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28 March 2025

Dear Alice,

**Network Rail Final Representations for the 11th Supplemental Agreement (SA) - renumbered 16th SA - submitted under Section 22A of the Railways Act 1993 for the Track Access Contract (TAC) between Network Rail Infrastructure Limited and East Coast Trains Limited (trading as Lumo) dated 3 October 2016.**

## **1 Purpose**

- 1.1 This letter provides final representations from Network Rail for the 11th SA (renumbered 16th SA) submitted under Section (S) 22A of the Railways Act 1993, for the Track Access Application between Network Rail and Lumo dated 3 October 2016, to ORR on 19 May 2024.
- 1.2 This representation builds upon the representations submitted by Network Rail for this application on the 28 June 2024, and the 14 March 2025 ECML General Representation on Complex and/or Competing Applications interacting on ECML Kings Cross - Edinburgh and Leeds.
- 1.3 The latter of these letters provided important information to support ORR when it comes to making decisions on applications in this geography including context on the work in developing the ECML Policy, ECML Industry Task Force, key performance information, as well as updates on power supply assessment. The annexes to that letter include relevant information including Timetable Performance Analysis and ECML Power Supply Modelling and where there is specific relevance to this application, reference will be made in this representation.
- 1.4 The purpose of this final representation is to provide ORR with Network Rail's final position on this application (and the specific access rights within it) and will do so by providing facts, data, evidence to support our position. As the access rights sought in this application are at the ECML interacting location the evidence and data to evidence our position are all contained in the ECML General Representation letter dated 14 March 2025.
- 1.5 Network Rail can confirm that based on the facts, data and evidence outlined in this representation and the ECML General Representation, it is supportive of this application, subject to any comments, suggested amendments or specific issues highlighted in this representation.
- 1.6 Where there are a number of applications seeking capacity at the locations referred to in this letter,

and as detailed in Annex A, the basis of our support of applications either in total, or in part (as can be determined by reading the relevant representations), may have a connection to our position on all other applications at that location. You may wish to wait for final representations on related applications and the information provided therein prior to making your decision.

## **2 Background of the Application and Network Rail Representations**

2.1 In line with ORR's letter of 24 April 2024 to the industry on 'Competing and/or complex track access applications for December 2024, May 2025, and December 2025 timetable changes', Lumo submitted this application to the ORR on 19 May 2024 as a S22A application in line with ORR's deadline.

2.2 As requested by ORR, Network Rail submitted a High-Level Plan in June 2024, and a further detailed plan was published on Network Rail's website in August 2024 and updated in January 2025. Network Rail made its initial representations on this application on 28 June 2024 where an initial view of the application Form P and SA was provided. On 22 July 2024 Lumo responded to the Network Rail initial representations. Further to this Network Rail issued a General Representation on the East Coast Mainline (ECML) to ORR dated 14 March 2025.

2.3 In its initial representation on 28 June 2024, Network Rail highlighted a number of items in the "Network Rail Review of Form P and associated documents" section of the letter. Where we have not had a response to the points, we have noted this below for the Operator and/or ORR to address or take into consideration.

2.4 The points we would like to highlight from the initial representation and the course of action we require, are as follows:

### 2.4.1 Within the SA:

- "Section 2 (Effective Date and Term): Network Rail notes that this Supplemental Agreement refers to "Section 22" when it is currently a "Section 22A". Network Rail notes that the Effective Date b) is meant to state "Principal Change Date 2025 (in December 2024)" rather than the "Primary Change Date..." – the rights in question are dependent on the ECML ESG and that may be implemented in May 2025 or December 2025 via the ECML Taskforce." In their representation letter of 22 July 2024, Lumo did not address this point. We would expect ORR to take this comment into account when they make a direction.
- Appendix 1: "Network Rail wish East Coast Trains Limited to confirm if a weekday right each way is sought and if so can the SA be updated." In their representation letter of 22 July 2024, Lumo did confirm they are seeking an access right each way but we did not receive an updated Supplemental Agreement reflecting this, therefore any decision made on this application should reflect this aspiration.

