18 July 2006

ScotRail

Roy Smith
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Dear Roy,

APPLICATION BY FIRST SCOTRAIL LIMITED
UNDER SECTION 17 OF THE RAILWAYS ACT 1993

Having considered Glasgow Prestwick Airport's further submission, in First ScotRail's response we identify what we consider to be the relevant issues for consideration as follows; these comments are additional to those we have already made, and I would refer you to those comments.

1. What sum, if any, shall GPA receive as a Capital Return element?
2. What did the station cost, and who paid for it?
3. Are 3 years' running costs a reasonable capital expense?
4. What is the station, and what was the "Airtrain Project"?
5. How to fund the significant repairs required due to poor construction.

Taking the items in order :

Item 1. On what sum, if any, should GPA receive a Capital Return?
We can envisage 4 alternatives

(a) *Nothing*
First ScotRail would argue that the station is for mutual benefit, and that there should be no cost of access due to cost of capital. While the current airport operators may believe the station is a liability rather than an asset, it is clear that the original owners, who built the station, felt differently.

(b) *The Airport's original investment, whatever that was.*
See item 4 below.

(c) *The original build cost.*
The inclusion of a return on public grant funded investment would seem unreasonable, and could not have been the intention of the funders. Indeed, Paragraph 2.11 of Part 2 of the Fair Deal Document specifically excluded such returns for Railtrack plc.

(d) *The replacement cost.*

- For this to be reasonable there would need to be an expectation of replacement by GPA. Given that GPA have said they do not see any financial benefit resulting from the station to their business, it is hard to believe they will actively promote its replacement.

  NB. We do not regard the rectification of original build defects as renewal.
- Other privately funded stations, e.g. Edinburgh Park do not have provision for replacement by the private sector built into ongoing charges. It seems almost inevitable that any replacement would receive an element of public funding as the current proposals of Transport Scotland to build stations at Edinburgh and Glasgow Airports demonstrate.
- The ORR document 'A Fair Deal – Guidelines on adjustments to Station Long-Term Charges' on treatment of replacement costs, published in November 1998, sensibly suggests that such investment, when made by the private sector, should be funded through subsequent access charges (Paragraphs 2.13 and 2.14 of Part 2).

(e) *Value based on rail ticket income*

- GPA have suggested that their book value of the station was based on the perpetuity value of their expected ticket income without any risk allowance for the termination provision in that agreement.
- First ScotRail do not believe it is reasonable to base access charges on the expectations and assumptions of the owner.
- Revenue, along with station footfall, is one element taken into account in determining the station category which ORR utilise as one element in determining the Long Term Charge at Network Rail owned stations, so there is a precedent of some element of revenue based charging.

Item 2 What did the station cost and who paid for it?

The information provided seems to raise as many questions as there are answers, and we believe the partnership funders (or their successor bodies) need to be consulted to establish the true position. The nature of the funded project is also unclear to First ScotRail.

Item 3 Are 3 years' running costs a capital expense?

First ScotRail do not believe that adding past operational costs as a capital expenditure is reasonable in the circumstances, nor is there any explanation for its inclusion as an investment.

Item 4 What is the station and what was the "Airtrain Project"?

First ScotRail are far from clear what GPA considers to be the limits of the station. There is mention of an Airtrain Project. Knowing the costs of new stations at the time of building, the revised costs prepared by GPA seem very high for a station of this type built in 1994, particularly given that Annexure D predicts current costs of build from new would be £3.5m

Item 5. How to fund significant repairs due to poor construction

The anticipated repairs, approaching rebuild, that are apparently required due to failure of the original project to construct a building fit for purpose, despite the very high initial costs, is very alarming. First ScotRail do not regard such risks and failures in project management to be a legitimate Access Cost. We are, though, surprised to have only just learnt of these costs .

Given the significant costs and risks we would like to know if Infratil have sought grant funding for the costs? If such repairs cannot be funded from Access Charges or grant, what is the proposed course of action? Given that the airport business is, according to Infratil, not aided by the station, have they considered the alternative of seeking closure of the station? We are unclear if Infratil are committed to making this expenditure or what the consequences of failure to carry out the works would be, and if the station has a long-term future without external funding. If this is the case, we would urge Infratil to discuss the issue with Transport Scotland.

I must reiterate, we do not regard failure of the airport owners to construct a building fit for purpose or adequately protect themselves contractually in the construction arrangements as a risk which can reasonably be passed to the station user.

Thank you for the opportunity to comment on the issues raised.

Yours sincerely,

Mike Price
Head of Contracts