Formal publication of Version 0 then followed which was published in Sept '17; this included the 2TT requirement in Section 4 (**Appendix B**). GWR's response was then received in Oct '17 and no reference to 2TT was made. (**Appendix C**)

Version 1 was later issued in Oct '17. GWR sequentially disputed the requirement for 2TT in their response to Version 1 which was received in Nov '17.

It is prudent to mention that Network Rail recognises GWR's desire to run more trains to meet market need; however, until May '19, it is integral that we continue to obtain access on Sundays during the principal timetable Dec 18' to May '19 period in order to complete committed CP5 domestic maintenance and renewal work, as well as Crossrail Station construction works at all locations. Post May '19, the additional paths sought by GWR can be accommodated as reflected in CP6 plans where it is proposed that access requirements meet these aspirations with timed and dated access requests proposed to suit operational demands as demonstrated in the CP6 one plan document (**Appendix D**).

Furthermore and by demonstration of our cognisance of GWR's requirement to run more trains, we have worked with operators to run more trains in Period H and J in 2018 to maximise capacity on the network; this will continue through to May '19. This is further complimented by the new fleet of trains which are longer and have more seats.

4 EXPLANATION FROM THE DEFENDANT'S PERSPECTIVE OF EACH ISSUE IN DISPUTE

4.1 Issues where the Defendant Accepts the Claimant's Case

We fully understand that the London Paddington to Reading route is key to GWR's business. We further recognise GWR's aspiration to grow and understand that the 2TT reduces capacity; however, we must stress that the work we need to undertake must be undertaken in CP5 as the funding is allocated to CP5 only.

We confirm that GWR do not have access rights to run the full amplified service on Sundays during the Principal Timetable period; however, we are committed to providing full access at the beginning of the Subsidiary Timetable (May '19).

4.2 Issues where the Defendant qualifies or refutes the Claimant's Case

A) In Section 4.3 of the claimant's case, it is stated that GWR believes that the work remaining for this route can be undertaken with a reduced 2TT need on Sundays'. Network Rail refutes this and this is demonstrated in **Appendix E** and **Appendix F**.

B) In regard to 5.3, our position is that we are complying with decision criteria based upon safety, capacity, future facilities for customers, as well as reliability of the infrastructure.

With specific attention to Network Rail's application of the decision criteria, Network Rail is satisfied that we have applied the decision criteria in accordance of D4.6.3:

(a) maintaining, developing, and improving capability of the network: In the event that we do not receive access on Sundays, the consequence would be the enhanced stations between Paddington and Stockley not being available to meet the Crossrail Dec '19 target date for all stations being completed.

From Stockley to Maidenhead, the effect would be that the required platform lengthening and DOO (Driver Only Operation) and Comms systems would not be available to operate the new 9 car Elizabeth Line trains along this route to Reading from Dec '19. Actual completion, with the loss of the 29hr access, could potentially push entry into service of these trains by as late as Dec '21. Also affected consequentially would be the platform lengthening required to operate the longer IET trains.

There are also significant cost implications as detailed in **Appendix F**.

Failure to undertake this work will inevitably result in a reduced ability to operate the railway safely and compromise performance owing to temporary speed restrictions as demonstrated in **Appendix E**.

(b) that the spread of services reflects demands: we have worked with operators to fit more trains into the 2 track base plan in Periods H & J in the current timetable and this will be rolled forward into the principal timetable (**Appendix F**)

(c) maintaining and improving train service performance: As per **Appendix E**, failure to obtain the requested access would result in domestic work being unable to complete; this will not only have efficiency issues but also presents a safety challenge.

C) In regard to 5.4, as aforementioned, we are unable to offer the additional paths sought by GWR until the commencement of the subsidiary timetable but are committed to offering these paths from May '19.

