TTP 2335-2337,2339-2345, 2354-2356, 2406 (part), 2421, 2422, 2430.

1. **DETAILS OF PARTIES**

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

(a) DB Cargo (Rail) UK Ltd (“DB Cargo”) whose registered office is at Lakeside Business Park,

Carolina Way, Doncaster, DN4 5PN.

and

(b) Network Rail Infrastructure Limited (“NR”) whose registered office is at 1 Eversholt Street,

London, NW1 2DN.

1.2 Third parties to this dispute may include Transport for Wales

1. **THE CLAIMANT’S RIGHT TO BRING THIS REFERENCE**

2.1 Please note that there are 17 separate matters being referred to a Timetabling Panel (“The Panel”) for determination in accordance with Conditions D2.2.8 and D.5 of the Network Code.

TTP2421 and TTP2422

The principal matters being referred are disputed as TTP2421 and TTP2422 which are decisions for ‘Section 4 possession opportunities’ for midweek (4 nights per week) in Periods H and J (weeks 24 to 37) of the 2024 timetable year (TTP2421) and Periods A, B and C (weeks 38 to 52 of the 2025 timetable year (TTP2422).

2.2 TTP 2335-2337,2339-2345, 2354-2356, 2406 (part) and 2430.

These remaining matters being referred for dispute are for weekend access on the same route and our objection here is the quantum of access when, combined with the midweek access of TTP2421 and TPP2422 severely impacts DB Cargo’s ability to run a service for our customer.

An overview of the disputed access and associated TTP references are to be found in Appendix A.

2.3 DB Cargo contends that Network Rail has not given sufficient weight to Network Code condition D4.6

‘The Decision Criteria’, specifically conditions D4.6.2 e maintaining ../. an integrated system ../. of goods,

D4.6.2 f the commercial interests ../. of any Timetable Participant and D4.6.2 j enabling operators of trains to use

their assets efficiently.

2.4 DB Cargo also contends that Network Rail has not considered the access rights for the affected services The access rights for affected services are set out in Appendix B; all having a 1 hour arrival/ departure window.

1. **CONTENTS OF REFERENCE**

The 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 Chair in respect of

(i) remedies.

(d) Appendices and other supporting material.

1. **SUBJECT MATTER OF DISPUTE**

4.1 TTP2421 and TTT2422 refers to Section 4 opportunities requested and decisioned on GW900 between Llandeilo Jn and Whitland between 2200 and 0545 Monday to Thursday and between Whitland and Clarbeston Road between 2215 and 0545 Monday to Thursday. These times affects DB Cargo services from the Oil terminal at Robeston, near Milford Haven to the storage depots at Westerleigh, near Bristol and Theale, near Reading. The services are operated by DB Cargo for Puma Energy.

The duration of these opportunities prevents Six DB Cargo services, 2 loaded, 1 empty and 3 Light Engines running in their WTT paths for a period of 6 months.

4.2 As the Six DB Cargo services are not able to run in their WTT paths for a period of 6 months Network Rail issued, on the 2nd of April 2024 their decision criteria and details of proposed new paths for Three of the affected DB Cargo services, namely 6B17, 6A11 and 6B47. These paths are substantially amended from their current WTT paths.

All Three services have Level 1 access rights with a 1 hour departure/ arrival window, which does not seem to have been considered or addressed by Network Rail (see 2.4 and Appendix B)

4.3 There has been a constant communication between the dispute parties, evidenced as a summary in Appendix C.

4.3 On the 4th of April 2024 Network Rail stated their intention not to offer the current WTT paths in the December 2024 timetable as these were now ‘foul of section 4 opportunities’. (Appendix D).

4.4 It should be noted that the paths for the current June 24 timetable remain and are currently foul of the section 4 opportunities. Possessions have been included in the CPPP’s for weeks 29 to 32, 32 to 36 although the times and limits are not the same as published in the 2nd of April 2024 Decision document. (Appendices E/F).

