

**Proposed Track Access Contract Between
Network Rail Infrastructure Limited and the
Grand Southern Railway Company Limited under
Section 17 of the Railways Act 1993**

Network Rail's Representations

16 January 2017

Introduction

The South West Main Line is an exceptionally valuable asset in the national transport system, serving the busiest station in the UK, London Waterloo. It is a multi user route, combining freight, commuter services and long distance passenger services, and is also a popular destination for the passenger charter market. The network has little spare capacity, and faces high demand for both passenger and freight growth. However, this is currently a route without an open access operator, and Network Rail is keen to support open access operations, as studies on the East Coast Main Line have shown this can stimulate growth through competition and improved passenger satisfaction.

The vast majority of current passenger train services on the route are operated under the South West franchise which ends in August 2017, and for which the re-franchising process is currently underway. The new franchisee is expected to be announced in March 2017 and it is expected that the train service specification for the new franchise will encompass and possibly seek to build on the existing level of franchised services.

Track access rights for the existing franchise currently expire in PCD 2018, and no application for rights for franchised services beyond this date has yet been received by Network Rail. Whilst that means that beyond the first year of Grand Southern's application, (The Application), there are not currently any access rights held by a franchisee that might conflict with The Application, it is logical to assume that the franchise will exist in some form beyond PCD 2018. And as we do not yet know the detail of that new franchise, it has been difficult to carry out a robust capacity and performance modelling assessment regarding The Application. Further discussions are required therefore due to the fact that there are elements of The Application that Network Rail may be able to support in the future, but can't at this time due to insufficient information. These are outlined below in Network Rail's response.

As discussed later, Network Rail is disappointed it was not invited to negotiate a jointly agreed contract under Section 18 of the Railways Act 1993 with Grand Southern. This Section 17 was issued before any such negotiations had taken place. Network Rail is however keen to work constructively with Grand Southern regarding its proposals, and would strongly suggest that some joint dialogue with DfT and ORR takes place regarding the complex process of providing a response to The Application, concurrent with the timeline for DfT's analysis of franchise bids.

The Application Form

Section 3.2 of the application form regarding “Terms not agreed with the facility owner” states that

“This application has been discussed with Network Rail and timetabling work is on-going. However Network Rail has not yet reached a view on the available capacity on the route.”

This statement is somewhat misleading as at the time it was written, Grand Southern had mentioned that it might be making an application, but had not shared any detail of that prior to the industry consultation. ORR Criteria and Procedures (para 2.16) states that

“We also expect prospective users to try in good faith to reach agreement with facility owners on terms of access wherever possible before submitting applications under sections 17 or 22A. In that respect, it is important that prospective users begin discussions with facility owners early enough to allow time to follow the section 17 or 22A processes and obtain directions from ORR should that become necessary.”

Network Rail is however keen to engage with Grand Southern and a meeting between the Network Rail Capacity Planning team and Grand Southern has taken place since the application was submitted.

The proposed contract

Definitions

“Expiry Date” means the Principal Change Date in December 2024.

Network Rail would suggest that an expiry date should be expressed as Principal Change Date in a specified year, rather than as Principal Change Date in a specified month of a specified year. This is to allow for any changes to the date of Principal Change Dates that may occur in the future.

This application requests a contract length of 7 years. Network Rail understands that Grand Southern requires this contract length to facilitate the investments it is intending to make in rolling stock refurbishment.

Legislation currently states (regulation 18.8) that ‘*A framework agreement for a period of longer than five years must be justified by the existence of commercial contracts, specialised investments or risks.*’ Network Rail recognises that Grand Southern is making investment in the refurbishment of Class 442s, however would welcome ORR’s view as to whether such investment in reintroducing rolling stock that has not been used on the South West Main Line since 2008, is justifiable investment to warrant a contract of over 5 years.

Schedule 1 contract particulars

The Network Rail contact particulars are incorrect and should be replaced with:

Network Rail's address for service of notices is:

Network Rail Infrastructure Limited
1 Eversholt Street, London, NW1 2DN
Tel:020 7904 4001
Email:notices@networkrail.co.uk

All written notices to be marked:

“URGENT: ATTENTION THE COMPANY SECRETARY AND SOLICITOR”

and copied to the Managing Director, Freight and National Passenger Operators Route.

