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Dear Colleagues

Network Rail consultation: Structure of charges for charter operators in CP5

Purpose of this letter

This letter sets out Network Rail's proposals in relation to the structure of charges for charter operators in CP5. We are keen to hear your views on our proposals by **Tuesday 9 July 2013**.

In our April 2013 conclusions document on the allocation of the Variable Usage Charge[1], we stated that prior to ORR's Draft Determination we would write an open letter to our charter customers setting out a proposed approach regarding charges for charter operators in Control Period 5 (CP5).

We are now in a position to do so.

This letter is structured as follows:

- Introduction;
- Background;
- Variable Usage Charge (VUC);
- Electric Current for Traction Charge (EC4T);
- Electrification Asset Usage Charge (EAUC);
- Slot and Cancellation charges ;
- Capacity Charge ;
- Schedule 8 ;
- Schedule 4;
- Station charges;
- Next steps and responding to this consultation; and
- Annex A – circulation list.

[1] Network Rail, (April 2013) 'conclusions on the allocation of the variable usage charge', accessible here

Introduction

Charter trains are operated by the five train operators holding Charter Passenger Track Access Contracts:

- DB Schenker;
- West Coast Railways;
- Direct Rail Services;
- GB Railfreight; and
- Great Western Trains.

Great Western Trains operates just a small number of services each year on the routes already covered within the Great Western Trains Track Access Contract. The majority of charter services are operated by DB Schenker and West Coast Railways. These are the only two operators which currently operate steam charter services.

The main distinction between charter services and other open access services is that charter services are typically one-off, bespoke operations, rather than regular passenger services. In addition, often there is an end customer or promoter who charters the train from one of the aforementioned charter train operators.

Charter mileage is approximately 410,000 train miles per annum, of which 303,000 are diesel, 103,000 are steam, and 4,000 are electric. Network Rail received approximately £1.01m in income from these operations in 2012/13 (cash prices).

Background

As part of the 2013 Periodic Review (PR13), Network Rail has, in consultation with the industry, reviewed and re-calibrated the existing structure of charges. Further to this review, we have recently provided our conclusions to ORR[2]. We have published a series of conclusions documents and annexed to each of these is a draft CP5 price list (ultimately ORR will determine the level of track access charges in CP5) .These draft price lists, subject to review and scrutiny by ORR, will replace the CP4 published price lists[3].

Schedule 7 of the model passenger[4] and freight[5] Track Access Agreements (TAAs) refer to the CP4 published price lists. However, Schedule 7 of the model charter TAA[6] does not refer to these published price lists. Instead, the charge rates for charter operators are incorporated into the body of their TAAs. Schedule 7 of the model charter TAA is quite bespoke, reflecting the nature of their operations, and contains a different suite of charges to those set out in the model passenger and freight TAAs. Due to the bespoke nature of charges for charter

[2] Our consultation and conclusion documents are available at: Closed consultations - Periodic review 2013 - Delivery plans - Network Rail

[3] Available at: http://www.networkrail.co.uk/browsedirectory.aspx?dir=\regulatory%20documents\access%20charges%20reviews\cp4%20charges&root=

[4] Available at: http://www.rail-reg.gov.uk/upload/pdf/model_passenger_contract.pdf

[5] Available at: http://www.rail-reg.gov.uk/upload/pdf/model-freight-contract.pdf

[6] Available at: http://www.rail-reg.gov.uk/upload/pdf/model_charter_contract_200411.pdf

operators, we did not propose revised charge rates in our recent conclusions documents to ORR. Rather, we are setting out our proposed approach in this letter, ahead of ORR's Draft Determination in June 2013. As noted above, we would welcome your views on our proposals by Tuesday 9 July 2013.

Below, we review each component of the CP5 structure of charges and performance regime in turn and propose an approach for charter operators in CP5.

Once determined by ORR charge rates would, as is the case now, be uplifted annually for RPI.

We note that, consistent with passenger and freight track access charges, ultimately, the final decision in relation to the level of track access charges for charter operators in CP5 rests with ORR, rather than Network Rail. ORR is due to publish its Draft Determination in June 2013 and this is likely to necessitate changes to our draft prices list and thus the rates proposed in this letter**.**

The Variable Usage Charge (VUC)

The VUC is designed to recover Network Rail's operating, maintenance and renewal costs that vary with traffic. It aims to ensure that Network Rail is compensated for the 'wear and tear' that results from traffic on the network.

