

**Access Disputes Committee –
Timetable Panel**

Network Rail Submission to Timetable Panel

Ref: TTP356

Network Rail Offer for the 2011 Principal Timetable

Re:-Brighton Main Line

and

Ref: TTP375

**Network Rail acceptance of spot bids for
additional and amended weekday train slots,
as submitted by Southern, for inclusion within
the 2011 Principal Timetable**

Re:-Brighton Main Line

1 DETAILS OF PARTIES

- 1.1 The names and addresses of the parties to the reference are as follows:-
- (a) Network Rail Infrastructure Limited whose Registered Office is at Kings Place, 90 York Way, London, N19 AG ("NR") ("the Defendant"); and
 - (b) First Capital Connect Limited whose Registered Office is at 3rd Floor, E Block, Macmillan House, Paddington Station, London W2 1FG ("FCC") ("the Claimant").

Please note that NR is not the Claimant in these matters as stated in FCC's submissions.

This is a single party submission on behalf of NR and the contact is:-

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Customer Relationship Executive
Network Rail
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2 THE PARTIES' RIGHT TO BRING THIS REFERENCE

- 2.1 NR notes that the matters have been referred to the Timetabling Panel ("the Panel") by FCC for determination.

3 CONTENTS OF REFERENCE

- 3.1 NR has produced this single party response to FCC's submissions in accordance with Access Dispute Resolution Rules Chapter H 21(b)(ii) of the Network Code and it includes:-

- (a) A response to FCC's subject matter of the dispute in Section 4 of both submissions;
- (b) A response to FCC's summary of the issues in dispute in Section 5 of both submissions;
- (c) A response to FCC's detailed explanation of the issues in dispute in Section 6 of both submissions;
- (d) The decisions sought from the Hearing Chair in Section 7; and
- (e) Appendices and other supporting material.

4 SUBJECT MATTER OF DISPUTE

- 4.1 NR agrees that the subject of TTP356 is the Offer of the First Working Timetable in respect of the 2011 Principal Timetable ("the Offer").
- 4.2 NR agrees that the subject of TTP375 is the acceptance of spot bids for additional weekday train slots ("the Spot Bid"), submitted by Southern, for inclusion within the First Working Timetable applicable to the 2011 Principal Timetable.
- 4.3 NR notes FCC's view in paragraph 4.2 of both of their submissions, but for the reasons detailed below does not agree with it.

5 RESPONSE TO FCC'S SUMMARY OF DISPUTE

- 5.1 We agree that paragraph 5.1 of FCC's TTP356 submission is factually correct.
- 5.2 In paragraph 5.2 of FCC's TTP356 submission and paragraph 5.1 of FCC's TTP375 submission, it is unclear to NR precisely where FCC believes the Rules of the Plan have been applied incorrectly.
- 5.3 A lack of clarity as to which Decision Criteria FCC is referring to, and how NR is alleged to have incorrectly applied them, makes it difficult for NR to respond specifically to paragraph 5.2 of FCC's TTP356 submission in this regard. Where FCC has made reference to specific Decision Criteria clauses in paragraphs 6.1 and 6.5 of its TTP356 submission, Network Rail has provided a response in paragraphs 6.3, 6.5 and 6.6 of this submission.

- 5.4 In respect of paragraph 5.3 of FCC's TTP356 submission, NR agrees that an administrative error occurred when the Offer was made. The Network Code does not, in NR's view, provide a mechanism for amending or withdrawing an Offer.
- 5.5 At the point at which the Offer was made NR's view was that the train slots bid by Southern did not adhere to the Rules of the Plan. The technical non-compliance with the Rules of the Plan potentially impacted on the level of service reliability. This gives weight to Decision Criteria (d).
- 5.6 NR has subsequently reviewed the application of the Decision Criteria in respect of these services and determined that Decision Criteria (a) should have been afforded greater weight than applied at the time the Offer was made because of the additional capacity provided to passengers by the introduction of the Southern services on the Brighton Main Line.
- 5.7 NR does not believe that paragraph 5.4 of FCC's TTP356 submission and paragraphs 5.2 and 6.2 of FCC's TTP375 submission have any relevance in this matter.

