

PR13 IMPLEMENTATION – PROPOSED SCHEDULE 7 FOR CHARTER OPERATORS

SCHEDULE 7: TRACK CHARGES

PART 1: INTERPRETATION

1 Definitions

In Parts 1-8 inclusive, unless the context otherwise requires:

~~“2008~~ ~~Final~~ ~~Determinations AC System”~~ means the ~~document entitled “Periodic Review 2008: Determination of Network Rail’s outputs and funding for 2009-14” and published by ORR on 30 October 2008~~ alternating current system of electricity traction supply on the Network;

~~“Additional Permitted Charges”~~ has the meaning ascribed to it in paragraph 2 of Part 5;

“Cancellation Charge” has the meaning given to that term in paragraph 5.1 of Part 2;

“Capacity Charge” means a variable charge calculated in accordance with paragraph 8 of Part 2;

“Charter Capacity Rate” means, in respect of each Service, the charter capacity rate corresponding to the day (or days) of the week on which that Service is operated, as set out in the List of Capacity Charge Rates and adjusted in accordance with paragraph 8 of Part 2;

“Core Operational Period” in relation to any part of the Network, means the period of the day when that part is generally open to train movements;

~~“DMU~~ DC System” means ~~diesel multiple unit~~ the direct current system of electricity traction supply on the Network;

~~“Diesel or Electric Equipment”~~ means ~~all types of self-propelled Specified Equipment, other than Steam Driven Equipment;~~

“ECS” means empty coaching stock (trains used to bring carriages into or take them out of service);

“EMU Electricity Type (AC/DC)” means ~~electric multiple unit~~ either the alternating current (AC) or the direct current (DC) system of electricity supplied through the electrification system;

“Electrification Asset Usage Charge”

means the electrification asset usage charge calculated in accordance with paragraph 7.1 of Part 2, as adjusted in accordance with paragraph 7.2 of Part 2;

“Geographic Area g”

means, for the purposes of performing the calculations set out in paragraph 6 of Part 2 and paragraph 18 of the Traction Electricity Rules, the relevant geographic section of the Network, as set out in Appendix 5 of the Traction Electricity Rules;

~~“IEC Adjustment Factor~~ Gross Tonne Mile”

in relation to a train, means ~~the factor calculated in accordance with paragraph 6.1 of Part 2~~ a mile travelled on the Network, multiplied by each tonne of the aggregate weight of the train in question;

“kWh”

means kilowatt hours;

“light locomotive movement”

means the movement of a single locomotive, or two locomotives coupled together, before working, or after having worked, a Relevant Service;

“List of Capacity Charge Rates”

means the document entitled “List of Capacity Charge Rates” published by Network Rail on or about 20 December 2013;

“Network Rail Distribution System Loss Factor”

means the relevant factor that represents the electrical losses between the On-Train Meter and Network Rail’s meter through which it purchases traction electricity for the AC System or the DC System in Geographic Area g, as set out in appendix 3 of the Traction Electricity Rules;

“New Specified Equipment”

means a type of railway vehicle not included in the Track Usage Price List.

“Non-Core Operational Charge”

means the charge calculated in accordance with paragraph ~~3.4~~1.1 of Part 5;

“On-Train Meter” and “On-Train Metering”

have the meanings ascribed to them in paragraph 1.2 of the Traction Electricity Rules;

“Period”

has the meaning ascribed to it in Schedule 8;

“Power Factor Correction”

means the relevant power factor correction as set out in appendix 2 of the Traction Electricity Rules;

<u>“Public Holiday”</u>	<u>means any day other than a Saturday or Sunday on which the banks in the City of London are not open for business;</u>
“Relevant Service”	means the Service (which, for these purposes, includes any Ancillary Movements) to which a particular charge is to be applied;
“Repeat Business Slot Charge”	means the charge payable in respect of a particular Service in accordance with paragraph 4.2 of Part 2;
“Relevant Year”	means a year commencing at 0000 hours on 1 April and ending at 2359 hours on the following 31 March; “Relevant Year t” means the Relevant Year for the purposes of which any calculation falls to be made; “Relevant Year t-1” means the Relevant Year preceding Relevant Year t; and similar expressions shall be construed accordingly;
“Retail Prices Index <u>RPI</u>”	means the general index of retail prices <u>General Index of Retail Prices All Items measured by CHAW</u> and published by National Statistics each month in respect of all items or: <ul style="list-style-type: none"> (a) if the index for any month in any year shall not have been published on or before the last day of the third month after such month, such index for such month or months as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances; or (b) if there is a material change in the basis of the index, such other index as ORR may (after consultation with the parties and such other persons as it considers appropriate) determine to be appropriate in the circumstances;
“Route Clearance Charge”	means, in respect of a particular Train Slot a charge payable in respect of works identified in paragraph 3.21.2 of Part 5 as calculated in accordance with that paragraph;
“route type k”	means route type k as identified by type of electrification (OLE or DC) in the Track Usage Price List;

“Slot Charge” means the charge payable in respect of a particular Service as established in accordance with paragraph 4.1 of Part 2;

“tariff band” means the tariff zone and time band in which the train in question is operated;

~~“Steam Driven Equipment Tolerance Factor”~~ ~~means Specified Equipment, of which the primary~~ means the relevant Tolerance Factor as set out in appendix 4 of ~~propulsion is steam power.~~ the Traction Electricity Rules;

“Track Charge” means the Variable Usage Charge, Slot Charge, Cancellation Charge and where the context admits, Capacity Charge, Traction Electricity Charge and Electrification Asset Usage Charge;

“Track Usage Price List” means the document entitled “Track Usage Price List” published by Network Rail on or about ~~18~~20 December ~~2008~~2013;