In PR08 a pragmatic approach was adopted for setting VUC rates for charter operators. Unlike passenger and freight operators, which are charged on a 'per vehicle' basis, at present, charters operators are charged on a 'per train' basis (see Table 1, below).

Table 1: 2012/13 charter train VUC rates (end CP5 efficiency)

Description of Service	VUC (£ / train mile)
Loaded train or ECS train hauled by diesel or electric equipment or consisting of EMU or DMU	1.21
Loaded train or ECS Train hauled by steam driven equipment	1.45

The above charge rates are based on notional 'average' non-steam hauled and steam hauled charter train sets, which are for charging purposes assumed to be comprised as follows:

- **Non-steam hauled**: A locomotive (assumed to be the average of the rates for a Class 47 and a Class 67 locomotive with a 2:1 weighting in favour of the Class 67 reflecting frequency of use) plus 11 coaches (assumed to be the average of the rates for Mark 1, 2 and 3 coaches); and

- **Steam hauled**: A locomotive (assumed to be 50% more expensive than the, above, non-steam hauled locomotive rate) plus 11 coaches (assumed to be the average of the rates for Mark 1, 2 and 3 coaches).

Furthermore, at present, the charter model TAA states that the VUC should not be levied on charter "light locomotive movements". Light locomotive movements are defined as the

movement of a single locomotive, or two locomotives coupled together, before working, or after having worked, a relevant service.

Our proposal

We have reviewed the existing approach to levying the VUC on charter operators and the assumptions underpinning the current charter VUC rates. Given the bespoke nature of the vehicles used by charter operators, we propose retaining the existing approach to charging charter operators based on notional 'average' charter train sets. We believe that this approach strikes an appropriate balance between pragmatism and cost reflectivity.

We propose, however, based on our experience in CP4, making the following refinements to the existing assumptions underpinning the notional 'average' charter train sets:

- Updating the charge rate for a steam locomotive to be consistent with the average of the published rates for a Class 98/5 and Class 98/8 steam locomotive, with a 2:1 weighting in favour of the Class 98/8, reflecting frequency of use. We consider that this would be more cost reflective than applying a 50% uplift factor to the charter non-steam locomotive rate.

- Updating the charge rate for all charter coaches to be consistent with the Mark 1 coach rate on the CP5 published price list. We understand that the overwhelming majority of coaches used by charter operators are Mark 1 and thus it is not appropriate to continue to average the published rates for Mark 1, 2 and 3 coaches.

Following our review, we also propose retaining the following assumptions:

- The notional 'average' charter train sets are comprised of a locomotive plus 11 coaches. Following analysis, we continue to consider that this is broadly representative of the average charter train set.

- The non-steam locomotive rate should be charged at the average of Class 47 and Class 67 locomotive rates with a 2:1 weighting in favour of the Class 67. We continue to consider that this broadly reflects the typical non-steam locomotives employed by charters operators and the fact that Class 67 locomotives are used more frequently.

In addition, we propose updating the existing VUC rates levied on charter operators to reflect the cost and efficiency assumptions included in our SBP. These assumptions are implicitly reflected in the draft VUC price list (appended to our VUC conclusions document published in April 2013[7]) which we propose using as the basis for setting VUC rates for charter operators in CP5. A summary of VUC rates for individual vehicles that are relevant to the calculation of charter VUC rates is provided in Table 2 below.

[7] Available: Closed consultations - Periodic review 2013 - Delivery plans - Network Rail

Table 2: VUC rates relevant to charter operators (2012/13 prices end CP5 efficiency)

Vehicle	VUC (pence / vehicle mile)
47/4	59.76
67/0	65.35
98/8	105.49
98/5	75.22
1	5.18

Based on the proposed refinements set out above, we estimate the following VUC rates per train set for charter operators in CP5:

Table 3: Proposed CP5 charter train VUC rates (2012/13 prices end CP5 efficiency)

Description of Service	VUC (£ / train mile)
Loaded train or ECS train hauled by diesel or electric equipment or consisting of EMU or DMU	1.20[8]
Loaded train or ECS Train hauled by steam driven equipment	1.52[9]

These rates are broadly consistent with those currently levied on charter operators (set out in Table 1 above).

