

Network Rail Defendant's Response to Grand Central Sole Submission to a Timetable Panel

Dispute Reference: TTP518

1 DETAILS OF PARTIES

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

- (a) **GRAND CENTRAL RAILWAY COMPANY LIMITED**, ("Grand Central"), a company registered in England under number 3979826 having its registered office at 1 Admiral Way, Doxford International Business Park, Sunderland SR3 3XP ("The Claimant"); and
- (b) **NETWORK RAIL INFRASTRUCTURE LIMITED**, ("Network Rail"), a company registered in England under number 2904587 having its registered office at King's Place, 90 York Way, London, N1 9AG ("the Defendant").
- (c) Include correspondence address, contact details and e-mail address if different.

Grand Central contact details are: Chris Brandon, Grand Central c/o Alliance Rail Holdings Limited, 88 The Mount York YO24 1AR. Tel [REDACTED] [REDACTED]@alliancerail.co.uk

Network Rail contact details are: Andy Lewis, 4th Floor MK Central Offices, 500 Station House, Elder Gate, Milton Keynes, MK9 1BB. Tel [REDACTED] [REDACTED]@networkrail.co.uk

1.2 Possible effected third parties:

- (a) East Coast Trains
- (b) First Capital Connect
- (c) DB Schenker

- (d) Freightliner Group
- (e) GBRf
- (f) Hull Trains

2 THE DEFENDANT'S RIGHT TO CONTEST THIS REFERENCE

This matter is referred to a Timetabling Panel] ("the Panel") for determination in accordance with Condition D2.7 and D5 of the Network Code.

3 CONTENTS OF REFERENCE

This Response to the Claimant's Sole Reference 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 those issues in dispute prepared by the claimant in Section 6
- (d) The decision sought from the Panel, in Section 7
- (e) Appendices and other supporting material

4 SUBJECT MATTER OF DISPUTE

- 4.1 The matter in dispute is Network Rail's request and subsequent retiming of the December 2011 Working Timetable.1N90 0749 King's Cross to Sunderland Grand Central service to 0748 the December 2012 New Working Timetable.

Network Rail understands that Grand Central is of the view that this outside of constraints of Network Rail's contractual flex applicable to this train.

5 SUMMARY OF DISPUTE

5.1 This dispute arises from the interpretation of condition D4.2.2 of the Network Code, in a claim that Network Rail has failed to be consistent with the Exercised Firm rights of Grand Central as a Timetable Participant in the development of the New Working Timetable for December 2012.

Alliance also believes Network Rail to be in breach of its Track Access Contract with Grand Central by not accommodating the Firm Rights set out in schedule 5.

5.2 The December 12 timetable change has seen some morning peak passenger services into King's Cross for First Capital Connect (FCC) strengthened to 12 cars. There has been a significant amount of reworking to the unit balances and platform working as a result.

5.3 The December 12 consequential timetable changes that have impacted 1N90 0748 King's Cross to Sunderland are:

- New FCC rolling stock working requested from December 12 has meant 3R54 0751 King's Cross to Royston is formed at King's Cross from part of an arriving service of 12 cars in length from King's Lynn, (in the current WTT this train is formed from an inward working service from Huntingdon of only 8 cars). FCC requires 13 minutes at King's Cross to allow the splitting of the 12 car length on arrival to allow 3R54 to be formed of 8 cars.
- To ensure that 3R54 arrives Royston in time to form the return working of 1R54 0834 Royston to King's Cross the latest this service can depart King's Cross is 0751.
- To ensure the correct headway margins for departing services from King's Cross are maintained, a timetabling solution of departing 1N90 1 minute early from December 2012 was identified.

6 EXPLANATION FROM THE DEFENDANT'S PERSPECTIVE OF EACH ISSUE IN DISPUTE

6.1 Issues where the Defendant Accepts the Claimant's Case

6.1.1 Network Rail confirms that from the start of the December 12 timetable 1N90 0749 King's Cross to Sunderland has been altered to depart London at 0748. This action was taken as a result of dialog with Grand Central post the offer of the New Working Timetable and was to allow the resolution of a New Working Timetable offer response from FCC.

6.1.2 Network Rail confirms that the retiming of 3R54 is in breach of the Timetable Planning Rules (TPR). This FCC schedule is 1 minute of engineering allowance short approaching Royston in order to facilitate the 6 minute turn round requested by FCC, prior to forming 1R54 0834 Royston to King's Cross.

Our preferred timetabling solution was to retime 3R54 with the correct engineering allowances (2 engineering approaching Royston), however this would mean the turn around time at Royston to form 1R54 would be only 5 minutes. While a 5 minute turn around time is compliant with the TPR, FCC has advised that the minimum turn round they could accept is 6 minutes (the timing of 3R54 with a 5 minute turn round has been the topic of an FCC lodged dispute - TTP496).

6.2 Issues where the Defendant qualifies or refutes the Claimant's Case

6.2.1 Network Rail does not believe that Network Code Part D Part 4.2.2 is relevant to this dispute, since the change to the timings for 1N90 were negotiated with Grand Central and not an instance of Network Rail exercising a flex in connection with the preparation of the New Working Timetable.

