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OFFICE OF **RAIL REGULATION**

17 December 2013

Richard Taylor
Customer Relationship Executive
Network Rail Infrastructure Limited
Carolyn House
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Croydon
Surrey CR9 3RT

Kai Hills
Head of Franchise & Access Contracts
Southern Railway Limited
Go Ahead House
26-28 Addiscombe Road
Croydon
Surrey CR9 5GA

Dear Richard and Kai,

Approval of the Twenty-Third Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited and Southern Railway Limited

1. The Office of Rail Regulation (ORR) has today approved the twenty-Third Supplemental Agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and Southern Railway Limited (jointly the parties), submitted to us formally on 17 December 2013 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. The purpose of this letter is to set out the reasons for our decision.

Purpose of the agreement

2. The purpose of this agreement is to permit Southern Railway Limited to amend Schedule 7 of its Track Access Contract to permit the extension of on-train metered (OTM) billing of Electric Current for Traction (EC4T) charges. This supplemental agreement is to add 28 further units of Class 377 to take effect from 13 January 2014.

3. The applicant confirmed that the operating characteristics are the same as those for previously operated Class 377 stock. There was therefore no requirement to amend Appendices 2 and 4 of the EC4T Metering Rules in respect of the values for power factor correction and meter tolerance.

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Consultation

4. Southern took the view that reduced consultation of two weeks was suitable since this application was only to add further units to a class of stock that was already listed in the Appendix 7D of Schedule 7. We agreed with this course of action. Consultation closed on 28 November 2013 and no adverse comment was received.

ORR review

5. We considered the submission from economics and engineering perspectives. We accepted the assertion confirming the previous values for power correction factor and tolerance factor and raised no concerns. We asked the parties to put the list of stock into numerical order in the revised Appendix 7D for clarity and a revised list was submitted.

ORR's conclusions

6. In considering the agreement and in reaching our decision, we have had to weigh and strike the appropriate balance in discharging our statutory duties under section 4 of the Act. We have concluded that approval of this supplemental agreement is consistent with our section 4 duties, in particular those relating to protecting the interests of users of railway services (section 4(1)(a)), promoting the use of the railway network for the carriage of passengers (section 4(1)(b)) and enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g)).

Conformed copy of the track access contract

7. Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and the Train Operator. Please send the conformed copy to me at ORR.

8. Copies of this letter, the approval notice and the agreement will be sent to John Miller at DfT. Copies of the approval notice and the agreement will be placed on ORR's public register and copies of this letter and the agreement will be placed on the ORR website. I am also copying this letter without enclosures to Jashim Uddin at Network Rail.

Yours sincerely

Andrew Whittington