4.5 TTP 2335-2337,2339-2345, 2354-2356, 2406 (part) and 2430. As can be seen from Appendix A there have been several proposal and decision documents issued over several months and, in normal circumstances, a number of the matters being referred, although disruptive to DB Cargo services would have been agreed.

What we do not have however, is visibility of the extent of possession requirements over the entirety of the project.

DB Cargo felt it essential to formally dispute any disruptive possession, given that we have no context as to Network Rail’s complete possession requirements.

1. **EXPLANATION OF EACH ISSUE IN DISPUTE AND THE CLAIMANT’S ARGUMENTS TO SUPPORT ITS CASE**

5.1 Proposed amended paths.

The proposed amended paths for the Six DB Cargo services now deemed to be foul of the section 4 opportunities.

Are Two loaded services:

6B17 2100 FSX Robeston to Westerleigh PUMA 0417

6A11 2237 FSX Robeston to Theale OS 0655

One empty service:

6B47 1905 FSX 1905 Westerleigh PUMA to Robeston 0151

And Three Light Engines

0B33 2153 TFO Robeston to Margam LIP

0B18 2055 WO Robeston to Margam LIP

0B41 2126 WO Robeston to Margam LIP

*Note that due to timetabling constraints paths are slightly different on some days.*

These trains contain oil products, petrol, diesel, and heating oil for distribution throughout the South and West of England as is part of a vital supply chain crucial to the countries’ energy needs and requirements.

The loaded trains are very heavy, (2800 tonnes maximum for Robeston and 2400 tonnes maximum for Theale).

It is vital for DB Cargo’s commercial interests that paths can complete a circuit with sufficient terminal time within 24 hours to maximise asset usage. The proposed amended paths compromise this ability.

5.2 Service Levels

Currently, service levels are for 8 trains per week, 6 for Robeston and 2 for Theale. Whilst we expect this level to remain into the Autumn with maybe a slight increase to 10 trains per week we do, however then expect service levels to rise, both from higher winter usage and commercial ‘wins’ for the customer (appendix G) which would mean a return to up to 14 trains per week that we have seen previously. In Appendix J note that ‘*Puma wish to INCREASE its number of trains – this would mean that the alternative plan WILL NOT WORK. The customer stated they rely solely on the railway paths and that they NEED these paths. PUMA have said they will talk directly to NR if need be on this’*

5.3 Network Rail’s proposed new WTT plan

To accommodate the section 4 opportunities Network Rail has proposed the following (current times in brackets) (Also see Appendix H)

6B17 1945 (2100) FSX Robeston to Westerleigh PUMA 0417 (0417)

6B41 1145 (1145) MSX Westerleigh PUMA to Robeston 1710 (1845)

.

6B13 0500 (0500) FSX Robeston to Westerleigh PUMA 1258 (1258)

6B41 1538 (1905) FSX Westerleigh PUMA to Robeston 2225 (0151)

.

6A11 1805 (2237) FSX Robeston to Theale OS 0306 (0655)

6B33 0719 (1353) MSX Theale OS to Robeston 1437 (2026)

Loco fuelling

Currently the loco’s that work the Westerleigh trains refuel at Margam with both the empty trains 6B47 and 6B41 having sufficient time in their schedules for this to occur (79 and 93 minutes respectively). The proposed schedules have 52 mins and 6 mins at Margam, insufficient time to refuel.

Terminal times

The terminal time at Westereigh PUMA for the 6B13 to shunt and discharge is currently 5 hours; the revised proposals allow only 2 hours and 40 minutes before 6B41’s revised departure. This is insufficient to discharge a full train, so effectively, we will be required to download services each day to accommodate revised schedules.

Traincrew

Adoption of this revised plan will inevitably result in an increase on demand for traincrew, not only for increased hours but for an increase in traincrew instances as well, increasing DB Cargo’s costs.