“Traction Electricity Charge” means the charge calculated in accordance with paragraph ~~6.4~~6 of Part 2;

“Traction Electricity Consumption Rates List” means the ~~consumption rate for each electric Service, as agreed between the Train Operator and Network Rail consistent with the~~ document entitled “Traction Electricity Consumption Rates List” published by Network Rail on or about ~~18 December 2008 or failing agreement as determined by ORR~~20 December 2013 and specifying freight and passenger traction electricity consumption rates by category i;

~~“Traction Electricity Rate~~train category” ~~means such amount in (£ per Kwh) as Network Rail shall specify for the purpose of each Financial Year as reflecting, so far as reasonably practicable, the actual cost to Network Rail of providing traction electricity to the Train Operator, and subject to:~~

~~(a) the agreement of the Train Operator to those amounts, such agreement not to be unreasonably withheld or delayed; and~~

~~(b) the consent of ORR,~~

~~as adjusted in accordance with paragraph 6.2 of Part 2~~train type i using the relevant Electricity Type (AC/DC);

~~“Track Charge”~~

~~means the Variable Track Usage Charge, Slot Charge, Cancellation Charge and where the context admits, Traction Electricity Charge and Electrification Asset Usage Charge;~~

“Train Consist Data”

means the information relating to the number(s) and type(s) of railway vehicle comprised in a train movement;

“Train Mile”

in relation to a train, means a mile travelled by that train on the Network and includes loaded Train Miles and ECS Train Miles; [and](#)

~~“Variable Charge Price List”~~

~~means the variable charge price list in Table A of Appendix 7D; and~~

“Variable ~~Track~~ Usage Charge”

means a variable charge, calculated in accordance with paragraph 3.1 of Part 2.

~~A. _____~~

~~B. _____~~

PART 2: TRACK CHARGES

1 Principal formula

For each Relevant Service, Network Rail shall levy and the Train Operator shall pay Track Charges in accordance with the following formula:

$$\underline{\underline{T_s = V_s + S_s + E_t + EAV_s + C_s + K_s}}$$

where:

T_s means Track Charges for the Relevant Service s;

V_s means an amount in respect of the Variable ~~Track~~ Usage Charge for the Relevant Service s which is derived from the formula in paragraph 3.1;

S_s means an amount in respect of the Slot Charge for the Relevant Service s which is derived from the formula in paragraph 4.1;

E_s means an amount in respect of the Traction Electricity Charge for the Relevant Service s which is derived from the formula in paragraph 6.1;

EAV_s means an amount in respect of the Electrification Asset Usage Charge which is derived from the formula in paragraph 7.1; ~~and~~

C_s means an amount in respect of the Cancellation Charge (whether of a positive or negative value) for the Relevant Service s calculated in accordance with the provisions in paragraph 5.1.5.1; and

K_s means an amount in respect of the Capacity Charge for the Relevant Service s which is derived from the formula in paragraph 8.

2 Not used

3 Variable ~~Track~~ Usage Charge

A. 3.1 Variable ~~Track~~ Usage Charge

For the purposes of paragraph 1, the term V_s means an amount in respect of the Variable ~~Track~~ Usage Charge for the Relevant Service s (~~excluding~~including any light locomotive movements) which is derived from the following formula:

$$V_s = \sum V_{rit} \cdot UV_{ris}$$

where:

~~V_i~~V_{rit} means an amount ~~in respect of the Variable Track Usage Charge per Train-Mile~~ for a category of vehicle i for Relevant Year t which is derived from the following formula:

$$V_{rit} = V_{rit-1} \cdot \left[\left(1 + \frac{(RPI_{t-1} - RPI_{t-2})}{RPI_{t-2}} \right) \cdot (1 + TRUEUP_{t-1}) \right]$$

where:

RPI_{t-1} means the ~~percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year t-1 and the index published or determined with respect to November in Relevant Year t-2,~~ average value of the monthly figures of RPI for the 12 months up to and including the month of December immediately preceding the relevant 1 April;

RPI_{t-2} means the average value of the monthly figures of RPI for the 12 months up to and including the month of December which is 16 months before the relevant 1 April; and

TRUEUP_{t-1} is derived from the following formula:

$$\underline{\underline{TRUEUP_{t-1} = \frac{(RPI_{t-1} - RPI_{t-2})}{RPI_{t-2}} - \frac{(RPI_{t-2} - RPI_{t-3})}{RPI_{t-3}}}}$$

where:

RPI_{t-1} has the meaning set out above;

RPI_{t-2} has the meaning set out above; and

RPI_{t-3} means the average value of the monthly figures of RPI for the 12 months up to and including the month of December which is 28 months before the relevant 1 April.

but so that in relation to the Relevant Year commencing on 1 April 2009, ~~V_{it}~~V_{rit} shall have, in respect of each Train Mile, the value set out in the ~~Variable Charge~~Track Usage Price List ~~in Table A of Appendix 7D~~; and in relation to the next following Relevant Year ~~V_{it}~~V_{rit-1} shall have the same value;

~~UV_{is}~~UV_{ris} means the actual volume of usage (in Train Miles) for the Relevant Service s of vehicle type i (referred to in the ~~Variable Charge~~Track Usage Price List) operated by or on behalf of the Train Operator; and

Σ means the summation across all relevant categories of vehicle types i.

