

**Sole Reference Submission to Timetabling Panel**

**Abellio East Anglia Limited**

**TTP1306**

**31<sup>st</sup> May 2018**

## **1 DETAILS OF PARTIES**

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

- (a) Abellio East Anglia whose Registered Office is at 18-20 St Andrew's Street, London, EC4A 3AG "Greater Anglia" ("the Claimant"); and
- (b) Network Rail Infrastructure Limited whose Registered Office is at 1 Eversholt Street, London NW1 2DN "Network Rail" ("the Defendant")
- (c) Abellio East Anglia contact details: Dean Warner, Engineering Access Manager, Greater Anglia, 1<sup>st</sup> Floor, The Hub, Colchester North Station, North Station Road, Colchester, CO1 1JS.

1.2 Greater Anglia understand that Freightliner Intermodal also intend to be a Dispute party.

## **2 THE CLAIMANT'S' RIGHT TO BRING THIS REFERENCE**

2.1 This matter is referred to a Timetabling Panel ("the Panel") for determination in accordance with Condition D3.5.3 and D5.1.1 of the Network Code.

## **3 CONTENTS OF REFERENCE**

This Sole Reference includes:-

- (a) The subject matter of the dispute in Section 4;
- (b) A detailed explanation of the issues in dispute in Section 5;
- (c) In Section 6, the decisions sought from the Panel in respect of
  - (i) legal entitlement, and
  - (ii) remedies;
- (d) Appendices and other supporting material.

#### 4 SUBJECT MATTER OF DISPUTE

- 4.1 This is a dispute regarding the dating of a Restriction of Use (RoU) on the London to Norwich Great Eastern Main Line (GEML) for the demolition of a road-over-railway bridge.
- 4.2 This dispute arises over the interpretation of the Decision Criteria as detailed in Part D Clause 4.6.2 of the Network Code.
- 4.3 Ardleigh Green Bridge (AGB) is a road-over-railway bridge on the A127 Southend Arterial Road between Gidea Park and Harold Wood on the GEML. The bridge is being renewed by Transport for London (TfL) and is one of their 'top priority' renewals.



Phase 1 demolition of the existing structure was carried out during the 72 hour May Day Bank Holiday weekend 29<sup>th</sup> April to 1<sup>st</sup> May 2017 in an all-lines Restriction of Use (RoU).

Phase 2 demolition is planned for the 72 hour Spring Bank Holiday weekend 26<sup>th</sup> to 28<sup>th</sup> May 2018 in another all-lines RoU. This RoU was proposed through a Proposal Notice published on 18<sup>th</sup> August 2017 ([see Appendix B](#)) but, as discovered seven months later on 28<sup>th</sup> March 2018, the work cannot be completed in this RoU, hence the requirement for an additional 52 hour RoU “very soon after” the Spring Bank Holiday weekend to maintain the project timescales. (This Proposal Notice was subsequently withdrawn and Week 9 was proposed through the Draft Period Possession Plan ([see Appendix C](#)) but the email acts as a good summary.)

On the **28<sup>th</sup> March 2018**, Network Rail invited Greater Anglia and MTR (only) to a meeting with representatives from TfL Streets (the “third party”), their contractor,

Network Rail Asset Protection (ASPRO) and Network Rail's Route Access Planning (RAP) and Controlling Mind Team (CMT) to discuss the need for an additional 52 hour RoU, required because Phase 2 demolition was "just over double the amount of work undertaken in Phase 1", to quote TfL Streets' contractor. (see [Appendix D and R](#)) This meeting was the first time any Timetable Participants had been made aware of the shortfall. Following a presentation and acceptable justification from the project team, we discussed suitable dates for the additional 52 hour RoU that would still allow sufficient time for a revised timetable to be bid, offered, advertised to our customers and meet Network Rail's Informed Traveller Recovery Plan.

Greater Anglia's preference was Week 11 (9<sup>th</sup> and 10<sup>th</sup> June 2018) as we had been verbally advised by Network Rail on 22<sup>nd</sup> February 2018 (by their Lead Planner) and again 14<sup>th</sup> March 2018 (by the CMT) that a RoU at Ipswich this same weekend was (at this point) being withdrawn which would then allow a RoU to take place at the London end of the GEML. Key points for Greater Anglia were that this would keep disruption to the one weekend, avoid impacting customers on another weekend, reduce the risk of passengers facing unexpected disruption and lessen the possibility of unanticipated extended journey time as well as reduce the amount of train planning work for both Greater Anglia and Network Rail.

Under Network Rail's Informed Traveller Recovery Plan (see [Appendix E](#)), Week 11 should have been bid by 13<sup>th</sup> April 2018 which, from the meeting on the 28<sup>th</sup> March 2018, would have given Network Rail 10 working days to contact Timetable Participants not at the meeting to gain support in principle and agreement to enact a shortened Proposal timescale, issue a Decision Notice and for Timetable Participants to bid. Greater Anglia believes this was achievable.

