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28 May 2010

Paul Plummer
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Dear Paul

Missed 2009-10 regulatory performance requirements

On 23 April I wrote asking Network Rail to explain the failure to meet 2009-10 performance requirements as defined in the PR08 final determination. You replied on 30 April and our teams met on 19 May to discuss this response. I am writing to tell you our conclusions.

Of course you are expected to anticipate the full range of weather conditions generally experienced in the UK and take steps to minimise their impact on the train service. We particularly welcome the recent move by the industry to expand the remit of the successful 'autumn performance' initiative to cover management of any adverse weather conditions. However in the 23 April letter we acknowledged the genuinely exceptional nature of the conditions in period 10, and that we should therefore make some allowance when considering the 2009-10 performance results. Five of the ten 'sector-level' requirements were not met. After making a simple allowance our calculations (see annex A) showed that two of these would most probably have been met but for the conditions, however there were questions over the remaining three: London and South East Cancellations and Significant Lateness (CaSL), First ScotRail delays and freight delays per 100 train-km.

London and South East CaSL

We now accept that, had it not been for the extreme weather, Network Rail would have achieved this requirement. The calculations we used to make an initial allowance for the severe weather were inconclusive, our two alternative methodologies giving different indications. Your further explanation has satisfied us that the South East had been particularly badly affected by the conditions, which significantly impaired both operator and Network Rail performance. We have also concluded that our two alternative adjustments are respectively too generous and too harsh; if we took a figure midway between them this would indicate that the CaSL requirement would have been met exactly.

Network Rail delay minutes to Scotland passenger services (First ScotRail)

You have highlighted the prolonged period over which exceptional winter conditions prevailed in Scotland and we have investigated this further using met office data (key facts in annex B). This demonstrates that weather in periods 11 and 12 was the worst

experienced for 15 to 20 years, and that the duration of this very cold spell was even more exceptional - prolonged cold weather like this had not been experienced since 1962/63. Our initial calculations had only allowed for conditions in period 10.

You also showed us the statistical performance forecast you had made after period 9, which indicated that Network Rail would not meet the 2009-10 requirement without an improvement in periods 10-13. However, we saw that remedial plans had been implemented targeting critical assets to improve performance in the latter part of the year. We also note that performance through the spring has been good, and we have concluded that had it not been for the severe weather your remedial actions would probably have brought 2009-10 performance back within the requirement.

We are now satisfied that you implemented effective improvement plans to achieve the end year target and that, had it not been for the prolonged severe weather affecting Scotland, it is likely that you would have done so.

Network Rail delays to freight services per 100 train-km

This is the most difficult area. You have presented your own analysis which suggests that, but for the conditions in period 10, you would have exceeded the maximum freight delay requirement only by a very small margin. You have also drawn our attention to some externally-driven factors which caused a significant increase in freight delays in the second half of the year, despite your mitigating actions. These include increased cable theft in areas of heavy freight traffic (following a sharp increase in the copper price) and an increased number of fatalities compared to previous years.

In the light of these considerations, and taking into account that freight operators did not raise delay with us as a critical concern during the year, we have concluded that failure to deliver the freight delay minutes requirement in 2009-10 does not require formal investigation as a potential breach of your network licence.

However, our enquiries have raised concerns about how focused Network Rail is on meeting this particular PR08 requirement. We therefore intend to undertake enhanced monitoring of freight performance and of your plans to deliver the requirements, and we will be asking you to discuss progress with us quarterly in 2010-11. Our people should discuss how best to take this forward at the business management meeting on 10 June.

I am copying this letter to Robin Gisby, Gary Backler at DfT and Frances Duffy at Transport Scotland, and placing a copy on our website.

Yours sincerely,

Michael Lee

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Annex A: Calculating adjusted full year performance figures

We have sought to make a simple allowance for the exceptional conditions in p10. To do this we have adjusted the full year figures in two different ways:

1. By replacing the actual period 10 figures with those for an "average winter p10".

2. However this may be too big an adjustment: Network Rail is expected to cope with and plan for difficult conditions; it was only the exceptional nature of these (including the coldest temperatures for 30 years) which justify making an adjustment. So our preferred adjustment is to replace the actual period 10 figures with those representing a "difficult" but not exceptional winter period (we have used period 12 2008-09, when snowfalls affected much of southern England).

With this adjustment Network Rail would have failed to deliver three of the ten PR08 requirements, as shown in the table below.

		Year end actuals		Year end adjusted for period 10			
PPM MAA	Year end target	2009-10		MAA		(% variance)	
		MAA	% Variance	Method 1	Method 2	Method 1	Method 2
First Scotrail	90.9%	90.6%	**0.3%**	91.7%	91.7%	0.8%	0.8%
L/SE All Day	91.5%	91.4%	**0.1%**	92.3%	91.7%	0.8%	0.2%
Long Distance	88.6%	88.8%	0.2%	89.6%	89.6%	1.0%	1.0%
Regional (excl. Scotland)	90.5%	92.5%	2.0%	92.6%	92.8%	2.1%	2.3%

				Year end forecast			
CaSL MAA	Year end target	2009-10		MAA		(% variance)	
		MAA	% Variance	Method 1	Method 2	Method 1	Method 2
L/SE All Day	2.3%	2.5%	**0.2%**	2.1%	**2.5%**	-0.2%	**0.2%**
Long Distance	4.9%	4.6%	-0.3%	4.2%	4.2%	-0.7%	-0.7%
Regional (excl. Scotland)	2.6%	2.1%	-0.5%	2.1%	1.9%	-0.5%	-0.7%

Passenger delays				Year end forecast			
Delay minutes (inc. disputes) Vs Year end target	Year end target	2009-10		YTD		(% variance)	
		Year end	% Variance	Method 1	Method 2	Method 1	Method 2
England & Wales	6,270,000	6,189,947	-1.3%	5,808,828	5,973,245	-7.4%	-4.7%
First Scotrail	436,000	552,120	**26.6%**	**505,855**	**512,652**	**16.0%**	**17.6%**

Freight delays per 100 train km				Year end forecast			
DP100TKM V year end target	Year end target	2009-10		YTD		(% variance)	
		Year end	% Variance	Method 1	Method 2	Method 1	Method 2
Major Freight	3.68	3.98	**8.2%**	**3.76**	**3.79**	**2.3%**	**2.9%**

P10 Adjustment 1:
Uses the P10 performance from 2008/09 as the P10 data for 2009/10.

P10 Adjustment 2:
Uses the P12 (bad winter) performance from 2008/09 as the P10 data for 2009/10.

Annex B: Scotland weather – key facts

In summary, weather in Scotland from December to February compared to average was:

- Max temp: 2.0 ºC colder
- Min temp: 2.8 ºC colder
- Days of air frost: 22.5 more

However, this includes P10 (December) where we have already acknowledged the weather was more severe. The following table notes the key facts by month:

	December	January	February
Mean temperature variance to 1971-2000 normal (ºC)	-2.5 to -3.5	-2.5	-2.0 to -2.5
Coldest Dec / Jan / Feb since…	1981	1979	1986
Highest number of days air frost in Dec / Jan / Feb since…	1981	1985	1986

The prolonged nature of the cold weather was second only to 1962/63 between December and February.

Source: Met Office website