### 2.4.2 Within the Form P:

- "Section 1.5:" "Network Rail notes the intention to stable in the Newcastle area overnight. Network Rail would like to understand further where this will be and how any security risk will be mitigated (if any)." Lumo have not yet addressed this point and Network Rail would like to know what the response is to this point.
- "Section 3.2:" "...Network Rail notes the reference to "usual risks that are associated with operation of passenger trains" but East Coast Trains Limited do not currently leave a unit on a station overnight and would like to understand the platform that will be used and the mitigations to prevent vandalism etc." Lumo have not yet addressed this point and Network Rail would like to know what the response is to this point.
- Section 9.1: "Network Rail notes that a Depot Access Agreement requirement so would like to know which depot will be used for this proposal." We note that Lumo confirmed in their

representation letter of 22 July 2024 that “The 11th Supplemental is designed to obviate the need to stable in London, Newcastle Heaton being the depot we would use if this application is successful.” Whilst Lumo confirmed the Depot as being Newcastle Heaton – we have yet to have confirmation that Lumo has a Depot Access Agreement in place for this location.

### **3 East Coast Mainline (ECML) General Representation Letter dated 14 March 2025**

3.1 Network Rail can confirm that this application is seeking the proposed access rights at the interacting location ECML: Kings Cross – Edinburgh and Leeds and therefore the General Representation to ORR on the ECML dated 14 March 2025 is relevant to this application.

3.2 Whilst the entire letter is relevant to this application, we would like to highlight key points of that letter which are more pertinent to this application namely “Unused LNER Firm Directed Rights”, “Congested Infrastructure” and “ECML Timetable Performance Analysis”.

#### **3.3 *Unused London North Eastern Railway (LNER) Firm Directed Rights***

3.3.1 The Proposed ECML December 2025 Timetable does not include the Unused LNER Firm Directed Rights as stated in paragraph 5 of Network Rail’s ECML General Representation letter to ORR. These are 8 LNER firm rights Monday to Saturday, 7 firm rights Sunday Only, between London King’s Cross and Leeds via Wakefield or Micklefield directed by ORR in 2016.

3.3.2 The specification for the LNER service to/from London King’s Cross had been reduced from 6.5 trains per hour (tph) to 6 tph with agreement from the DfT in 2021. This reduction retained the 0.5 tph London King’s Cross – Middlesbrough service, albeit as far as York, with the 0.5 tph London King’s Cross – Leeds service being descoped. ECML Programme Board on 21st March 2021 noted the recommendation from East Coast Route to defer the 0.5 tph London King’s Cross – Leeds service, including the conditional outcome of journey time reduction between London Kings Cross and Leeds, to a post-ECML ESG [December 2025] timetable change.

3.3.3 As of 14 March 2025 Network Rail have formally declared congested infrastructure on relevant routes between Huntingdon North Junction (Jn) and New England North Jn (Peterborough), and between Doncaster Marshgate Jn and Leeds Copley Hill West Jn.

3.3.4 Work undertaken for the ESG has shown definitively that this 0.5 tph London King’s Cross – Leeds service uplift cannot be accommodated alongside the other ESG outputs. As such the service cannot run in this timetable or future timetables, alongside the other industry endorsed aspirations without additional infrastructure and associated development activity, which is currently unfunded and uncommitted.

#### **3.4 *Congested Infrastructure***

3.4.1 As stated in paragraph 6 of the ECML General Representation Network Rail has declared Congested Infrastructure for the December 2025 New Working Timetable for three lines of route on the ECML.

3.4.2 Two lines of route that this application is proposing access rights for, are:

- Between Huntingdon North Jn and New England North Jn (Peterborough); and
- Between Northallerton Longlands Jn and Newcastle King Edward Bridge South via ECML.

### **4 Proposed ECML December 2025 Timetable**

4.1 As referred to in the ECML General Representation, in February 2024 the ESG closed following an ECML Programme Board endorsement on 17 January 2024 to deploy the Proposed ECML Timetable in December 2024, subject to the outputs of the completed performance modelling.

4.2 At the point in time of ORR’s letter to the Industry on 24 April 2024, the Department for Transport

(DfT) had accepted a recommendation from the Industry Timetable Assurance Project Management Office (PMO) to funders that the Proposed ECML Timetable should be deferred from the December 2024 timetable change.