The meeting on the 28<sup>th</sup> March 2018 was attended by representatives from Network Rail's RAP and from their CMT. One of the Network Rail attendees was taking leave from the 29<sup>th</sup> March 2018. Actions from the meeting, including contacting other Timetable Participants, would be taken forward by the other Network Rail attendee. No minutes were ever provided for this meeting by Network Rail.

On **10<sup>th</sup> April 2018** I telephoned Network Rail to enquire about progress with Week 11. I was then advised that Timetable Participants would need to bid by 13<sup>th</sup> April 2018

which was impossible at such short notice and in any case Timetable Participants had not been issued with a Proposal Notice.

On **11<sup>th</sup> April 2018** Network Rail emailed Greater Anglia and MTR (only) to confirm our support in principle to Week 11 and seeking our comments for the 6 weeks after Week 9. Greater Anglia responded the same day confirming that Week 11 remained our preferred option and that the following 6 weeks were not agreeable due to a number of events, and because additional disruption was not acceptable. Note this email clearly still shows the intent to remove the RoU in the Ipswich area on this weekend. (see [Appendix F](#))

On the **12<sup>th</sup> April 2018** Greater Anglia and MTR were invited to the second AGB meeting with representatives from TfL Streets, their contractor, Network Rail ASPRO and Network Rail RAP. Freightliner also attended but only because their representative happened to be in the building.

It should be noted that at this meeting we were advised verbally by the Network Rail ASPRO that they had been in discussions with Network Rail RAP “**for months**” over additional access. Therefore we contend that the timescales for Week 11 could have been made to work if Network Rail had progressed this RoU in a timely manner.

On **12<sup>th</sup> April 2018** Network Rail Infrastructure Projects emailed seeking extension of the AGB possession in Week 11 RoU to accommodate other work (see [Appendix G](#)). Greater Anglia supported this.

On **17<sup>th</sup> April 2018** Network Rail National Access Planning Team (Milton Keynes) chaired the Late Change Conference Call. This is a twice weekly Network Rail conference call to discuss any disruptive late change to RoUs. The additional RoU for AGB in Week 11 was on the agenda (see [Appendix H](#)) but the Network Rail RAP advised the conference that it was shown incorrectly. Greater Anglia Train Planning attended the conference call; Network Rail RAP did not want to discuss AGB as it had already been elevated to a more senior level. Network Rail RAP also denied all knowledge of any work being withdrawn in Week 11 despite the discussion with our Train Planning staff 2 months earlier. Greater Anglia reiterated that we would not accept a double-bus situation. It was only at this point that Network Rail advised that they were now looking at an additional RoU in Week 14.

On **19<sup>th</sup> April 2018**, Network Rail issued a Proposal Notice for Week 14 (30<sup>th</sup> June and 1<sup>st</sup> July) [\(see Appendix J\)](#) which we had already advised Network Rail on 11<sup>th</sup> April 2018 this was not our preference.

On **23<sup>rd</sup> April 2018** Greater Anglia Declined Week 14 due to the time of year and it being a rare weekend when the GEML is open and we can operate a full service between Norwich and London. Timetables for Week 14 were also already in the public domain. [\(see Appendix J\)](#)

In response to our declination, Network Rail RAP emailed "that due to the criticality of this access requirement this has been escalated in NR so expect it to come to your powers that be soon". [\(see Appendix J\)](#)

On **25<sup>th</sup> April 2018** I emailed Network Rail RAP in an attempt to continue to work with Network Rail and at least get the possession correct if Network Rail chose to go ahead and publish a Decision Notice for Week 14. *"Further to our discussion, if Network Rail issues a Decision for this possession, for us [GA] to agree to it we would require to turn our main line service at Ingatestone in the Down platform only. We would not run through to Shenfield and the Traffic Remarks would need to reflect this. Also, we would require the Southend branch to be open between Shenfield and Southend / Southminster both days. Hazel Chalk [NR HQ Train Planning] has said we could bid late as long as it was with NR by start of business on Monday 30<sup>th</sup> so that would need to be shown on the Decision".* [\(see Appendix K and L\)](#)

It should be noted that this was because we were aware that despite our intention to appeal this decision we were obliged to submit a bid in accordance with the Decision Notice.

On **26<sup>th</sup> April 2018** Network Rail published their Decision Notice for a 52 hour all-lines RoU for AGB in Week 14. Timetable Participants to bid by 0900 Tuesday 1<sup>st</sup> May. [\(see Appendix M\)](#)

On **30<sup>th</sup> April 2018** Greater Anglia gives Notice of Dispute against the Decision Notice. [\(see Appendix N\)](#)

On **30<sup>th</sup> April 2018** Greater Anglia sends bid for Week 14 to NR HQ Train Planning "subject to the outcome on an appeal to the Timetable Panel". [\(see Appendix P\)](#)

- 4.4 A tabular version of the timeline of key discussions and communications, with their associated Appendices, is summarised in Appendix A.