We propose replacing the existing VUC rates included in the model charter TAA with the revised ones set out, above. We consider that this will improve the cost reflectivity of the VUC rates currently levied on charter operators. We also believe that this proposal represents a continuation of the existing pragmatic approach to charging for charter services, reflecting the bespoke nature of their operations.

In addition, we propose that light locomotive movements should no longer be exempt from being charged the VUC. As noted above, the purpose of the VUC is to recover the 'wear and tear' costs imposed by traffic on the network. From a 'wear and tear' perspective, we consider that light locomotive movements are no different to other charter journeys and thus the 'wear and tear' costs resulting from these journeys should be recovered, through the VUC, from those operators who cause them to be incurred.

We propose estimating light locomotive VUC rates on a consistent basis with the rates estimated above for a notional 'average' charter train set. Therefore, we propose the following:

- The rate for a steam locomotive should be the average of the published rates for a Class 98/5 and Class 98/8 steam locomotive, with a 2:1 weighting in favour of the Class 98/8, reflecting frequency of use.

- The non-steam locomotive rate should be charged at the average of Class 47 and Class 67 locomotive rates, with a 2:1 weighting in favour of the Class 67, reflecting frequency of use.

Table 4 below sets out the rates for light locomotive movements, which we propose are charged on a 'per vehicle' basis:

[8] £1.20 = ((59.76 * 33.3%) + (65.35 * 66.6%) + (5.18 * 11)) / 100
[9] £1.52 = ((105.49 * 66.6%) + (75.22 * 33.3%) + (5.18 * 11)) / 100

Table 4: Proposed CP5 light locomotive charge rates (2012/13 prices end CP5 efficiency)

Description of Service	VUC (£ / vehicle mile)
Diesel or electric equipment	0.63[10]
Steam driven equipment	0.95[11]

Please note that all of the proposed charge rates set out above are draft and subject to review by ORR and that ORR's Draft Determination, due to be published in June 2013, is likely to necessitate changes to these charge rates.

Traction Electricity Charge (EC4T charge)

Around 50% of the traffic operated on the GB network is electrically powered. Traction electricity charges recover the costs of electricity supplied by us to train operators for their use of traction electricity. This electricity is supplied through the overhead lines for AC (alternating current) and the 'third rail' for the DC (direct current) network which is in the southern region and Merseyside.

Around 80% of train operators' electricity consumption is still charged on the basis of modelled consumption rates. This is calculated by multiplying electrified mileage and the relevant electricity price to give the modelled traction electricity charge for each period. At the end of each year, Network Rail carries out two reconciliations. The first is the volume wash-up. This reconciles modelled consumption and actual consumption in each electricity supply tariff area (ESTA) to make sure that all electricity that is supplied through our network is accounted for. The year-end volume wash-up results in either a payment to or from the train operator to Network Rail.

The second year-end reconciliation is called the cost wash-up which reconciles the difference in prices charged in each period, and the actual prices we paid for that electricity. Again this results in a payment to or from train operators to Network Rail.

Metered train operators are currently charged on the basis of their metered consumption (less regenerated energy) multiplied by a mark-up to recover transmission losses (this is currently set at 5% for AC services and 27% for DC services). This kWh consumption is then multiplied by the relevant electricity price, to produce a metered traction electricity charge for each period. Metered train operators participate in the cost wash-up, but they do not participate in the volume wash-up. The exception to this is where more than 90% of an ESTA's consumption is metered, in which case this metered consumption is included in the year-end volume wash-up.

Very few charter operators run electric trains. Despite this, the charter model contract includes provisions for modelled EC4T charging. It does not, however, include provisions for the volume wash-up. Furthermore, it charges electricity based on a price indexed by IIEC (Index of Industrial Electricity Prices).