- 4.3 An ECML Industry Task Force (herein referred to as “the Task Force”) commenced in June 2024 as an independently led executive-level cross-industry meeting that provides strategic direction for the work programme. The Task Force developed solutions to the problems of the new ECML Timetable, drove consensus on the outcome(s), and delivered recommendations for industry funders and specifiers.
- 4.4 On 17 October 2024 the Independent Chair of the Task Force wrote to the DfT to advise that the Task Force met on 10 October 2024, reviewed the considerations, issues, and risks, and recommended proceeding with implementation of the new timetable for ECML in December 2025. This was on the basis that the timetable is deliverable and meets the Task Force objectives that were set. Concerns were noted from GB Railfreight (representing themselves and other Freight Operating Companies), ScotRail and Transport Scotland. The Task Force recommendation was accepted by the DfT and subsequently endorsed by the Secretary of State in December 2024.
- 4.5 The Task Force had worked collaboratively up to 31 January 2025 to further de-risk the transition of the ECML ESG timetable from development to timetable production.
- 4.6 Advanced work completed by Network Rail Capacity Planning, to inform the December 2025 timetable risk, involved aligning cross boundary paths in the Proposed ECML Timetable with the latest developments in the wider National Working Timetable (WTT) and associated Rolling Spot Bids (RSB). This process highlighted that, despite previous timetable development work, the national freight and passenger timetable has evolved and this work has been necessary to reduce the risk that capacity decisions may need to be made during the timetable production period between D-40 to D-26.
- 4.7 Therefore, where in this letter and in the ECML General Representation letter we have referred to the Proposed ECML December 2025 Timetable, we are referring to the timetable work above namely, either full or in part, the:
- Timetable which was developed by the ECML ESG and later deferred in April 2024;
  - Timetable where solutions were developed to the problems of the ECML Timetable as part of the Task Force;
  - Advanced Timetable Work (undertaken between April and October 2024) to de-risk the transition of the ECML ESG timetable from development to timetable production; and
  - Advanced work to inform timetable risk including aligning cross boundary paths in the ECML ESG developed timetable with the latest developments in the wider National Working Timetable and associated Rolling Spot Bids.
- 4.8 So where Network Rail highlight in this representation and the ECML General Representation letter (in the relevant annexes to that letter) whether the access rights sought on ECML in each application are as Network Rail expects in the Proposed ECML December 2025 Timetable, we are referring to whether the access rights align to the above timetable work.
- 4.9 ***Access Rights Contained in the Application as Part of the ECML Policy***
- 4.9.1 Some of the rights in this application, meaning the numerical restriction on Stevenage as an Additional Stations stop, were supported under a Section 22 application using the ECML Policy and was applied for the December 2024 Timetable via the 14th SA.
- 4.9.2 In addition to this, we would like to highlight to ORR that the rights applied for under the ECML Policy in the 14th SA, meaning the numerical restriction on Stevenage as an Additional Stations stop, expire at the December 2025 timetable change but are expected to continue as part of the Proposed December 2025 ECML Timetable without the need of the ECML Policy. ORR are to note

that any footnote relating to the ECML Policy will need to be deleted.

## 5 Access Rights Sought in the Application

5.1 The rights sought in this application are for 1 train in each direction on a weekday (SX), and one train in opposing directions on both Saturdays (SO) and Sundays (SuO), to stable in the Newcastle area overnight; as well as having the numerical restriction on Additional Station stops at Stevenage removed:

The rights included in the 11 <sup>th</sup> SA - renumbered 16th SA	Specific locations identified in ORR's Letter of 24 April 2024	Interaction
The numerical restriction on Stevenage as an Additional Stations stop is removed.	(f) ECML Kings Cross-Edinburgh and Leeds	ECML between Peterborough and King's Cross
One additional right between London Kings Cross to Newcastle in each direction SX, and one train in opposing directions on both SO and SuO	(f) ECML Kings Cross-Edinburgh and Leeds	ECML between Newcastle and King's Cross

5.2 Annex B of this letter contains a table which shows all of the access rights requested in this application when set against the February 2025 version of the Proposed December 2025 ECML Timetable.

5.3 The Table in Annex B provides details of the access rights characteristics i.e:

- Origin
- Destination
- Quantum by Day of Week (Peak or Off Peak)
- If the access rights are currently held in the contract and proposed change is an amendment to those rights for e.g. calling pattern change, contingent to firm etc.
- Which locations it interacts with from ORR's list of nine locations in their letter to the industry 24 April 2024.

5.4 The table also identifies if the access rights origin and destination, quantum and calling patterns sought in the application, are as expected for the Proposed December 2025 ECML Timetable.

5.5 In line with the ECML General Representation, Network Rail can confirm that the rights sought (in their entirety) in this application are in line with what was expected in the February 2025 version of the Proposed ECML December 2025 Timetable. Furthermore, Network Rail can now confirm, following a check with Capacity Planning, that the calling pattern for the access rights in the application are as expected for Proposed ECML December 2025 Timetable (which means there is an update to what was provided in Annex B of the ECML General Representation).

5.6 Network Rail would like to acknowledge that Lumo notified Network Rail and ORR on 10 March 2025 that the application had changed from the original application submitted to ORR by 20 May 2024 and ORR had agreed to the change to the application.