4 Slot Charge

4.1 For the purposes of paragraph 1, the term S_s means an amount in respect of the Slot Charge for the Relevant Service s which is derived from the following formula:

$$S_s = S_{ijt}$$

where:

S_{ijt} means an amount in respect of the Slot Charge for a category of vehicle type i for journey type j for Relevant Year t which is derived from the following formula:

$$S_{ijt} = S_{ijt-1} \cdot \left[\left(1 + \frac{RPI_{t-1} - RPI_{t-2}}{RPI_{t-2}} \right) \cdot (1 + TRUEUP_{t-1}) \right]$$

where:

~~RPI_{t-1} means the percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year t-1 and the index published or determined with respect to November in Relevant Year t-2,~~ has the meaning set out in paragraph 3.1 above;

RPI_{t-2} has the meaning set out in paragraph 3.1 above;
and

TRUEUP_{t-1} has the meaning set out in paragraph 3.1 above.

but so that in relation to the Relevant Year commencing on 1 April ~~2009,~~
~~S_#2014,~~ S_{ijt} shall have, in respect of each Train Mile, the value set out in
the ~~Slot Charges List in Table B of Appendix 7D~~ Track Usage Price List;
and in relation to the next following Relevant Year ~~S_#S_{ijt-1}~~ shall have the
same value.

- 4.2 When a Train Operator Variation Request indicates a requirement for the Service to operate on more than one date, then, provided that all dates of operation fall within the same Timetable Period, Network Rail may levy and the Train Operator shall pay:
- (a) the Slot Charge as defined in paragraph 4.1 in respect of the first such Service; and
 - (b) for each subsequent Service the Slot Charge shall equal the Repeat Business Slot Charge set out in ~~Table C of Appendix 7D~~ the Track Usage Price List.
- 4.3 When a Train Operator Variation Request is received by Network Rail on or before the Priority Date for the timetable in question, the Slot Charge S_s shall equal zero.

5 Cancellation Charge

- 5.1 In the event of a Network Rail Cancellation or a Train Operator Cancellation the party cancelling the Service (the “Cancelled Service”) shall pay a cancellation charge, C_s, which shall be equivalent to:
- 10% of the Slot Charge for the Cancelled Service where notice of such cancellation is given more than 25 Working Days in advance of the Planned date of operation of the Cancelled Service;
 - 50% of the Slot Charge for the Cancelled Service where notice of such cancellation is given at least 20 but less than 26 Working Days in advance of the Planned date of the Cancelled Service;
 - 75% of the Slot Charge for the Cancelled Service where notice of such cancellation is given at least 15 but less than 20 Working Days in advance of the Planned date of the Cancelled Service;
 - 85% of the Slot Charge for the Cancelled Service where notice of such cancellation is given at least 5 but less than 15 Working Days in advance of the Planned date of the Cancelled Service; and

in all other cases the Slot Charge for the Cancelled Service.

6 Traction Electricity Charge

6.1 If the Train Operator procures the supply of electricity from or through Network Rail (whether as its agent or otherwise) for the purpose of running trains under this contract, the Traction Electricity Charge, E_s shall be calculated in accordance with the following formula:

$$E_s = E_{tmo} + E_{tme} + E_{tmuAC} + E_{tmuDC}$$

where:

E_{tmo} means an amount calculated in accordance with paragraph 6.1.2 below;

~~where:~~

~~TM_s means Train Miles for Relevant Service s ;~~

~~TEC_s means the Traction Electricity Consumption Rate for Relevant Service s ;
and~~

~~TER means the Traction Electricity Rate.~~

Price Variation

~~6.2 On 1 April each Financial Year, commencing 1 April 2010, the indexed Traction Electricity Rate from the previous Financial Year shall be varied by multiplying it by an IIEC Adjustment Factor calculated as follows:~~

~~$$\text{IIEC Adjustment Factor} = 1 + \frac{(\text{IIEC}_{t-1} - \text{IIEC}_{t-2})}{\text{IIEC}_{t-2}}$$~~

~~This calculation to be rounded to three decimal places;~~

~~where:~~

~~t is the relevant Financial Year in respect of which the Adjustment Factor is being calculated;~~

~~IIEC_{t-1} is the mean value of the Index of Industrial Electricity Costs published or determined in respect of the Financial Year $t-1$; and~~

~~IIEC_{t-2} is the mean value of the Index of Industrial Electricity Costs published or determined in respect of the Financial Year which precedes the Financial Year referred to above.~~

~~“Index of Industrial Electricity Costs” or “IIEC” means the index of prices of fuels purchased by the manufacturing industry in Great Britain, electricity purchased by moderately large users, published quarterly by the Department of Business, Enterprise and Regulatory Reform, or;~~

- ~~— (a) if the IIEC for any quarter in any year shall not have been published on or before the last day of the fifth month after the end of such quarter, such index for such period or periods as ORR may, after consultation with Network Rail and the Train Operator, determine to be appropriate in the circumstances; or~~
- ~~— (b) if there is a material change in the basis of the IIEC, such other index as ORR may, after consultation with Network Rail and the Train Operator, determine to be appropriate in the circumstances.~~

E_{tme} means an amount calculated in accordance with paragraph 6.1.3 below;

E_{tmuAC} means an amount calculated in accordance with paragraph 6.1.4(a) below; and

E_{tmuDC} means an amount calculated in accordance with paragraph 6.1.4(b) below.

Circumstances in which calculation to be based on modelled data and circumstances in which calculation to be based on metered data

6.1.1 E_{tmo} shall be calculated in respect of all trains other than those identified in the table at Appendix 7D, and E_{tme} , E_{tmuAC} and E_{tmuDC} shall be calculated in respect of the trains identified in the table at Appendix 7D.

