First Capital Connect

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Alice Jones
Office of Rail Regulation
1 Kemble Street
LONDON
WC2B 4AN

3rd September 2013

Dear Ms Jones,

First Capital Connect Response to the Office of Rail Regulation's Consultation of the Periodic Review 2013: Draft determination of Network Rail's outputs and funding for 2014-19

Thank you for the opportunity to respond to the Periodic Review 2013 Draft Determination in relation to Control Period 5 (PR13). This response is in addition to those made by First Group plc on behalf of the Group rail operators as a whole and the Association of Train Operating Companies (ATOC). We support the issues highlighted in those responses and so focus here upon the issues specific to the operations of First Capital Connect.

We do not view the contents of this response to be confidential.

Charging proposals and incentives – electric current for traction (EC4T) – exposing Network Rail to the volume wash-up

The narrative about the ORR's intentions in the draft determination confirms an intended formulation for Network Rail to share in the EC4T volume wash-up.

The ATOC response confirms that they have been engaging with the ORR to address the most effective means of ensuring that the involvement of Network Rail in the volume wash-up does not result in unintended outcomes. We believe that, particularly for the Electric Supply Tariff Area ESTA (U) (i.e. the large area of DC electrification in Southern England), a correction factor based around the outturn trend in CP4 will be necessary if ORR proceeds with its proposal that some of wash-up should be retained by Network Rail. It is essential that ORR's Determination incentivises the minimisation of transmission losses and to maintain the effective maintenance of the electrification infrastructure, irrespective of whether train consumption is modelled or metered. We believe that Network Rail's contribution in this area could have a significant effect on reducing both the industry's costs and carbon footprint, so securing their engagement is a key output for train operators and our stakeholders.

Since the publication of the Draft Determination, it has become clear at the industry Traction Electricity Steering Group (TESG) that the dedication by operators of resources to establishing business case for partial fleet metering is dependent on the ORR's clarification of its intentions on the treatment of partial fleet metering in the volume wash-up. Whilst the statement that "We are not concluding on a particular formulation as part of PR13" at the end of the discussion of this issue in the Draft Determination is unambiguous. If this route to promoting the industry's more productive use of electricity for traction is to be exploited it is essential that more certainty is established as part of the CP5 determination. The meeting to be hold shortly with the ORR and TESG members to discuss this issue should be used to inform this.

<u>Station Long Term Charges (LTC)</u>

The First Group plc response identified the conundrum presented by the absence of any LTC rates published for stations where Greater Anglia is Station Facility Owner. FCC believes that the problem is that the National Station Access Conditions (NSACs) tie a beneficiary's Common Charges under a Station Access Contract (SAC) to the quoted Qualifying Expenditure and an LTC. FCC's understanding is that if the ORR's list of determined LTCs for CP5 doesn't have any for the stations where Greater Anglia is Station Facility Owner, there will be no charge to form a basis for the calculation described in the NSACs or for the percentages in the SAC to be applied - as we don't believe LTC's carry over from one Control Period to the next unless explicitly determined to do so.

<u>Schedule 4</u>

Following on from the First Group plc comments, FCC would like to highlight the consensus reached by the operator members at the industry Schedule 4 and 8 Group about action to disincentivise late cancellation of possessions by Network Rail. In fact, this is a good example where Network Rail has undertaken consultations as a means to propose alterations to Schedule 4 that were not previously envisaged – as highlighted in the First Group plc response.

This consultation actually took place after the Draft Determination was published. Whilst and FCC and First views were flagged up in the consultation response, FCC's views are summarised below. We ask that:

- The protection provided in Schedule 4 Paragraph 2.9 is amended to incentivise Network Rail not to propose possessions only to cancel them at a date when the resulting alterations have already been publicised to our customers.
- That this incentive takes account of the revenue loss predicted by the schedule 4 formula.
- The threshold for the incentive is set at a point which incentivises Network Rail to ensure any changes to possessions have been implemented in time to meet informed traveller deadlines. Information

regarding engineering works has to be entered in industry systems from “T-16”, to deliver the information in the public domain from “T-12”.

- FCC would propose that in the event of a cancellation the formula cost and revenue compensation payments for Type 1 Restrictions of Use they should continue to be made and paid, but with the application of some additional notification discounts. This could create a taper between T-22 and T-12 with higher amounts of compensation payable the closer we approach T-12. This would provide an incentive for Network Rail to avoid late cancellations and provide an automatic compensatory base for both costs and lost revenue. However, it is evident that there are circumstances where cancellations do impose significant additional costs. For this reason we also support the proposal for a cost threshold above which claims could be made on the same basis as present provisions for Type 2 and Type 3 Restrictions of Use.

Yours faithfully

John Beer
Head of Access Contracts