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Andrew Whittington
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Wednesday 13 February 2013

Dear Andrew

Network Rail's endorsed proposal to ORR for an EC4T Metering Rules Change - OTM Incentive charges

In line with paragraph 11.13 of the EC4T Metering Rules, we are writing to formally seek ORR's approval of our endorsed proposal to change the EC4T Metering Rules¹. Our proposed changes are marked-up against the existing EC4T Metering Rules and attached to this letter, for your reference.

Background

On 5 December 2012, Network Rail formally initiated a Proposed Metering Rules Change², under Section 11 of the EC4T Metering Rules, to amend the way in which metered operators are charged for significant levels of missing metered data.

In response to our consultation, we received five responses, full copies of these responses these can be found on our website³. All respondents supported our proposal to amend the EC4T Metering Rules. There were no requests for modifications. We formally concluded on this consultation on 23 January 2013⁴.

Further to our conclusions document, we invited 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 by email, either in support, or against our Proposed Metering Rules Change. As set out in the EC4T Metering Rules, Network Rail also participated in the vote. The vote was open for 7 days and closed on 6 February 2013. The following stakeholders voted in support of our Proposed EC4T Metering Rules Change:

- First Capital Connect;

¹ Network Rail, (May 2012), 'EC4T Metering Rules'. Accessible here: <http://www.networkrail.co.uk/WorkArea/DownloadAsset.aspx?id=30064781316>.

² 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>.

³ Responses to the consultation are accessible here: <http://www.networkrail.co.uk/asp/12873.aspx>.

⁴ Network Rail conclusions letter (23 January 2013) , accessible here: <http://www.networkrail.co.uk/WorkArea/DownloadAsset.aspx?id=30064784735>.



- London Midland;
- Network Rail;
- Southern; and
- Virgin.

First ScotRail and Southeastern Trains were invited to vote, but did not submit a response. We have therefore; in line with paragraph 11.10 of the EC4T Metering Rules not included these parties in the vote count.

In summary, we have received majority endorsement from stakeholders of our Proposed EC4T Metering Rules Change. As part of the EC4T Metering Rules Change process, we are now requesting ORR to endorse our proposed changes to the EC4T Metering Rules.

Next Steps


For the avoidance of doubt, we are seeking for the revised approach to the OTM Incentive Charge to apply for the whole of this financial year 2012/13, with the changes reflected in the OTM Incentive Charge collected in the financial year 2012/13 (and the distribution, of the proceeds of the charge, after the 2012/13 EC4T volume and cost wash-ups have been carried out). Therefore, with consideration to part (C) of paragraph 11.3 of the EC4T Metering Rules, we request that our proposed approach to change the EC4T Metering Rules is approved by ORR to take effect for the financial year 2012/13 and thereafter.

As noted above, we have marked-up our proposed changes to the current EC4T Metering Rules. For ease of quick reference, we have also included our proposed changes to the EC4T Metering Rules to the annex of this document.

In line with the Metering Rules, we will notify all stakeholders of ORR's decision on this matter. This letter will also be available to download from our website.

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

Yours sincerely,



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%