Calculation of modelled consumption

6.1.2 E_{tmo} is derived from the following formula:

$$E_{tmo} = \sum E_{tmog}$$

where:

\sum means the summation across all Geographic Areas g, as appropriate;

E_{tmog} is derived from the following formula:

$$E_{tmog} = \sum C_i \bullet EF_{gjt} \bullet UE_{igt}$$

where:

\sum means the summation across all relevant train categories i (determined in accordance with paragraph 6.1.1 above) and tariff bands j, as appropriate;

C_i means the calibrated modelled consumption rate (in kWh per Train Mile in relation to passenger electric multiple units and kWh per Gross Tonne Mile in relation to locomotive-hauled units and all freight traffic) for train category i shown in the Traction Electricity Consumption Rates List, taking into

account any Regenerative Braking Discount applied in accordance with the Traction Electricity Rules;

EF_{gjt} means an amount for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g, in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 6.2; and

UE_{igjt} means the actual volume of usage (in electrified Train Miles in relation to passenger electric multiple units or Gross Tonne Miles in relation to locomotive hauled units and all freight traffic), if any, of trains operated by or on behalf of the Train Operator in train category i, in Geographic Area g, in tariff band j and in Relevant Year t, pursuant to this contract.

Calculation of consumption using metered consumption data

6.1.3 E_{tme} is derived from the following formula:

$$E_{tme} = \sum E_{tmeg}$$

where:

∑ means the summation across all Geographic Areas g, as appropriate;

E_{tmeg} is derived from the following formula:

$$E_{tmeg} = \sum [((CME_{igt} \bullet PF_j \bullet EF_{gjt}) - (RGB_{igt} \bullet PF_j \bullet EF_{gjt})) \bullet (1 + \delta_i)]$$

where:

∑ means the summation across all relevant train categories i (determined in accordance with paragraph 6.1.1 above) and tariff bands j, as appropriate;

CME_{igt} means the consumption of electricity (in kWh) by trains operated by or on behalf of the Train Operator in train category i, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g and in Relevant Year t;

PF_j means the Power Factor Correction for train category i;

EF_{gjt} means an amount for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g, in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 6.2;

RGB_{igt} means the electricity (in kWh) generated by braking by railway vehicles operated by or on behalf of the Train Operator in train category i, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g and in Relevant Year t; and

δ_j means the Tolerance Factor for train category i.

6.1.4

(a) E_{tmuAC} is derived from the following formula:

$$E_{tmuAC} = \Sigma E_{tmugAC}$$

where:

Σ means the summation across all Geographic Areas g, as appropriate;

E_{tmugAC} is derived from the following formula:

$$E_{tmugAC} = \Sigma [(CME_{igtAC} \bullet PF_i \bullet EF_{gjt}) \bullet (1 + \delta_i)] \bullet \lambda_{ACg}$$

where:

Σ means the summation across all relevant train categories i (determined in accordance with paragraph 6.1.1 above) and tariff bands j, as appropriate;

CME_{igtAC} means the consumption of electricity (in kWh) from the AC System by trains operated by or on behalf of the Train Operator in train category i, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area g and in Relevant Year t;

PF_i means the Power Factor Correction for train category i;

EF_{gjt} means an amount for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area g, in tariff band j and in Relevant Year t as agreed or determined pursuant to paragraph 6.2;

δ_i means the Tolerance Factor for train category i; and

λ_{ACg} means the Network Rail Distribution System Loss Factor for the AC System in Geographic Area g.

(b) E_{tmuDC} is derived from the following formula:

$$E_{tmuDC} = \Sigma E_{tmugDC}$$

where:

Σ means the summation across all Geographic Areas g, as appropriate;

E_{tmugDC} is derived from the following formula:

$$E_{tmugDC} = \Sigma [(CME_{igtDC} \bullet EF_{gjt}) \bullet (1 + \delta_i)] \bullet \lambda_{DCg}$$

where:

Σ means the summation across all relevant train categories *i* (determined in accordance with paragraph 6.1.1 above) and tariff bands *j*, as appropriate;

CME_{igtDC} means the consumption of electricity (in kWh) from the DC System by trains operated by or on behalf of the Train Operator in train category *i*, as measured by the On-Train Meters or as otherwise determined in accordance with the Traction Electricity Rules, in Geographic Area *g* and in Relevant Year *t*;

EF_{gjt} means an amount for traction current (in pence per kWh) consumed by railway vehicles operated by or on behalf of the Train Operator in Geographic Area *g*, in tariff band *j* and in Relevant Year *t* as agreed or determined pursuant to paragraph 6.2;

δ_j means the Tolerance Factor for train category *i*; and

λ_{DCg} means the Network Rail Distribution System Loss Factor for the DC System in Geographic Area *g*.

Strategy for the procurement of traction electricity

6.2 At least three months prior to the start of each Relevant Year commencing on or after 1 April 2014, Network Rail shall consult with the Train Operator regarding a strategy for the procurement of traction electricity for the Train Operator in respect of that Relevant Year, and:

(a) if Network Rail and the Train Operator agree on a strategy for the procurement of traction electricity, Network Rail will procure traction electricity for the Train Operator in accordance with that agreed strategy; or

(b) if Network Rail and the Train Operator do not agree on a strategy for the procurement of traction electricity and the Train Operator has, during its consultation with Network Rail under this paragraph 6.2, notified Network Rail of the Train Operator's preferred strategy for the procurement of traction electricity and it is possible for Network Rail, acting reasonably, to implement that strategy, Network Rail will procure traction electricity for the Train Operator in accordance with the traction electricity procurement strategy so notified to Network Rail by the Train Operator; or

(c) if Network Rail and the Train Operator do not agree on a strategy for the procurement of traction electricity and either (A) the Train Operator has not notified Network Rail of the Train Operator's preferred strategy for the procurement of traction electricity during its consultation with Network Rail in accordance with this paragraph 6.2, or (B) it is not possible for Network Rail, acting reasonably, to implement the Train Operator's preferred strategy for the procurement of traction electricity as notified to Network Rail during its consultation in accordance with this paragraph 6.2, Network Rail will:

- (i) acting reasonably, determine the procurement strategy for traction electricity for the Train Operator, having regard to whatever information, if any, the Train Operator has supplied to Network Rail during its consultation under this paragraph 6.2; and
- (ii) procure traction electricity for the Train Operator in accordance with that traction electricity procurement strategy.

