



Ekta Sareen
Senior Regulatory Economist
Kings Place, 90 York Way
London, N1 9AG

Wednesday 23 January 2013

Dear Colleagues

Network rail's proposals for changes to the EC4T Metering Rules – OTM Incentive charges

The purpose of this document is to conclude on our December 2012 consultation to change the way OTM incentive charges are levied. We also summarise stakeholders' responses to this consultation and outline the next steps in the Proposed Metering Rules Change process.

Background

On 5 December 2012, Network Rail formally initiated a Proposed Metering Rules Change¹, under section 11 of the EC4T Metering Rules², to amend the way in which metered operators are charged for significant levels of missing metered data. Within this document, we proposed three specific drafting changes to the EC4T Metering Rules – precise wording of these three proposals are outlined in the annex.

The EC4T Metering Rules set out the legal provisions for the arrangements for metered traction electricity charges. Metered operators are charged for their use of electricity on the basis of metered consumption (kWh) multiplied by price (£/kWh). Metered data is submitted at regular intervals to us for billing purposes. If there are gaps in the data, i.e. metered data are missing, we 'infill' the data based on the previous period's consumption.

The precise drafting changes that we proposed in our consultation document are presented in the annex of this document. As a broad summary, our Proposed Metering Rules Change aimed to clarify the rules and incentivise operators to move to metered billing. More specifically, our proposed approach would:

- ensure only metered operators receive repayment of the OTM incentive charge from Network Rail;
- ensure metered billing commences only when full setup and testing is completed;
- provide flexibility for newly metered operators experiencing problems when converting to metered billing; and
- more broadly; clarify the current EC4T Metering Rules.

¹ Network Rail consultation (December 2012) on 'Proposal for changes to the EC4T Metering Rules' can be found here: <http://www.networkrail.co.uk/asp/12873.aspx>

² Network Rail, (May 2012), 'EC4T Metering Rules'. Accessible here: <http://www.networkrail.co.uk/WorkArea/DownloadAsset.aspx?id=30064781316>



Stakeholder responses to Network Rail's consultation

In response to our consultation document, we received responses from:

- Porterbrook,
- First Capital Connect and First ScotRail,
- Virgin Trains, and
- Go-Ahead.

All respondents fully supported our proposals to amend the EC4T Metering Rules, as described in the annex of this document. Go-ahead added that the proposals made the process fairer as well as supporting the business case for metered billing. It also stated that; not all disincentives for operators to convert to metered billing were removed.

Our Conclusion

Given the positive support expressed by stakeholders in response to our consultation, we intend to proceed to the next stage of the formal EC4T Metering Rules Change, in line with the three proposals we outlined in our December 2012 consultation (also outlined in the annex of this document).

We consider that these proposals move some way to eliminate any potential disincentives for operators to move to metered billing. We consider that the Proposed EC4T Metering Rules Change will also provide operators with more flexibility and clarity when converting to metered billing.

We are content for the proposed changes, should they be approved by ORR, to take effect 14 days from the date of approval. We will, however, request ORR to activate the requested amendments to the EC4T Metering Rules so that they can be in effect prior to the next financial year i.e. 1 April 2013.

Next Steps

Given that we have not received any request to modify our proposals from stakeholders we will now, in line with the EC4T Metering Rules, arrange for metered operators (including those operators which have opted in for on-train metering from the start of the next financial year) to cast a vote, either in support, or against our Proposed Metering Rules Change. Network Rail will also be entitled to one vote, as stipulated in the EC4T Metering Rules.

We will arrange the vote by email, which will commence on 30 January 2013 and end on 5 February 2013. This vote will be open to:

1. First Capital Connect;
2. First ScotRail;
3. London Midland;
4. Network Rail;
5. Southern Railway;
6. South Eastern Railway; and
7. Virgin Trains.



The Proposed Metering Rules change will require a majority vote for it to proceed to the next stage – which is where we will formally submit a request to ORR to consider our proposals. We will notify all respondees of ORR’s decision.

If you have any questions or would like clarifications on any of the issues raised above, please contact myself or Jashim Uddin (Jashim.uddin@Networkrail.co.uk).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ekta Sareen', written in a cursive style.

Ekta Sareen

Senior Regulatory Economist



Annex

Proposal 1: To replace clause 7.3 of the EC4T Metering Rules with the following text

*“Network Rail shall pay to each **metered** train operator which consumes traction electricity a portion of the total amount of all OTM Incentive Charges received by Network Rail from Metered Train Operators pursuant to paragraph 7.1 in each Relevant Year for such train operator for that Relevant Year, calculated in accordance with the following formula:*

$$PTOt = At \times TICt$$

Bt

Where:

“PTOt” means the proportional amount of OTM Incentive Charges payable to the train operator for Relevant Year t;

*“At” means the amount of the train operator’s **metered** Traction Electricity Charge (where relevant, following the Cost Reconciliation) in Relevant Year t;*

*“Bt” means the total amount of **metered** Traction Electricity Charges (where relevant, following the Cost Reconciliation) for all train operators in Relevant Year t;*

“TICt” means the total OTM Incentive Charges received by Network Rail from all Metered Train Operators pursuant to paragraph 7.1 in Relevant Year t.”

Proposal 2: we proposed to replace Clause 2.7 of the EC4T Metering Rules with the text outlined below.

*The Train Operator acknowledges that for the purposes of calculating the Traction Electricity Charge, it shall only be charged based on Metered Data in respect of those categories of metered trains specified in Appendix 7D of Part 2 of Schedule 7 (in the case of passenger operators) or Appendix 2 of Schedule 7 (in the case of freight operators) of the Relevant Track Access Contract, in accordance with the provisions of the Relevant Track Access Contract **once Network Rail confirms that data-flow and billing system tests have been completed successfully.***

Proposal 3: we proposed to replace the definition of “OTM Incentive Charge” in Clause 1.2 of the EC4T Metering Rules with the following text:

*“**OTM Incentive Charge**” means the additional amount payable by a Metered Train Operator to Network Rail as a consequence of paragraph 7.1 of these EC4T Metering Rules;*



We also proposed to delete Clause 7.2 of the EC4T Metering Rules, and replace Clause 7.1 of the EC4T Metering Rules with the following text and table:

“If, in any Period following the On-Train Metering Commencement Date, the Net Infilled Electricity Data Value expressed as a percentage of the Total Net Electricity Data Value is greater than the percentage shown in Table 7.1: Threshold Percentage table, the OTM Incentive Charge for such Period (the “Trigger Period”) shall be as follows:

(1) in the first Trigger Period in any OTM Incentive Year, the OTM Incentive Charge shall be 5% of the Metered Charges for Infilled Values

(2) in the second or any further Trigger Period in any OTM Incentive Year, the OTM Incentive Charge shall be 10% of the Metered Charges for Infilled Values”

Table 7.1: Threshold percentage table

| Period Since On-Train Metering Commencement Date | | | | |
|--|-------------|-------------|---------------|-------------------|
| Periods 1-3 | Periods 4-6 | Periods 7-9 | Periods 10-13 | All later Periods |
| 30% | 25% | 20% | 15% | 10% |

