

# **Access Disputes Committee – Timetable Panel**

**First Capital Connect Submission to Timetable Panel**

**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**

Pf12/8

## **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 Claimant"); and
- (b) First Capital Connect Limited whose Registered Office is at 3<sup>rd</sup> Floor, E Block, Macmillan House, Paddington Station, London W2 1FG ("FCC") ("the Respondent").

This is a single party submission on behalf of First Capital Connect and the contact is:-

FCC Paul French  
Head of Planning  
First Capital Connect  
Hertford House  
1, Cranwood Street  
London  
EC1V 9QS  
[redacted]

## **2 THE PARTIES' RIGHT TO BRING THIS REFERENCE**

2.1 This matter is referred to Timetabling Panel ("the Panel") for determination in accordance with Condition D 5 of the Network Code.

## **3 CONTENTS OF REFERENCE**

First Capital Connect (FCC) has produced this joint reference and it includes:-

- (a) The subject matter of the dispute in Section 4;
- (b) A summary of the issues in dispute in Section 5;
- (c) A detailed explanation of the issues in dispute prepared by the claimant in Section 6

- (d) The decisions of principle sought from the Panel in respect of legal entitlement and remedies in Section 7; and
- (e) Appendices and other supporting material.

#### **4 SUBJECT MATTER OF DISPUTE**

- 4.1 The subject of this dispute is the acceptance of spot bids for additional weekday train slots, submitted by Southern, for inclusion within the First Working Timetable applicable from the Principal Change Date 2010.
- 4.2 It is the view of FCC that the Decision Criteria set out in the Network Code has not been correctly applied by Network Rail in the acceptance of train slots bid by Southern.
- 4.3 The Part or Condition that the dispute relates to, or is associated with, is D 5 and D 6 of the Network Code.
- 4.4 FCC hold a Track Access Agreement with Network Rail dated 9 February 2006, and an a copy of this, together with Schedule 5 (The Services and Equipment), is annexed to associated reference TTP356

#### **5 SUMMARY OF DISPUTE**

- 5.1 FCC has been notified that the additional and amended train slots requested by Southern, via spot bids, have now been accepted by Network Rail for inclusion in the First Working Timetable. These services do not comply with Rules of the Plan, and had previously been rejected for this reason at the Offer stage. No material change has subsequently occurred, but Network Rail has now accepted all trains for inclusion within the First Working Timetable.
- 5.2. The SLC is not specific about the additional hourly train slots referred to in Para. 5.1.

## 6

### EXPLANATION OF EACH ISSUE IN DISPUTE WITH RESPONSE

- 6.1. Southern have spot bid to operate additional and amended train slots between London Victoria and Brighton within the standard weekday off-peak repeating pattern. These services do not comply with Rules of the Plan, and had previously been rejected for this reason at the Offer stage. No material change has subsequently occurred, but Network Rail has now accepted the trains despite the fact the bid conflicts with other train slots already scheduled in the Working Timetable; in addition no due regard has been given to the Decision Criteria set out in the Network Code (as described by D.4.5.1e).
- 6.2. FCC has been able to review Southern's timetable proposals against their SLC for December 2010 as detailed in SLC 2A – Part 2 which currently forms part of the Franchise Agreement between Southern and the Department and Transport. The SLC is not specific about the additional hourly off-peak train slots between London Victoria and Brighton (Appendix M refers).
- 6.3. FCC believes that Southern has insufficient Firm Rights to support the full extent of the train slots bid and offered (as described per D 3.2.1).
- 6.4. The additional train slots being sought contravene Decision Criteria D 6 (a), (c), (d), and (o).
- 6.5. Network Rail has erroneously offered similar train slots for Saturdays, and FCC has submitted an accompanying rationale regarding this decision in a submission to the Access Disputes Committee under reference TTP356

## 7

### DECISION SOUGHT FROM THE PANEL

- 7.1 The Panel is asked to determine that :

Network Rail be directed to withdraw the acceptance of spot bids to Southern of additional train slots between Brighton and London Victoria to a level that is consistent with the Offer of the First Working Timetable

## **8 SIGNATURE**

For and on behalf of First Capital Connect Ltd

Signed

Print Name

Position:

Date

## **9 APPENDICES AND ANNEXES**

All appendices and annexes per associated Reference TTP356 apply plus:-

A1. E-mail between NR/FCC re Spot Bid acceptance date 11 August 2010