Actual cost of traction electricity

6.3 Network Rail shall provide to the Train Operator within 30 days of the end of each Period in each Relevant Year, the actual cost of traction electricity consumed by railway vehicles operated by or on behalf of the Train Operator in the relevant Period against the budgeted amounts. Network Rail shall also provide to the Train Operator a provisional six month Volume Reconciliation by Geographic Area g before 30 October of each Relevant Year and a provisional nine month Volume Reconciliation by Geographic Area g before 30 January of each Relevant Year.

Election to introduce On-Train Metering for a vehicle or vehicle type

- 6.4 (a) If the Train Operator wishes to propose the introduction of On-Train Metering to measure traction electricity consumption for a vehicle or vehicles of a vehicle type that the Train Operator operates for the purposes of being invoiced by Network Rail for traction electricity, it shall notify Network Rail of any required changes to the contract in connection with that proposal.
- (b) Any notice under sub-paragraph 6.4(a) shall be accompanied by information and evidence in reasonable detail supporting the changes proposed and setting out the reasons for those changes, and Network Rail shall respond in writing within 56 days of service of any such notice.
- (c) Promptly following any response served by Network Rail under sub-paragraph 6.4(b), the parties shall endeavour to agree whether the contract should be amended in connection with that proposal and, if so, the amendments.
- (d) If the parties agree an amendment to the contract in connection with the proposal referred to in sub-paragraph 6.4(a), that amendment shall take effect only when it has been approved by ORR under section 22 of the Act. Accordingly, as soon as reasonably practicable after any such amendment is agreed, the parties shall ensure that ORR is furnished with such amendment and such information and evidence as it shall require to determine whether or not to approve the amendment.
- (e) Any agreed amendment to the contract in connection with the proposal referred to in sub-paragraph 6.4(a) which is approved by ORR under section 22 of the Act shall apply with effect from the date agreed by the parties.

- (f) If the parties fail to reach agreement within 90 days after service of a notice under sub-paragraph 6.4(a), or if prior to that date both parties agree that agreement is unlikely to be reached prior to that date, either party may notify ORR and request that ORR determines the matter. The parties shall, within such timescales as ORR may specify, furnish ORR with such information and evidence as ORR shall require to determine the matter. If a party fails to furnish such information and evidence within the specified timescale, ORR shall be entitled to determine the matter without that information and evidence and the party in default shall have no grounds for complaint in that respect.
- (g) Where ORR determines the matter pursuant to sub-paragraph (f), it may issue a notice to the parties setting out the amendments to be made to the contract and the date, which may be retrospective, from which they shall take effect.

7 Electrification Asset Usage Charge

- 7.1 ~~The~~ For the purposes of paragraph 1, the term EAV_s means an amount in respect of the Electrification Asset Usage Charge ~~is an amount~~ for electrification asset usage which is derived from the following formula:

$$EAV_s = \sum EV_{tk} \cdot UK_{tk}$$

where:

\sum means the summation across all route types;

EV_{tk} means an amount in respect of the Electrification Asset Usage Charge per electrified Train Mile on route type k for the Relevant Service s in Relevant Year t, where, in relation to the Relevant Year commencing on 1 April ~~2009, 2014~~, EV_{tk} shall have, in respect of each electrified Train Mile on route type k, the value per electrified Train Mile on route type k for the Electrification Asset Usage Charge set out in ~~Table D of Appendix 7D~~ the Track Usage Price List; and

UV_{tk} means the actual number of electrified Train Miles on route type k for the Relevant Service in Relevant Year t operated by or on behalf of the Train Operator.

Price Variation

7.2 EV_{tk} is derived from the following formula:

$$EV_{tK} = EV_{tK-1} \cdot \left[\left(1 + \frac{(RPI_{t-1} - RPI_{t-2})}{RPI_{t-2}} \right) \cdot (1 + TRUEUP_{t-1}) \right]$$

where:

~~RPI_{t-1} means the percentage change (whether of a positive or negative value) between the Retail Prices Index published or determined with respect to November in Relevant Year t-1 and the index published or determined with respect to November in Relevant Year t-2, has the meaning set out in paragraph 3.1 above;~~

RPI_{t-2} has the meaning set out in paragraph 3.1 above; and

TRUEUP_{t-1} has the meaning set out in paragraph 3.1 above.

but so that in relation to the Relevant Year commencing on 1 April 2009,2014, EV_{tk} shall have, in respect of each electrified Train Mile on route type k, the value per electrified Train Mile on route type k for the Electrification Asset Usage Charge set out in the Variable-Charge Track Usage Price List in Table A of Appendix 7D; and in relation to the next following Relevant Year EV_{tk-1} shall have the same value.