D) In regard to 5.5, please refer to (F)

E) In regard to 5.6, please refer to (F)

F) In regard to 5.7 and with particular reference to overcrowding, we have worked with operators to fit more trains into the 2 track base plan in Periods H & J in the current timetable and this will be rolled forward into the principal timetable (**Appendix G**). In addition, it is again worth noting that GWR's new rolling stock provides longer trains and more seats which aid in reducing overcrowding for this short period of time during which the access is required.

4.3 Issues not addressed by the Claimant that the Defendant considers should be taken into account as material to the determination

While GWR's concerns are noted and understood, GWR has failed to recognise that we are running more trains in the 2TT base plan (**Appendix F**) and are committed to doing so up to May '19 married with the fact that GWR is running longer trains with more seating capacity. As aforementioned, it is essential that we continue to obtain access on Sundays during the principal timetable Dec 18' to May '19 in order to complete committed CP5 domestic maintenance and renewals work, as well as Crossrail Station construction works at all locations.

Furthermore, freight services have been altered on a Sunday to later in the day to benefit the operation of GWR's services in Periods H&J in the current timetable, and we plan to roll this forward into the Principle Timetable period.

In the event that we are unable to complete this work in the remainder of CP5, this will need to be rolled forward into CP6 for which there will be no funding and would in any case inevitably impede upon the operation of GWR and other operators on weekends.

It is also worth noting that from Dec '19, any work that isn't achieved in CP5 will be further complicated in CP6 in view of the full Crossrail service commencing resulting in a requirement to negotiate access additionally with the Anglia Route.

Finally, in the event that Network Rail is unable to obtain the 2TT access, Network Rail would need to remove the 2TT access from Section 4 and deal with the amended train service as an Short Term Planning (STP) item each week with potentially needing to remove some of the access each week. This would require additional timetable (TT) work to add the train services back into the working timetable (WTT) as they have already been rejected on the basis of the 2TT being published in the engineering access statement. It would also mean that further TT work for both GWR and Network Rail to amend the TT each week for those items which remain in the plan. This will inevitably knock on to the national T-12 recovery plan as neither GWR nor NR have the resources to cope with this, as well as passengers seeing trains in the TT that would invariably not run particularly often.

4.4 Why the arguments raised in 4.1 to 4.3 taken together favour the position of the Defendant

We fully understand that GWR has considered this from their perspective but we believe have considered all operators using the decision criteria.

Network Rail's formal position to GWR has always been that we require the 2TT access all day on Sundays in the Principle Timetable period in order to complete the CP5 work, as well as Crossrail Station construction works until May '19.

We do not agree with GWR's statement that the work can be undertaken with reduced access and this has been demonstrated fully in **Appendix E & F**.

5 DECISION SOUGHT FROM THE PANEL

Matters of principle:

(a) That Network Rail has considered and applied the decision criteria in accordance with D4.6.3 of the Network Code.

(b) That Network Rail continues to use 29hr 2TT access on Sundays until May '19 to enable key track renewal work, Crossrail Construction work along with the remainder of the CP5 domestic work to be completed.

5.1 Clarify whether you wish the Hearing Chair to decide other issues – such as ordering costs.

Network Rail does not require the Hearing Chair to decide any other issues.

6 APPENDICES

The Defendant confirms that it has complied with Access Dispute Resolution Rule H21

APPENDIX A – QUARTER 1 & QUARTER 2 PDF ATTACHMENTS – demonstrating information by week.

APPENDIX B – VERSION 0 – Page, 1, 7, 8, 9

APPENDIX C – Refer to Tab Section 4 on e-mail attachment: no comments received on this issue.

APPENDIX D – CP6 One Plan – Work shown in 16hr – example in tab Wk 50 - 2020

APPENDIX E – E-mail from Track Route Asset Manager regarding access

APPENDIX F – E-mail from Crossrail Programme regarding access

APPENDIX G – E-mail showing increased number of trains in 2TT

7 SIGNATURE

For and on behalf of
[usually Network Rail Infrastructure Limited]

Signed
Richard Turner

Print Name
Richard Turner

Position
Customer Relationships Executive