Schedule 5-The Services and the Specified Equipment

Passenger Train Slots

Grand Southern has requested 7 services per day in each direction between Waterloo and Southampton in the Monday-Friday off peak, Saturdays and Sundays from PCD 2017, and an additional 2 services in each direction during the Monday-Friday peak from PCD 2018.

The rights associated with the current South West franchise expire at PCD 2018, with the franchise expiring in August 2017. The tenders for the new franchise are currently being evaluated by DfT, and so the specific detail of the timetable and rights required for the new franchise is as yet unknown. Whilst that means that there are not currently any access rights held by a franchisee that might conflict with this application beyond PCD 2018, it is logical to assume that the franchise will exist in some form. And as we do not yet know the detail of that new franchise, it has been difficult to carry out a robust capacity and performance modelling assessment regarding this application. As a result, the limited timetable analysis that has taken place to date, has been carried out alongside the December 2016 timetable, on the assumption that something broadly similar will be in place for the new franchise.

A meeting was held between Network Rail Capacity Planning and Alliance Rail Holdings (for Grand Southern) on 6 December 2016. At this meeting, three potential off peak slots in the southbound direction only were assessed for Grand Southern services against the December 2016 timetable. These were XX02, XX25 and XX52 from Waterloo. A variety of issues were encountered including platforming, clashes with freight services, and capacity south of Basingstoke. Northbound services have not yet been assessed. Peak services have not yet been assessed either.

From earlier work that has been carried out on the assessment of franchise bids, it is apparent that the timetables proposed by bidders could not be accommodated alongside the proposed Grand Southern timetable. There is some limited capacity available over and above the current timetable, but not enough for both franchise bidders' proposals and Grand Southern's proposals, so such capacity could be used by either party but not both. It is important to note however that this does not take account of future freight aspirations, with the Southampton to West Midlands corridor

being a strategically important route for freight growth. Furthermore, performance modelling of any proposed timetable has not yet taken place, as the detail of that timetable is not yet known.

In summary, prior to PCD 2018, Network Rail cannot currently support The Application as it has not yet found capacity for the train slots sought by Grand Southern alongside the firm rights of other operators. Beyond PCD 2018, whilst capacity exists for the train slots sought by Grand Southern if considered in isolation, it is currently not possible for Network Rail to confirm whether the rights could be accommodated alongside the rights that might be requested in association with a future South West franchise nor alongside any potential freight growth.

It is the intention of DfT to declare the winner of the South West franchise competition in April 2017. It is expected that this will bring clarity as to the train service specification to which the franchisee has committed. It is suggested that this would allow the parties to take an effective overall view of what capacity might exist and its potential use. Network Rail would expect to be able to conclude this work by the end of July 2017.

In terms of rights currently sold beyond PCD 2018, however, Grand Southern's proposals could be accommodated, from a capacity perspective, subject to the resolution of further matters identified below. Although whilst it is normal practice for Network Rail to sell rights on a 'first come first served basis', on the reasonable assumption of at least the same volume of franchised services, it is appropriate to consider The Application alongside the franchise rather than ahead of it.

Calling Patterns

Grand Southern has requested Contingent Rights for calls at Wimbledon if timetable capacity will allow. Before agreeing to the sale of Contingent Rights, Network Rail also assesses the safety and performance implications of such a sale, so that we can be certain that if timetable capacity does allow their agreement, the safety and performance of the railway network is not compromised.

At Wimbledon, fast line calls were removed from the timetable in 2004 as part of a general effort to improve a very poorly performing timetable. The fast lines were also fenced and gated under suicide prevention measures. Network Rail notes that whilst these platforms do receive some bespoke calls in the current timetable, it would need the opportunity to assess the performance and safety impact of any proposed calls at Wimbledon using the fast lines, once the detail of the timetable is known, before agreeing to the sale of any such Contingent Rights.

Specified Equipment

Grand Southern has asked for rights to operate class 442s. These last operated on the South West Main Line in 2008. Since then, infrastructure upgrades have taken place to improve the performance of track circuits, with new 'EBi400' having been installed in the Waterloo area, with more due to be installed as part of the Waterloo capacity programme.

As a result, the re-traction of the unit will require Electrification and Signalling compatibility assessment. Therefore, a new Statement of Compatibility certificate and successfully established Vehicle Change will be required before class 442s could be introduced to the network.