

TTP2243, TTP2244, TTP2245, TTP2251 and TTP2260

Third Directions - 04 August 2023

I direct that parties shall by **16:00 Tuesday 08 August 2023** file responses to the various issues raised below

For the operators

1. Please can **MTR, HEOC and GWR** confirm whether they agree with NR's statement made in para 4.2.8 of its SRD: The Capacity Study shows GWR running 80% of their normal Sunday services with MTR-EL running 60% and HEX at 50%. If any of them do not, NR should bring to the hearing the evidence it relies upon for making that statement.
2. Do the Parties (**MTR, HEOC and GWR**) accept the assertion of Network Rail, cited in 4.2.10 and referred to elsewhere in the SRD, that 'Creating or accepting a poor performing timetable is not an acceptable outcome for any timetable participant'? Are there circumstances in which the Parties might indeed accept de-prioritisation of performance in order to favour other concerns?
3. In its SRD NR has set out its reasons for its decision restricting access to 14.5 tph. Do the Parties **GWR and HEOC** contend that for those reasons, and in context, that decision was:
 - a. Not made in good faith;
 - b. Irrational;
 - c. Capricious; or
 - d. Inconsistent with the contractual purpose.

If a Party contends that the answer to any of those points is 'yes' it shall set out the gist of its arguments for doing so and shall identify the evidence it wishes to rely upon in support of them.

For GWR

4. Please can **GWR** supply a brief clarification of the points in its SRD that NR says it has not understood (NR SRD 4.2.2 and 4.2.20(j)).
5. Does **GWR** accept NR's statement in para 4.2.7 of NR's SRD?

For the Defendants

6. Please can **NR and MTR** clarify the point NR makes about MTR's ECS service in para 4.2.10 of its SRD: do MTR ECS services use any of the 14.5tph capacity that NR says is available during the possessions in dispute?

For NR

7. Please can **NR** confirm what train service has been offered for Week 29 on 04 August 2023 (i.e. does the train service offered match the Capacity Study for Week 29) (date taken from NR's timeline appendix)?
8. What reply, if any, did **NR** make to Paul Fowler (HEOC's) email on Monday, July 10, 2023 at 8:16 AM (HEOC Appendix 1.5)?
9. In light of paras 4.2.9 and 4.2.10 of its SRD, please can **NR** confirm (by means of yes or no answers) whether the 14.5tph offer is TPR compliant. In the same vein: is the GWR suggestion (GWR Appendix 1) TPR compliant? Are there TPR-compliant ways to offer 14.5tph, 15.5tph or a 16.5tph train service.
10. In the context of NR SRD para 4.2.9 ("In trying to include 14.5tph, Network Rail have also reduced margins wherever possible resulting in consistently tight crossing moves"): Have those margins been reduced below the TPR values? If they have, what is the justification for offering a TPR-non compliant timetable? If they have not, does this suggest that the TPRs themselves, if applied as written, are insufficiently robust to prevent delay and the TPRs are therefore deficient?
11. Does **NR** have a performance breakdown for the Week 11 two track timetable, where they can describe differences between hours where 14.5 tph operated and those where additional GWR services ran?

John Hewitt

04 August 2023