~~8~~ Not used 3 Capacity Charge

For the purposes of paragraph 1, the term K_s means an amount in respect of the Capacity Charge for the Relevant Service s which shall be derived from the following formula:

$$K_s = \sum (K_{mf} \cdot TM_{mf}) + (K_w \cdot TM_w)$$

where:

Σ means the summation across all Services;

K_{mf} means the Charter Capacity Rate in respect of Services operated during the period from Monday to Friday (both inclusive) and indexed in accordance with the following formula:

$$K_{mf} = K_{mf-1} \cdot \left[\left(1 + \frac{RPI_{t-1} - RPI_{t-2}}{RPI_{t-2}} \right) \cdot (1 + TRUEUP_{t-1}) \right]$$

where:

RPI_{t-1} has the meaning set out in paragraph 3.1 above;

RPI_{t-2} has the meaning set out in paragraph 3.1 above; and

TRUEUP_{t-1} has the meaning set out in paragraph 3.1 above.

but so that in relation to the Relevant Year commencing on 1 April 2014, K_{mf} shall have, in respect of each Train Mile, the value set out in the List of Capacity Charge Rates; and in relation to the next following Relevant Year K_{mf-1} shall have the same value;

TM_{mf} means Train Miles in respect of Services operated during the period from Monday to Friday (both inclusive);

K_w means the Charter Capacity Rate in respect of Services operated on Saturday and/or Sunday, and indexed in accordance with the following formula:

$$K_w = K_{w-1} \cdot \left[\left(1 + \frac{RPI_{t-1} - RPI_{t-2}}{RPI_{t-2}} \right) \bullet (1 + TRUEUP_{t-1}) \right]$$

where:

RPI_{t-1} has the meaning set out in paragraph 3.1 above;

RPI_{t-2} has the meaning set out in paragraph 3.1 above; and

TRUEUP_{t-1} has the meaning set out in paragraph 3.1 above.

but so that in relation to the Relevant Year commencing on 1 April 2014, K_w shall have, in respect of each Train Mile, the value set out in the List of Capacity Charge Rates; and in relation to the next following Relevant Year K_{w-1} shall have the same value; and

TM_w means Train Miles in respect of Services operated on Saturday and/or Sunday.

9 Not used

10 ~~Changes to the Variable Charge~~ Bilateral supplements to the Traction Electricity Consumption Rates List and Track Usage Price List

10.1 Where the Train Operator intends to use New Specified Equipment on the Network, it shall inform Network Rail of the date or likely date from which it intends to do so.

10.2 No supplement to the ~~Variable Charge~~ Traction Electricity Consumption Rates List or Track Usage Price List shall have effect unless ~~the supplement or change~~ it has been:

- ~~(a) determined in accordance with the procedure set out in this paragraph 10.3; or (b) agreed between the parties, and ORR has consented to it; or~~
(b) determined by a relevant ADRR Forum and ORR has consented to it; or
~~and ORR shall have given its consent to the supplement or change. (c)~~
determined by ORR, following consultation with the parties.

~~10.2~~10.3 Either ~~of~~ the Train Operator or Network Rail shall be entitled to propose that:

- (a) ~~not used;~~the Traction Electricity Consumption Rates List be supplemented to include a new service code, new service group or new train category; or
- (b) the ~~Variable Charge~~Track Usage Price List shall be ~~amended so as~~supplemented to include a vehicle category which is not included in the list; ~~or (c) the Variable Charge Price List shall be amended to correct any manifest error.~~

~~10.3~~10.4 Any ~~proposition~~proposal of a kind referred to in paragraph ~~10.2~~10.3 shall be made by notice to the other party and shall be accompanied by a specification in reasonable detail of the ~~change proposed~~proposal and the reasons for it. The parties shall thereafter negotiate in good faith the necessary ~~supplements or changes~~supplement to the list in question.

10.5 Either party may request from the other such information that it reasonably requires in connection with the proposal and the party from whom the information was requested shall use reasonable endeavours to provide this information promptly.

10.6 Where the parties agree to a supplement following a proposal under paragraph 10.3, they shall request ORR's consent to it and provide such information as ORR requires in order to decide whether to give its consent.

~~10.4~~10.7 If the parties ~~shall have failed to agree such supplements or changes~~fail to reach agreement within 45 days of the date of the notice given under paragraph ~~10.3, 10.4,~~ either party shall be entitled to refer the matter for resolution in accordance with the ADRR.

~~10.5~~10.8 If the matter is referred for resolution under paragraph ~~10.4, 10.7,~~ the parties shall agree, in a Procedure Agreement, as defined in the ADRR, that the ~~remit of the~~ relevant ADRR Forum shall ~~be to determine:~~

- ~~(a) whether any such new relevant category or vehicle category (as the case may be) should be added to the list in question or whether changes in the pattern and/or number of Services warrant a change to the list in question; and, if so,~~
- ~~(b) which new categories should be added and what prices and/or modelled consumption rates and/or appropriate discounts should be included in relation to each such category.~~10.6 ~~In determining the matter referred to it under paragraph 10.4, the relevant ADRR Forum shall be required by the parties to reach a decision which is fair and reasonable to them, having regard to:~~

- (a) the matters in respect of which duties are imposed on ORR by section 4 of the Act; and
- (b) the criteria which ORR shall have most recently published (and identified as such) in relation to charging for permission to use track.

~~10.7~~10.9 The parties shall procure that any determination by a relevant ADRR Forum ~~or resolution agreed by the parties~~ shall be delivered to ORR within seven days after the date of the determination ~~or resolution~~.

~~10.8~~ ~~No determination by a relevant ADRR Forum or resolution agreed by the parties shall have effect without the consent of ORR.~~

10.10 Following notification under paragraph 10.6 or 10.9—If ORR ~~gives its~~may either consent to: ~~(a) the determination of a~~ the supplement agreed by the parties or determined by the relevant ADRR Forum; or may, having consulted the parties, determine a different supplement.

~~(b)~~ ~~a~~10.11A supplement ~~of the Variable Charge to the Traction Electricity Consumption Rates List or Track Usage Price List agreed between the parties, the supplement or change in question~~ shall have effect from such date as ORR shall determine by notice to the parties.