[10] £0.63 = ((59.76 * 33.3%) + (65.35 * 66.6%)) / 100
[11] £0.95 = ((105.49 * 66.6%) + (75.22 * 33.3%)) / 100

Our proposal

Historically, it has been deemed to be administratively inefficient to put in place a robust process to charge charter operators for their EC4T, this is because charter operators typically operate only around 4,000 electric train miles, which represents just 1% of their total mileage (which is very small). As part of PR13, we have reviewed charter operators' usage of EC4T, and in light of that work we propose a more rigorous approach for CP5.

We are keen for charter operators' EC4T arrangements to be brought in line with the way in which other electric operators are charged for their use of EC4T. Therefore, we propose to formally bill charter operators for their use of EC4T in CP5. We can accommodate either modelled or metered billing based on their preference. We recognise that it is unlikely that charter trains would decide to be billed by way of metered billing; in this case we would expect to charge them based on modelled consumption rates. We would propose that charter operators calculate their modelled consumption rates in line with the agreed methodology[12]. Consistent with this, we propose that all modelled consumption is included in the year-end volume wash-up.

Furthermore, we consider that charter operators should be charged based on actual unit electricity prices paid by Network Rail, consistent with those paid by passenger operators. We also propose that they are included in the year-end cost wash-up.

Our initial estimates of the total EC4T charges for charter operators (based on current levels of usage) suggest that an additional cost to charter operators of approximately £6,000 per annum. This amount is shown as an 'increase' as it is compared to the status quo, where charter operators are not consistently charged for EC4T. The amount is based on a typical consumption rate of 15 kWh/mile (based on average passenger consumption rates) and a typical cost of 10 pence per kWh.

Electrification Asset Usage Charge

Historically, it has been deemed to be administratively inefficient to levy EAU (electrification asset usage) charges on charter operators. As part of PR13, we have also reviewed charter operators' usage of electrification assets, and in light of that work we propose a more rigorous approach for CP5.

Our electrification assets are comprised of the AC and DC overhead lines and the DC conductor rail systems supported by their relevant distribution assets. These assets are used by trains to draw power from our electricity network into their traction packages. The EAU charge is designed to recover the variable maintenance and renewal costs associated with electrification assets.

The current model charter TAA includes provisions to collect EAU charges.

[12] This can be provided to operators upon request.

Our proposal

New EAU rates will be calculated for CP5, however, the structure of the charge itself will not change. For this reason we propose to roll-forward the existing contractual arrangements for CP5.

In February 2013, we concluded to ORR[13] on our September 2012 consultation[14] on EC4T and EAU charges for CP5. In that conclusions document, we proposed to amend the methodology for calculating EAU rates so that we recover costs based on a long-run average, and we adjusted our assumptions on the variability of EAU costs. Our initial calculation suggested a substantial increased in the EAU charges compared to the current CP4 charges (see Table 5 below). However, as noted above, charter operators typically only operate around 4,000 electric train miles per annum. We propose that these rates apply to charter operators from CP5.

Table 5: Proposed CP5 EAUC rates (12/13 prices)

	DC 'third rail' network (£/electrified vehicle mile)	AC 'OLE' network (£/electrified vehicle mile)	DC 'third rail' network (£/kgtm)	AC 'OLE' network (£/kgtm)
	Passenger		**Freight**	
CP5	0.0208	0.0196	0.2300	0.3662
CP4	0.0047	0.0124	0.0628	0.1178
% difference	343%	58%	266%	211%

The CP5 EAU rates are subject to change, and are likely to be revised again prior to ORR's Draft Determination in June 2013. We expect for the difference between the CP5 and CP4 numbers to reduce.

Slot and Cancellation Charges

Slot and cancellation charges are currently levied on charter operators. Slot charges aim to recover the cost of activities undertaken by Network Rail specifically for charter services, which Network Rail is not otherwise funded for. This includes gauging activities, maintenance and operational costs, such as paying for additional operational staff to operate ground frames for charter trains to access branch lines, for example. A repeat slot charge is also levied on charter operators, this aims to recover the same costs as the 'one off' charge but is considerably lower reflecting the fact that the cost will be less for each subsequent repeat of a series of identical journeys, within the same timetable period. A summary of the CP4 slot charge rates is provided below:

[13] Network rail, (February 2013), 'Periodic Review 2013: Traction Electricity and Electrification Asset Usage Charges in CP5 – Conclusions of Network Rail's Consultation', accessible here: http://www.networkrail.co.uk/WorkArea/DownloadAsset.aspx?id=30064784907

