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Fiona Topping
Commercial Contracts Manager
First TransPennine Express Ltd
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Dear Erin and Fiona

Approval of the 46th supplemental agreement to the track access contract between Network Rail Infrastructure Limited and First TransPennine Express Limited dated 3 March 2016

We have today approved the above supplemental agreement submitted to us formally on 8 December 2022 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. This letter explains the reasons for our decision.

Purpose

The purpose of this agreement is to extend several of TPE's Firm and Contingent Schedule 5 Rights to the Subsidiary Change Date (SCD) 2024. The amendment also provides new Firm and Contingent Rights, including changing Manchester Airport-Redcar services to Manchester Airport-Saltburn and extending York-Redcar services to York-Saltburn. The rights are to commence on the Principal Change Date 2022 and will expire on the Subsidiary Change Date 2024 or earlier termination of FTPE's track access contract.

Industry consultation

Network Rail undertook the usual industry consultation. No objections or issues were raised in response.



ORR review

Our review raised no operational, performance or economic concerns. During our review, we requested further detail regarding whether any performance impacts were expected as a result of the changes, and we also queried whether the amendment impacted any Manchester Recovery Task Force (MTRF) work or travel times through Manchester. FTPE provided further details on these points, including a mitigation plan for York-Saltburn services. We reviewed these and confirmed our queries had been resolved satisfactorily.

Our duties under section 4 of the Act and our decision

We have concluded that approval of this supplemental agreement strikes the appropriate balance in discharging our statutory duties under section 4 of the Act; in particular, those relating to protecting the interests of users of railway services (section 4(1)(a)), promoting the use of the railway network for the carriage of passengers (section 4(1)(b)) and enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g)).

Conformed copy of the track access agreement

Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and the Train Operator. Please send the conformed copy to me at ORR.

Public register and administration

Electronic copies of this letter, the approval notice and the agreement will be sent to the Department for Transport and Network Rail's Policy and Access Team. Copies of the approval notice and the agreement will be placed on ORR's public register (website) and copies of this letter and the agreement will be placed on the ORR website.

Yours sincerely

Ellie Mitchell