## **5 EXPLANATION OF EACH ISSUE IN DISPUTE AND THE CLAIMANT'S ARGUMENTS TO SUPPORT ITS CASE**

- 5.1 Greater Anglia believes that Network Rail did not progress Week 11 in a timely manner and this delay meant they had to propose Week 14 instead, purely to comply with Network Rail's Informed Traveller Recovery Plan.

Greater Anglia believes by choosing Week 14 that Network Rail has failed to apply:

- Part D 4.6.2 (a) because, as a road scheme, it does not maintain, develop or improve the capability of the network. If planned with a longer lead time, this RoU could have been consolidated with other railway works, such as, ATF Power Supply Upgrade, GEML Power Supply Upgrade and 2246 points renewal to name but a few.
- Part D 4.6.2 (b) that the spread of services reflects demand - Week 14 is the last day of June, first day of July and more likely to have better weather and will be busier than Week 11. Also, the route was planned to be open in Week 14 whereas Week 11 already had engineering work planned.
- Part D 4.6.2 (c) as this work does not maintain or improve train service performance, indeed performance risk is greater given the short notice of the RoU.
- Part D 4.6.2 (d) that journey times are as short as reasonably possible - customers were already expecting longer journey times in Week 11, not in Week 14.
- Part D 4.6.2 (i) as Week 11 has not been withdrawn despite the removal of the main work content (plain line track renewal Claydon-Barham) we now have two incidences of rail replacement rather than one. As quoted in Part D 4.6.2 (a), if this had been planned with a longer lead time, which was entirely

possible, this work could have been consolidated with other railway works and would not require additional rail replacement.

Under Network Rail's Informed Traveller Recovery Plan (see Appendix E), Week 11 should have been bid by 13<sup>th</sup> April 2018 which, from the meeting on the 28<sup>th</sup> March 2018, would have given Network Rail 10 working days to contact Timetable Participants not at the meeting to gain support in principle and agreement to enact a shortened Proposal timescale, issue a Decision Notice and for Timetable Participants to bid. Greater Anglia believes this was achievable.

Greater Anglia believes that Network Rail is picking and choosing how and when it complies with the Informed Traveller Recovery Plan. A very recent Proposal Notice for a RoU change in the Stratford area for Week 9 (26<sup>th</sup> to 29<sup>th</sup> May 2018) was published on 11<sup>th</sup> May 2018 (see Appendix Q) which only gave Timetable Participants 4 days to respond and only 3 days to bid with offers published the day before timetable operation. According to the Informed Traveller Recovery Plan bids for Week 9 should have been made by 23<sup>rd</sup> March, some 7 weeks earlier. This Proposal has since been withdrawn but demonstrates Network Rail's inconsistent approach to the timescales within the plan.

Greater Anglia believes that Network Rail has become so bureaucratic in regard to engineering planning they have forgotten what the industry is trying to do - provide a service to 'our' industry's customers.

- 5.2 Greater Anglia's customers do not want yet another block of the GEML for another weekend. As the route was already disrupted in Week 11, withdrawing the RoU at Ipswich gave the opportunity of having a RoU at the London end of the route.

From a train planning workload point of view, as Greater Anglia would have to re-plan the timetable when the Ipswich RoU was withdrawn from Week 11, it would make sense to re-plan accommodating the new RoU for AGB.

- 5.3 Greater Anglia have put in place a sizeable marketing campaign (at significant cost, TV and Radio etc.) to inform customers that the railway is open from Week 11 (to launch after this work should have been completed). Having more work on Week 14 is counter to this campaign.



- 5.4 Greater Anglia does not wish to enter into another compensation process which will result in disputed positions from Network Rail.

## **6 DECISION SOUGHT FROM THE PANEL**

- 6.1 Greater Anglia acknowledges the need for the additional 52 hour RoU for Ardleigh Green Bridge. We worked with Network Rail (and the third party) to find a suitable weekend (Week 11) which, at the time(s) of discussion, was very achievable. However, Network Rail's own internal processes, combined with a lack of urgency from and inflexibility within its planning teams, led Network Rail to choose a different date for the work which is not acceptable to Greater Anglia.
- 6.2 The Panel is asked to determine that Network Rail be directed to withdraw the Week 14 Decision Notice and return to the negotiating table - ensuring the inclusion of **all** Timetable Participants and robust consultation - to look at future access opportunities.
- 6.3 We wish to reserve the right to request the Hearing Chair to order costs but are unable to confirm this at this stage..

## **7 APPENDICES**

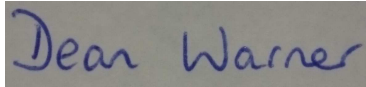
- 7.1 The Claimant confirms that it has complied with Access Dispute Resolution Rule H21. A tabular version of the timeline of key discussions and communications, with their associated Appendices, is summarised in Appendix A.

**8 SIGNATURE**

For and on behalf of Abellio East Anglia Limited

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Signed



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Print Name

DEAN WARNER

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Position

ENGINEERING ACCESS MANAGER

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