5.4 Access Rights

The Six DB Cargo services detailed in 5.3 have firm Level 1 access rights with a 1-hour departure/arrival window (Appendix B). Network Rail does not seem to have considered this a factor in both the decision to issue the Section 4 decision documents or the proposed revised paths. DB Cargo has worked, over a number of years to obtain the access rights for these services with trials and performance monitoring, for those rights to be effectively ignored is disappointing.

5.5 Western route maintenance strategy.

The revised arrival time at Theale of 0306 is foul of Western routes 1 in 6 maintenance strategy possessions on GW500 between Southcote Jn and Heywood Jn which blocks Theale completely. These possessions are currently 2215 to 0505 Monday to Thursday. Also note that the loco then runs to Didcot for fuel, returning to work 6B33.

Tony Worgan, the Western Route access strategy manager has clearly stated that Western route are not willing to cancel these possessions to allow a revised 6A11 to run (Appendix J) so, consequently we are being told that for 1 week in 6 the Theale service will be unable to run.

5.6 Light Engines

When loaded services do not run, Light Engines are required to run between Margam and Robeston and vice versa to enable traincrew to return to their base. The panel should be mindful that these locos are required to run as much as the trains they replace (also see 6.1 (iii).

5.7 Performance

As the new proposed paths are to be ‘WTT’ the performance risk would fall on DB Cargo; although being

for paths that we have not sought or desire. The existing paths have evolved over many years and although slightly altered in that time, being long and heavy are subject to a great deal of scrutiny if delay minutes start to accumulate. These new proposed paths have not been subject to that scrutiny.

1. **DECISION SOUGHT FROM THE CHAIR**

6.1 *The Claimant is requesting the panel determine that:*

(a) That Network Rail, by creating a ‘Section 4 possession opportunity’ to undertake engineering works and then

proposing to move DB Cargo’s WTT services has not sufficiently considered the implications to DB Cargo and our customer PUMA Energy business requirements.

(b) That Network Rail either:

(i) Removes the section 4 opportunities and offers the Three paths shown in 5.1 for the December timetable and removes the possessions shown in the CPPP weeks 29-32, 33-36 and the DPPP weeks 37-40. As shown in 4.4.

Or:

(ii) Amends the section 4 opportunities to pass through the possession opportunity and again offers the Six paths shown in 5.1 for the December timetable and amends the possessions shown in the CPPP weeks 29-32, 33-36 and the DPPP weeks 37-40. As shown in 4.4.

The Panel should note that GBRF’s 6B19 2257 Didcot Yard to Haverfordwest has been accommodated and a note allows it to pass through the possession opportunity (Appendix E/F and noted in Appendix C)

(iii) If Network Rail wishes to maximise the time available for work and minimise any train movements through possessions by not running the non-accomodated (see 5.1 and Appendix D) Light Engines, Network Rail should agree to reimburse any associated costs accrued by DB Cargo. These will, but not exclusively be Taxi costs between Robeston and Margam and vice versa for Traincrew. As this requires the loco to stable at Robeston, these costs will include not running Light Engines in offered WTT paths.

1. **APPENDICES**

(A) An overview of the disputed access and associated TTP references.

(B) Access Rights table (extract)

(C) Timeline summary

(D) Dec 24 Non-Accommodation of DBC Trains due to Section 4 Possession Opportunities GW900

(E) Decision Document 113-W24-WA24 (Periods H and J, 2024 EAS).

(F) Decision Document 011-W50-WA25 (Periods A, B and C - 2025 EAS).

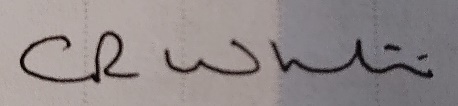
(G) Commercial context (commercially sensitive, hard copies will be provided to the Panel).

(H) Proposed revised paths.

(J) Network Rail commentary on Section GW500 possessions

1. **SIGNATURE**

For and on behalf of DB Cargo (Rail) UK Limited



Signed

Graham White

Access Manager South

6th June 2024