5.7 The detail of the changes:

- The proposed rights as stated in the application were originally requested to commence from the December 2024 Timetable but have subsequently been updated to commence from December 2025 in Lumo's email to ORR on 10 March 2025.
- This Supplemental Agreement has been re-numbered to the 16th but Lumo requested that in correspondence it remained to be referred to as Lumo's 11th Supplemental Agreement (SA) to avoid confusion. ORR has updated its website for case progression by referring to the Application as "East Coast Trains Limited 11th SA - renumbered 16th SA".

## **6 Assurance / Assessments / Updates**

6.1 The following section will address specific areas of consideration, opportunity and risk relevant to the application or where applicable to specific access rights in the application. Where the outputs relate to specific access rights instead of the application as a whole this will be highlighted in the relevant section.

### **6.2 Capacity**

6.2.1 In line with Network Rail's ECML General Representation, Network Rail can confirm that the rights sought in this application are in line with the February 2025 version of the Proposed ECML December 2025 Timetable. Furthermore, Network Rail can now confirm, following a check with Capacity Planning, that the calling pattern for the access rights in the application are as expected for the Proposed ECML December 2025 Timetable.

6.2.2 The numerical restriction on Stevenage as an Additional Station stop has fallen under the ECML Policy since May 2022 via the 5th SA and continues to be utilised in the current timetable and we expect this to continue in December 2025.

6.2.3 The additional right between London Kings Cross to Newcastle in each direction is not running in the current timetable and, if the rights approved, would be a new service from December 2025.

6.2.4 The ECML December 2025 specification developed by the ECML ESG and subsequent ECML Industry Task Force took a holistic view of capacity and performance whilst considering service specifications, service aspirations and journey time outputs from ECML ESG and Task Force members. ORR in awarding the capacity to one of the operators identified as interacting within Annex A, in line with the proposed ECML December 2025 specification, would be allocating a proportion of the capacity that could otherwise be available to other Operators' applications, or elements of applications, which were not included in the ESG specification and that have additional capacity requests at that location.

6.2.5 In the case of any application that is related to the proposed ECML December 2025 Timetable, which was developed, modelled and recommended for progression into the development period - the most applicable alternative option, if the rights sought were not directed, in full or part, would be to allocate capacity to an Operator who has aspirations for an access right with similar characteristics, i.e. Long Distance High Speed services. Consequentially, the ORR may wish to consider the impact on the forecast operation and performance of the Timetable and the basis on which The Taskforce recommended the timetable for implementation and the modelling undertaken to assure it.

### **6.3 Performance**

6.3.1 Network Rail can confirm that this application was included in the ECML Timetable Performance Analysis that is included within Network Rail's ECML General Representation. Please refer to Annex L of that letter for further information.

### **6.4 ECML Power Supply Modelling**

6.4.1 Network Rail can confirm that this application directly relates to paragraph 11 of Network Rail's ECML General Representation and is included in the power modelling report which is an Annex (Annex M) said letter.

6.4.2 Network Rail wish to collaborate with Lumo on any necessary power mitigations and, where applicable, set these out in the TAC until such point future power upgrades alleviate the risk. For the avoidance of doubt this includes any ad-hoc request to run in 10-car formation and the existing power mitigation arrangement between Newcastle and Edinburgh will need to remain in place until

such point future power upgrades alleviate the risk.

## **6.5 Any other risks or cross-route concerns**

6.5.1 None as the application is solely on East Coast route within the ECML.

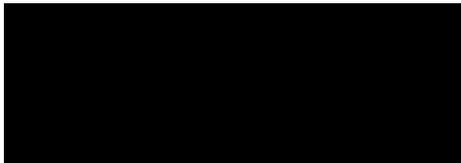
## **7 Conclusion**

7.1 In this representation letter we have confirmed that we do support the access rights sought in this application and they are as Network Rail expected in the Proposed ECML December 2025 Timetable. In addition, we have also provided an explanation to ORR of what the Proposed ECML December 2025 Timetable is an amalgamation of in terms of Advanced Timetable Work and confirmed that our position is based on these assessments.

7.2 Network Rail has also highlighted in this letter a number of points we raised in our original representation letter. These are points of clarification and amendments required to the proposed Supplemental Agreement submitted with this application, that Network Rail believes have still not been fully addressed or that ORR need to take into consideration when making a direction on the application.

7.3 The Proposed ECML December 2025 Timetable is the output of all the hard collaborative work the industry has undertaken since the ECML ESG was formed in 2019. Our position on this application is an output of that work.

Yours sincerely,

A large black rectangular redaction box covering the signature area.

Mark Garner,  
Customer Manager,  
Eastern Region, Network Rail