10.12 Following ORR's consent or determination under paragraph 10.10 Network Rail shall:

- (a) apply the supplement from the date in accordance with paragraph 10.11 above as applicable; and
- (b) within 28 days of the date of ORR's consent or determination:
 - (i) issue any adjusting invoice or credit note to the Train Operator; and
 - (ii) publish on its website details of the supplement alongside the details of any other such supplements to which ORR has consented or determined pursuant to this or any other track access contract.

~~a)~~ 11 **Payment of Track Charges and Other Sums Due under the Contract**

11.1 *Payment of Track Charges and Other Sums Due under the Contract*

- (a) The Train Operator shall pay or procure the payment to Network Rail of:
 - (i) the Variable ~~Track~~ Usage Charge;
 - (ii) the Traction Electricity Charge;
 - (iii) ~~not used~~ the Capacity Charge;
 - (iv) ~~not used~~;
 - ~~(v)~~ ~~the Additional Permitted Charges~~;
 - ~~(vi)~~ ~~not used~~;

~~(vii) the Slot Charge;~~~~(viii) the Electrification Asset Usage Charge; and~~
(v) the Slot Charge;

~~(ix)~~(vi) the Cancellation Charge;

(vii) and any other sums which have fallen due in accordance with any provision of this contract,

~~1.~~—attributable to any Period as invoiced by Network Rail on or after expiry of each such Period within 21 days of the invoice date or 28 days after the end of the Period, whichever is later.

(b) ~~Not used.~~Any invoice issued by Network Rail under paragraph 18.5 of the Traction Electricity Rules (related to modelled and actual rates of electricity consumption) shall be payable by the Train Operator within 21 days of the relevant invoice date.

~~(c) Not used.~~

~~(d) Not used.~~

11.2 Train Consist Data

Network Rail shall calculate the Track Charges payable by the Train Operator in respect of each Period using the Train Consist Data supplied by the Train Operator.

11.3 Invoices and right to object to invoices

(a) Not used.

(b) For each Period, Network Rail shall be entitled to invoice the Train Operator for Track Charges in respect of any and all train movements operated by the Train Operator during that Period based on:

~~2.~~—(i) Train Consist Data provided by the Train Operator in respect of any train movement at or prior to the time that such train movement is completed;

~~3.~~—(ii) not used; and

~~4.~~—(iii) not used.

~~5.~~—Each such invoice will be payable in accordance with the provisions of paragraph 11.1.

(c) Either party shall be entitled, at any time prior to the later of 2359 hours on the fourteenth day following the expiration of the relevant Period and seven days following receipt by the Train Operator of the relevant invoice, to notify the other that it objects to any Train Consist Data on which the whole or any part of the Track Charges included in the relevant invoice are based and any such notice shall specify in reasonable detail what that party believes to be the Train Consist Data for the relevant train movement(s) (“notice of objection”). In the absence of any notice of

objection being served within such time the Train Consist Data used in the relevant invoice shall be final and binding on the parties.

- (d) The parties shall seek to agree the Train Consist Data specified in any notice of objection and any consequential financial adjustment required to the relevant invoice. If the parties are unable to agree such Train Consist Data within fourteen days following receipt of a notice of objection, either party may refer the matter for resolution in accordance with the ADRR.
- (e) Within seven days of any Train Consist Data being agreed or determined in accordance with paragraph 11.3(d), Network Rail shall, if any consequential or financial adjustment of the relevant invoice is required, issue a further invoice to, or (as the case may be) a credit note in favour of, the Train Operator in the amount of the relevant adjustment. The invoice or credit note shall be payable at the same time as the invoice for Track Charges for the relevant Period or, if issued later than 21 days after the end of the relevant Period, within seven days after the date of its issue.
- (f) ~~Not used.~~ The actual volume of usage used to calculate any supplementary amount payable under paragraph 18 of the Traction Electricity Rules shall be established on the basis of the Train Consist Data and the Default Train Consist Data applied in calculating the Variable Charges for each of the Periods in Relevant Year t as adjusted in accordance with paragraph 11.3(d) on or before 90 days after the end of Relevant Year t.
- (g) Where, as a result of any invoice or credit note issued pursuant to paragraph 11.3, any sum of money which has been paid shall become repayable or any sum of money which has been unpaid shall become payable the party to whom such sum shall be paid shall be paid or allowed interest at the Default Interest Rate on such sum from the date when it (if repayable) was paid or the date when such sum (if payable) ought to have been paid until the date of payment or repayment.

11.4 *Unrepresentative Train Consist Data*

Not used.

11.5 *Disputed amounts repayment and interest rate*

- (a) Where a party wishes to contest any invoice issued to it under this Schedule 7 (including any invoice in respect of Track Charges) it shall, within 14 days of receipt of the invoice, notify the other party in writing of the amount which is in dispute but shall pay the full amount of the invoice, including the disputed amount, in accordance with the terms of the invoice.
- (b) Where a party has given notice under paragraph 11.5(a) that it disputes part of any invoiced amount:

- (i) payment of such sum shall be without prejudice to the determination of whether such sum is properly due or not; and
- (ii) if it is subsequently determined that the disputed sum, or part of it, was not properly due the payee shall repay the disputed sum, or relevant part, to the payer together with interest (to accrue daily and be compounded monthly) at the Default Interest Rate from the date of payment until the actual date of repayment.

