



OFFICE OF RAIL AND ROAD

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Paul Plummer
Group Strategy Director
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Dear Paul

Network Rail’s submission under the Civils Adjustment Mechanism

I acknowledge receipt of Network Rail’s 31 March 2015 Civils Adjustment Mechanism (CAM) submission and note your covering letter’s statement that “this submission provides an updated forecast for civils renewals for the final three years of CP5, based on a fully bottom-up workbank, in full compliance with (ORR’s) notice of March 2014”. As set out below, I am not satisfied that the submission is compliant.

ORR issued the notice requiring Network Rail to submit its civils asset management plan 2016/17 – 2018/19 in March 2014 (the “Notice”). As your letter indicates, the Notice required Network Rail’s submission to demonstrate that “it has in place a bottom-up workbank for years 3, 4 and 5 of CP5”. The plan forming the submission is to “provide a national summary and a summary by route of the volume and cost of work by policy target ... for each asset type”, and is to “include the workbank developed for each policy target, containing details of the individual schemes” (paragraphs 4 and 5 of the Notice).

The Notice is also clear that the purpose of the CAM submission is to justify Network Rail’s planned expenditure (paragraph 1 of the Notice) and to allow ORR to form a judgement on the volumes and unit costs of the work that will be funded (paragraph 2).

Further explanation of how we expect the plan to work within the overall CAM was set out in the Final Determination (the “FD”). Paragraph 8.455 of the FD clearly set out that “It is important that this plan is of a high quality such that we can form a judgement on the volumes and efficient costs of the work for which Network Rail will be funded”. FD paragraph 8.457 indicated that ORR would publish the outcome of its review of the plan and judgement on the volumes and efficient costs for which Network Rail would be funded, and that those volumes and efficient costs “will be used to assess Network Rail’s efficient delivery during the [control] period”.

¹ Use of the name, the Office of Rail and Road, reflects the new highways monitor functions conferred on ORR by the Infrastructure Act 2015. Until this name change is confirmed by legislation, the Office of Rail Regulation will continue to be used in all documents, decisions and matters having legal effects or consequences.

I note from your letter that, while you are confident that Network Rail “can demonstrate what work we need to do, where it needs to be done, and what it will achieve”, you acknowledge that “there is still a wide range of uncertainty around how much our plans will cost”. You then state that “it may not be appropriate for [ORR] to make a final decision about the efficient level of spend for CP5 as a whole at this stage”, and that “it may be more appropriate for us [by which I assume you mean ORR and Network Rail working together] to reach a final conclusion this summer only in relation to the next financial year”.

Given this acknowledged degree of cost uncertainty, together with your recognition that further work and an updated submission is needed, I cannot consider that your submission is compliant with the requirements of the Notice. It does not enable ORR to form a judgement on both the volumes and efficient costs of the work for the remainder of CP5.

The Notice set out our intention to publish our draft decision by 30 June 2015 and our final decision by 30 September 2015. This is clearly now no longer possible. In order to determine how best to proceed in these changed circumstances and to what timescale, I believe that there needs to be an early meeting in which Network Rail will set out a clear timetable for achieving a fully compliant submission which meets the requirements of the Notice and enables ORR to determine the appropriate level of funding for the remainder of CP5. Please contact Mark Morris to make arrangements for this meeting.

Yours sincerely

Alan Price