Network Rail had suggested during the timetable preparation period the 1 minute flex of 1N90, but this had been rejected by Grand Central, and the New Working Timetable was offered with the Grand Central

1N90 service departing at 0749 and the FCC 3R54 service departing Kings Cross 0752. This meant the turn around time at Royston for the next working of the units from 3R54 were insufficient for FCC.

6.2.2 Network Rail wrote to Grand Central on 19th July 2012 seeking their support for the 1 minute retiming of 1N90, this was subsequently agreed on 23rd July 2012, with a request to Network Rail to reduce the amount of pathing time in 1N90 for the December 2013 timetable. Upon receipt of Grand Centra's confirmation of support for the retiming of 1N90 Network Rail offered FCC the timetabling solution for 3R54 and resolved a New Working timetable outstanding offer response issue for FCC.

6.2.3 On the 26th July following a review of the latest timetable information Grand Central withdrew their support for the retiming of 1N90.

A proposal for an 0806 departure for 1N90 provided by Alliance Rail did not offer a workable solution, and resulted in several irresolvable conflicts. This solution has been looked at again post offer by Network Rail and solutions still can not be found. Clashes with this retimed schedule at 0806 were identified with:

- Headway margin clashes with 1T03 and 2C05 in the Digsweil Jn area
- Clash with 4L87 in the Doncaster area

(Annex "C" Network Rail's review of 1N90 retimed to 0806)

6.2.4 Grand Central do not currently have Firm Contractual Rights to a 07.49 departure. Its rights to one under Schedule 5 of its track access contract expired in May 2012. A 27th Supplemental Agreement that would restore its rights to a 07.49 departure has not yet been formally approved by the ORR.

6.3 Issues not addressed by the Claimant that the Defendant considers should be taken into account as material to the determination

6.3.1 The schedule of 3R54 0751 King's Cross to Royston is not short of allowances within its schedule. From December 2012 for the 45 mile journey between King's Cross and Royston the train has 2.5 minutes of pathing time and 1 minute of engineering recovery time. Timetable Planning Rules would normally require just 2 minutes of engineering allowance only. While the solution we have included in the December 2012 timetable is not entirely inline with the definition of the rules, from a practical point of view the schedule for 3R54 0751 King's Cross to Royston is sufficiently robust enough not to present a performance problem. Network Rail accepts that perhaps 1 minute of the pathing time should have been planned as engineering time. It is not an uncommon practice to split engineering time to assist in providing a robust path.

6.3.2 In connection with the construction of the Hitchin Flyover Network Rail is currently reviewing engineering allowances between King's Cross and Cambridge, analysis indicates that the existing allowance is overly generous or needs to be split. To make best use of capacity the current thinking is towards spreading engineering allowance over the journey of the train (small numbers of minutes but often), instead of lumping larger numbers of minutes into the schedule of the train at destination.

6.4 Why the arguments raised in 6.1 to 6,3 taken together favour the position of the Defendant

6.4.1 Grand Central's Track Access Contract does not currently contain any right to a 0749 departure from King's Cross from the start of the December 12 timetable, however Network Rail acknowledges that Grand Central has an outstanding application with the ORR to renew the current rights.

- 6.4.2 The 0748 departure offers the most performance robust solution to this problem for the December 2012 timetable period. Network Rail has indicated that it will look to return the 07.48 departure to 07.49 or a later time as part of future timetable work. The introduction of the 12 car FCC operations is providing an improved level of seating capacity for a greater number of passengers during the morning peak on the GN route into London.
- 6.4.3 The retiming of 1N90 by 1 minute is inline with Network Rail's 'Objective' to make decisions which share capacity in an efficient and economical manner in the overall interests of all users. This decision is supported by 'the considerations' (g), and (j).
- 6.4.4 Overall in the December 2012 TT offer Network Rail has delivered numerous journey time improvements for Grand Central.

7 DECISION SOUGHT FROM THE PANEL

Network Rail seeks the following outcome from the Panel's Determination:

- (a) That it was correct to have asked Grand Central to retime 1N90 and following their initial agreement to offer FCC the preferred timetabling solution for 3R54.
- (b) There are no other remedies or issues to be determined.

8 APPENDICES AND ANNEXES

Network Rail confirms that it has complied with **Rule H21** of the Access Dispute Resolution Rules, which requires that

- (a) the relevant extracts of contractual Documents containing the provision(s) under which the referral to the Timetabling Panel arises and/or provisions associated provision(s) associated with the substance of the dispute; and

(b) [the relevant extracts of] any other Documents referred to in the reference". [Rule H21(b) (I)]

Annex "A" Network Rail to Grand Central Email 19/07/2012
Annex "B" Grand Central to Network Rail Email 26/07/2012
Annex "C" Network Rail's review of 1N90 retimed to 0806

9 SIGNATURES

The Defendant
For and on behalf of

M Allen
Signed

M. ALLEN

Print Name

Operational Planning Mgr (National)
Position