[14] Network Rail, (September 2012), 'Periodic Review 2013: Network Rail consultation on traction electricity & electrification asset usage charges in CP5', accessible here: http://www.networkrail.co.uk/WorkArea/DownloadAsset.aspx?id=30064783482

Table 6: 2012/13 charter 'One off' slot charge rates

Description of Service	Total journey length including ECS mileage not exceeding 250 miles (£)	Total journey length including ECS mileage exceeding 250 miles (£)
Train hauled by Diesel or Electric Equipment or consisting of EMU or DMU	309	309
Train hauled throughout or in part by Steam Driven Equipment	552	773

Table 7: 2012/13 repeat slot charge rate

Repeat Business Slot Charge (£)
55

In addition to slot charges, cancellation charges are also levied on charter operators. Cancellation charges are designed to recover the proportion of the slot charge that has already been incurred, such as the gauging activity, before the decision has been taken to cancel the train. At present, the cancellation charge is calculated as a proportion of the slot charge and varies in accordance with the timing of the cancellation (the later the cancellation the higher the charge). Specifically, the following rates apply:

- **10%** of the Slot Charge for the Cancelled Service where notice of such cancellation is given more than 25 Working Days in advance of the Planned date of operation of the Cancelled Service;
- **50%** of the Slot Charge for the Cancelled Service where notice of such cancellation is given at least 20 but less than 26 Working Days in advance of the Planned date of the Cancelled Service;
- **75%** of the Slot Charge for the Cancelled Service where notice of such cancellation is given at least 15 but less than 20 Working Days in advance of the Planned date of the Cancelled Service;
- **85%** of the Slot Charge for the Cancelled Service where notice of such cancellation is given at least 5 but less than 15 Working Days in advance of the Planned date of the Cancelled Service; and
- **100%** of the Slot Charge in all other cases.

Our proposal

We have reviewed the current arrangements, set out, above, in relation to slot charges and consider that they continue to be appropriate. Therefore, for CP5, we propose retaining the existing charge rates (see above), adjusted annually for RPI.

We have also reviewed the current arrangements as set out above in relation to cancellation charges and consider that these also continue to be appropriate. Therefore, for CP5, we propose retaining the existing proportions of the slot charge, and associated criteria.

Capacity Charge

The Capacity Charge was introduced in 2002, to allow Network Rail to recover additional Schedule 8 costs associated with the increased difficulty of recovering from incidents of lateness as the network becomes more crowded. In so doing, the charge helps neutralise the increased Schedule 8 risk to Network Rail of accommodating additional traffic and therefore helps overcome the disincentive faced by Network Rail to accommodate this additional traffic. In addition, the charge provides incentives to train operators and funders to make efficient use of available network capacity.

Our proposal

Under the current arrangements, the Capacity Charge is not levied on charter operators. To date, Network Rail has not proposed levying the charge on charter operators in CP5. However, we recognise that there may be a case for charging the Capacity Charge on charter operators in future, to reflect their impact on capacity utilisation and the financial risk which this places on Network Rail in terms of additional Schedule 8 payments.

Schedule 8

The Schedule 8 performance regime is designed to:

- Compensate train operators for the financial impact of poor performance attributable to Network Rail and other train operators;
- Help align financial incentives between Network Rail and train operators, so that the financial impact of performance on revenue and/or costs is incurred by the organisation the disruption is attributable to; and
- Provide appropriate signals so as to drive the decision-making by both Network Rail and the train operators in relation to performance management.

Our proposal

Currently, the charter operator payment rate under the Schedule 8 regime is set equal to the freight operator payment rate. We consider that this does not reflect the actual cost incurred from a charter train incident, as freight and charter operators run fundamentally different services with very different interactions with other train operators.

In its recent consultation on Schedules 4 & 8 possessions and performance regimes[15], ORR stated that it is minded-to set a specific charter operator payment rate. We have therefore started work to calculate a new charter operator payment rate. We will share the results of this work in the near future.

