

# **Network Rail Consultation on Phasing In of the Freight Specific Charge and other matters**

## **Response from Rail Freight Group**

**February 2013**

1. RFG is pleased to respond to Network Rail's consultation on the phasing of the freight specific charge, and other matters.
2. The response to this consultation should be read in the context of our position on other relevant responses for PR13. We note that some elements which relate to this consultation (for example, policy on biomass) are also subject to other on-going consultations.

### ***Question 1 : Phasing of the FSC***

3. Although we are disappointed at ORR's decision to introduce a freight specific charge, we agree with the decision to phase in the charge. The proposed phasing appears reasonable.
4. We note that NR's actual income will vary with traffic levels – and that the FSC itself is expected to reduce demand for rail as shown in ORR's own analysis. The extent to which any adjustment is made for this is a matter for ORR and NR.

### ***Cap on Average VUC rates***

5. We note the unresolved position with respect to the VUC rates for CP5, and have responded to previous NR consultations on this. Without prejudice to those responses, if the cap were to be triggered, we would support the proposed approach to applying the cap.
6. Depending on the outcome, and the extent of increase for some wagons/commodities, it might be conceivable that the application of the cap could cause the VUC rates for some wagon / commodity types to fall below current levels. Whilst it is unlikely that the market would object to this, NR may wish to consider whether it is possible under as it is not clear that the Directives permit a discount to the VUC.

### ***Updating the Freight Avoidable Cost Estimates***

7. We note that the updating of the FAC estimate is unlikely to reduce the FSC. However, as the FAC is being quoted in wider discussion on freight charging, we agree that it should be updated.

8. In addition to the items listed, we consider that the enhancement list should be updated to align with SBP, and to remove any works which are now not being progressed, or where costs have changed.
9. We note that a number of the adjustments made by ARUP for ORR were based on assumptions and we consider that LEK should be asked to peer review these. We also consider that it would be appropriate for ORR to provide LEK with any further adjustments they wish to make so that the final LEK report is complete.

### ***Question 2 - Remedying the Spent Nuclear Fuel Error***

10. As this error, and correction, is relevant to one particular operator only, we would suggest that NR pursue specific dialogue with them on this matter. The significant increase due to error of course comes on top of the new FSC that the operator will also be paying. Whilst we note that there is little likelihood of significant shift to road, there will nonetheless be financial implications which need to be considered.
11. We note that this is one of a number of arithmetic errors which have been identified during this review, each of which have lead to an increased charge. ORR and NR may wish to consider what quality assessment is necessary to avoid such errors being identified at future reviews.
12. We note that there has been no assessment of the actual expenditure on relevant freight only lines over the period, and it may be worth considering some cross checking during CP5 to validate the estimates.

### ***Question 3 - Updating our Freight Only Line Estimate***

13. The arithmetic appears correct. However, as the estimates are to be updated, then NR will need to advise the industry on the actual expected rates.
14. RFG will be responding to the ORR's consultation on biomass. We do not believe that a market in its infancy, requiring significant investment and already requiring Government support through the Energy Bill should be subject to a mark up on the variable charge. We also do not believe that a freight only line charge should be applied.
15. If ORR do conclude that a freight only line charge will apply, then the phasing of the charge must be aligned with the phasing of the renewables support mechanisms available to the generators under the Energy Bill. We suggest that ORR discuss this with DECC.
16. The consultation does not discuss how a freight only line charge for biomass would be calculated. We have serious concerns on how this can be calculated fairly when the market is yet to emerge – for example;

- a. Although some traffic is already operating we would expect (subject to charges being affordable) other flows to start operating over the control period. However, as the power station conversions are not yet confirmed, and the ports of entry not confirmed, it is not possible at this stage to determine which freight only lines will be used, and what volumes will use them.
- b. As biomass is expected to substitute for ESI Coal, the freight only line charges for these two commodities are linked. If substitution occurs, the charge might reasonably be expected to pass from one commodity to the other. We would not expect the same costs to be recompensed twice, via the Coal rate and the Biomass rate.
- c. The Freight Only Line costs have been established based on the current traffic mix. Replacing coal with biomass could change elements of the costs and this has not been reviewed.

17. If ORR intend to apply the charge, NR must urgently clarify how such a charge will be calculated to be fair, transparent and not over recover.

***Interaction between Freight Only Line Charge and FSC***

18. Although it would be desirable to have the most simple charging system we note that there are complexities in merging the FOL and FSC due to phasing. NR and the FOCs should discuss how the billing of all charges to freight for CP5 will be undertaken to ensure it is a simple and straightforward as possible.