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Mr Robin Gisby
Managing Director, network operations and customer services
Network Rail Infrastructure Limited
Kings Place
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London, N1 9AG

6 June 2014

Dear Robin

Possible breach of condition 1 of Network Rail's network licence with regard to its operational performance in the London and South East sector:

I wrote to you on 25 March to advise Network Rail (NR) that ORR was proposing to carry out an investigation into performance in 2013-14. We would like to take this opportunity to thank you for NR's co-operation and the information it has provided to ORR.

We have considered the detail provided in your Quarter 4 report as well as the completion of a recent reporter study and our own joint safety and economic investigations. We have also taken into account your letters of 8 April and 9 May 2014 in which you confirm that NR accepts the extent of its responsibility for the missed regulated targets in control period 4 (CP4).

As requested in your letter of 8 April, we have taken into account the impact that not only extreme weather has had on the sector, but also a number of other areas where we consider the impact on the Public Performance Measure (PPM) was beyond NR's control.

The final data for 2013-14 shows that the industry PPM for the LSE sector fell short of the regulatory target by 3.4 percentage points. We have discussed with you the adjustments that should be made to reflect the impact of extreme weather, and have made further adjustments in relation to TOC on self and external delays which we believe were, at least partly, beyond your reasonable control. Taking all these factors into account we believe the LSE sector still missed its 2013-14 regulated PPM target by over one percentage point.

We recognise the considerable efforts of NR's front line staff to keep the railway running safely, particularly during the extreme storms that hit the southeast of England over the winter. However, as we are still left with a

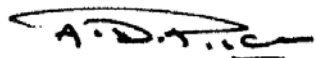
residual gap to the PPM target, and after careful consideration of all the information made available to us, we are minded to conclude that NR did not do everything reasonably practicable to comply with condition 1 of its network licence in relation to the LSE sector in 2013-14. In particular this is based upon NR's representations and key areas where we believe it did not do all that was reasonably practicable, in particular under-delivery of recovery plans and slipped milestones and the increasing numbers of uninvestigated delays in the sector.

I think it is in everyone's interest to draw a line under CP4 as soon as reasonably practical and allow your teams to focus on the improvements defined in your Performance Plan for the early years of CP5. I would therefore like to present my final recommendations on your delivery of all the CP4 outputs to our Board on 24 June.

If our Board were to find NR in breach of its licence for performance in the LSE sector, it would then have to consider whether any penalty should be imposed and if so how much. In deciding this and in accordance with our Economic Enforcement Policy and Penalties Statement, we will take full account of the particular facts and circumstances of the contravention, including any representations.

I am therefore writing to you to request that you make any final representations on any of the issues raised in this letter by the 13 June. If our board concludes there has been a licence breach and, therefore, has to decide whether or not any penalty is appropriate, it will take into account the level of commitment you provide. This commitment should describe actions that NR intends to take by means of reparations or mitigation, as referred to in the last paragraph of your letter of 8 April, to help safeguard future performance and resilience of the railway, specifically in relation to the LSE sector.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Price', written over a horizontal line.

Alan Price