PART 3: NOT USED

PART 3A: NOT USED

PART 4: NOT USED

PART 5: ~~ADDITIONAL PERMITTED CHARGES~~

~~1—Obligation to pay~~

~~Network Rail may make and the Train Operator shall be required to pay under this contract, in addition to Track Charges, only such Additional Permitted Charges as are enumerated in paragraph 2.~~

~~2—Definition~~

~~Additional Permitted Charges shall comprise the following:~~

- ~~(a) not used;~~
- ~~(b) such amounts payable to Network Rail as are specified in, or calculated in accordance with, Schedule 8;~~
- ~~(c) such amounts payable to Network Rail pursuant to any provision of the Network Code; and~~
- ~~(d) such amounts payable to Network Rail as are specified in paragraphs 3.1 and 3.2.~~

[\[This Part to be used for further additional items where payments due\]](#)

~~3—1~~ **Specific Additional Charges**

~~3.1.1~~ *Non-Core Operational Charge*

The Train Operator shall, in respect of any Relevant Service that it wishes to operate wholly or partly outside of the Core Operational Period, or wholly or partly on routes which form part of the Network over which passenger services do not operate, pay to Network Rail a Non-Core Operational Charge. The Non-Core Operational Charge applicable to any such Relevant Service shall consist of such reasonable out-of-pocket costs and expenses (including any costs and expenses in respect of additional staff reasonably required to facilitate that Relevant Service) which Network Rail will incur by reason of the

operation of that Relevant Service, being costs and expenses which Network Rail, but for the operation of that Relevant Service, would not have incurred, but only to the extent that, on or prior to accepting the Train Operator Variation Request for the Relevant Service, Network Rail provides to the Train Operator:

- (a) details, reasonably satisfactory to the Train Operator, of those items in respect of which Network Rail will, or is likely to, levy the Non-Core Operational Charge; and
- (b) an estimate, prepared in good faith, of the likely amount of such costs and expenses.

3.21.2 *Route Clearance Charge*

Where any route clearance or investigative work is required as a result of a Train Operator Variation Request which involves in excess of checking the relevant equipment against the relevant sectional appendices for the routes concerned, Network Rail shall be entitled to charge the Train Operator its reasonable costs in carrying out such work (whether or not the Service, the subject of the Train Operator Variation Request, is operated) provided that:

- (a) Network Rail notifies the Train Operator of its intention to carry out such work and obtains the Train Operator's consent (failing receipt of which within a reasonable time Network Rail shall be entitled to reject the Train Operator Variation Request in question) before incurring such costs;
- (b) Network Rail shall not be entitled to charge the Train Operator for its costs in obtaining information which it has already procured or should reasonably have procured to meet the requirements of Network Rail through its Rolling Stock Acceptance Board, whether or not in connection with rolling stock operated or to be operated by the Train Operator; and
- (c) Network Rail shall endeavour to keep the level of its reasonable costs to the minimum reasonably required.

PART 6: SUPPLEMENTAL PROVISIONS

Each invoice or credit note issued by Network Rail to the Train Operator shall contain or be accompanied by separate itemisation of the following charges and other information (as relevant) in respect of the period covered by the invoice or credit note:

- (a) the amount of the Slot Charge levied in respect of each Relevant Service;
- (b) the rate of Variable ~~Track~~ Usage Charge and the relevant number of Train Miles applicable to vehicles for each Relevant Service so charged;

- (c) the rate of Traction Electricity Charge, if any, and the number of Train Miles comprised in units for each Relevant Service;
- (d) the amount of the Cancellation Charge, if any, levied in respect of each Service;
- (e) the rate of the Electrification Asset Usage Charge, if any, and the number of Train Miles comprised in units for each Relevant Service;
- (f) ~~not used;~~ the amount of any sum $S1_{tw}$ and/or $S2_{tw}$ payable as provided in paragraph 18 of the Traction Electricity Rules;
- (g) ~~not used;~~ the amount of any sum K_s payable as provided in paragraph 8 of Part 2; and
- (h) ~~not used;~~
- ~~(i) not used;~~
- ~~(j) not used; and~~ (k) ~~in respect of any Additional Permitted Charge~~ other sums which have fallen due in accordance with any provisions of this contract, separately the amount payable in respect of each head of charge ~~for Additional Permitted Charges.~~

PART 7: FUTURE ACCESS CHARGES REVIEWS

1 General

ORR may carry out one or more access charges reviews of all or part of this contract as follows:

- (a) an access charges review such that amendments to this contract to give effect to the conclusions of such an access charges review come into operation on and from 1 April ~~2014~~2019 or such later date as may be specified in that review; and
- (b) not used.

2 Not used

3 Interpretation

- 3.1 In this Part 7, references to ORR carrying out an access charges review shall be construed as including references to its initiating implementation of that review.

PART 8: NOT USED

APPENDIX 7A – NOT USED

APPENDIX 7B – NOT USED

APPENDIX 7C – NOT USED

APPENDIX 7D – CATEGORIES OF METERED TRAINS FOR THE PURPOSES OF PARAGRAPH 6.1.1 OF PART 2

Table A – Variable Charge Price List

Description of Service	Variable Charge per Train-Mile
Loaded Train or ECS Train hauled by Diesel or Electric Equipment or consisting of EMU or DMU	£1.10
Loaded Train or ECS Train hauled by Steam Driven Equipment	£1.32

Table B – Slot Charges List

Description of Service	Total journey length including ECS mileage not exceeding 250-miles	Total journey length including ECS mileage exceeding 250-miles
Train hauled by Diesel or Electric Equipment or consisting of EMU or DMU	£280	£280
Train hauled throughout or in part by Steam Driven Equipment	£500	£700

Table C – Repeat Business Slot Charge

Repeat Business Slot Charge
£50

Table D – Electrification Asset Usage Charge

	Pence Per Electrified Vehicle Mile
DC (third rail) network	0.43
OLE (AC) network	1.13

Document comparison by Workshare Compare on 13 September 2013
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Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Deletions	197
Moved from	2
Moved to	2
Style change	0
Format changed	0
Total changes	443