6 RESPONSE TO FCC'S EXPLANATION OF EACH ISSUE IN DISPUTE WITH RESPONSE

- 6.1 NR's view is that it has applied the requirements of Part D 3.2.2 (a) in Offering the 08.13 Brighton to London Victoria train slot. It is NR's opinion that the 2011 Principal Timetable is capable of being brought in to operation.
- 6.2 NR's view is that in reaching its ultimate decision to accept these services took in to account the aspirations of the respective bidders and NR's own aspirations in respect of the Rules of the Plan as provided for under Part D 3.2.2 (b).
- 6.3 NR's view is that it has complied with Part D 3.2.2 (c). Through application of the Decision Criteria, it has determined that the benefit of the additional capacity provided to passengers by the introduction of the Southern services on the Brighton Main Line (Decision Criteria (a)) should be afforded more weight than the performance risk imported (Decision Criteria (d)).

- 6.4 Further to Part D 3.2.2 (c) the bid was received in accordance with Part D 3.2.1 and was not of sufficient complexity to warrant its exclusion.
- 6.5 NR has provided an assessment of the impact of the proposed Southern train paths on the overall performance of the 2011 Principal Timetable on the Brighton Main Line. The assessment provides an overview of on-going workstreams in respect of performance management. The assessment indicates that whilst performance may worsen in certain circumstances the overall impact is not so significant as to warrant not including the train paths solely on the basis of Decision Criteria (d). The assessment is attached as Appendix A.
- 6.6 NR does not agree with paragraph 6.2 of FCC's TTP356 submission. NR believes that the arguments made in 6.1 to 6.5 above apply equally to services operating in the weekday off-peak, and Saturday repeating patterns.
- 6.7 Further, NR has made available to FCC all relevant information that it is entitled to receive. In particular FCC has had visibility of all paths offered to all operators on the Brighton Main Line. In addition NR has shared the Spot Bid with FCC.
- 6.8 In respect of paragraph 6.1 of FCC's TTP375 submission, NR has given due regard to Part D 4.5.1 (e) in its decision to accept the Spot Bid. The Decision Criteria have been applied in a manner consistent with that laid out in paragraph 6.3 of this submission.
- 6.9 In respect of paragraph 6.3 of FCC's TTP356 submission, NR has responded to this point in paragraph 5.7 of this submission above.
- 6.10 In respect of paragraph 6.4 of FCC's TTP356 submission and paragraph 6.3 of FCC's TTP375 submission, NR understands Part D 3.2.1 (d) does not require an operator to have Firm Rights for paths submitted in their bid. NR accepts that Rights need to be properly established prior to the operation of services on the network.
- 6.11 It is not clear to NR how FCC have assessed the application of these Decision Criteria in paragraph 6.5 of their TTP356 submission and paragraph 6.4 of

their TTP375 submission. It is not possible for NR to respond further on this point specifically without further details from FCC. However, NR has explained its application of the Decision Criteria elsewhere in this submission.

7 DECISION SOUGHT FROM THE PANEL

7.1 The Panel is asked to determine that:

- (a) Network Rail's Offer to Southern for a train slot for an 08:13 Brighton to London Victoria service was correct.
- (b) Network Rail's Offer to Southern of Saturday train slots between Brighton and London Victoria was correct.
- (c) NR's acceptance of Southern's spot bid for additional train slots on weekdays on the Brighton Main Line was correct.

8 SIGNATURE

For and on behalf of Network Rail Infrastructure Limited

Signed  .

Print Name: **Fiona Dolman**

Position: **Customer Relationship Executive**

Date: **17 August 2010**

9 APPENDICES AND ANNEXES

A. Performance assessment