Under the current regime, charter operators have an incident cap of £5,000. This means that the charter operators' liability for any incident is capped at £5,000, with Network Rail liable

[15] ORR (November 2012) consultation on Schedules 4 & 8 possessions and performance regimes. Available at: http://www.rail-reg.gov.uk/pr13/PDF/sch-4-8-consultation-2012.pdf

for the remainder. In contrast to freight operators, which may also choose to cap their Schedule 8 liabilities, charter operators do not pay an Access Charge Supplement (ACS) in exchange for the cap. Whilst we understand that it is important that small operators are subject to appropriate protections, we note that Network Rail is not funded for this additional liability and that the presence of the caps may diminish incentives on charter operators to improve performance.

ORR has previously stated that it is minded-to remove the requirement on Network Rail to offer incident caps to charter operators, as this currently protects charter operators against risk relating to their own performance. If incident caps are to be offered in CP5, we believe that it is important for the integrity of the Schedule 8 mechanism and the regulatory regime in its entirety, that such caps are appropriately funded. This could come from an ACS levied on charter operators themselves, or through an increased revenue requirement.

We do not currently consider that it is necessary to amend other areas of the charter Schedule 8 performance regime.

Schedule 4

Schedule 4 of the Track Access Contracts between Network Rail and train operators sets out the arrangements for compensation paid to operators when Network Rail takes possession of the network.

Our proposal

As charter services are typically short term planned, the engineering possession plans are already agreed before the majority of charter services are planned and offered. Therefore it is very unusual for a Restriction of Use to result in the cancellation of a charter service. There are rare occasions when late notice Restrictions of Use may impact on charter services, but these are few and far between.

There are currently typically no provisions for charter operators under the Schedule 4 regime (with the exception of provisions for service variations). We do not consider that the Schedule 4 regime should be changed to incorporate charter operators for CP5. If a Schedule 4 regime was to be introduced for charter operators in CP5, it would be appropriate for any arrangements to be funded, for example by means of an Access Charge Supplement payable by charter operators.

Station Charges

While the charges that we levy on charter operators to access any one of our 17 Managed Stations do not form part of the TAA, for completeness, we thought it would be helpful to outline in this letter the current arrangements and Network Rail's position on station charging in CP5.

Where charter operators require access to any one of our Managed Stations, the respective charge is levied as a fixed fee per train recognising that access is not as regular as it is for scheduled passenger services.

The fixed fee is set to recover the cost of the services used by the charter train operator at the relevant Managed Station. Generally, it has been levied at a rate of £50 and £65 for a single and return visit respectively (exclusive of VAT). It should be noted however, that the fixed fee is negotiated between the charter operator and relevant station manager, and will be reflective of the cost of the services provided at the station. Therefore, there is not a 'standard' rate for Managed Station access, and it will depend on the nature of the individual request.

Our proposal

We propose to retain the current arrangements in CP5.

Next steps and responding to this consultation

We are keen to hear your views on the proposals in this letter.

We would appreciate all comments by **Tuesday 9 July 2013**. Please send your comments and / or any queries to Ben Worley (Ben.Worley@networkrail.co.uk) or myself.

We intend to publish responses to this letter on our website. If you wish all or part of your response to remain confidential, then please indicate so in your response.

We understand that ORR will set out its decision in relation to the level of track access charges in CP5, including with respect to charter operators, as part of its Final Determination due to be published in October 2013. We therefore aim to conclude on these proposals to ORR by the end of July 2013.

Subject to ORR's approval, any new charge rates would apply from the start of CP5 (1 April 2014), for the remainder of CP5 (i.e. until 31 March 2019).

Yours sincerely

Peter Swattridge
Head of Regulatory Economics

Annex A – circulation list

Association of Train Operating Companies

DB Schenker UK Ltd

Direct Rail Services Ltd

First Greater Western Ltd

Freightliner

GB Railfreight Ltd

Office of Rail Regulation

West Coast Railway Company Ltd

A1 Steam Locomotive Trust

Compass Tours

Green Express

Great Western Society & FGW

National Railway Museum

Nenta Tours

NE Railtours

Pathfinder Tours

PMR Tours

RailTourer

Railway Touring Company

Rivera Trains

Royal Scotsman

SRPS

Steam Dreams

Statesman Rail

Torbay Express Limited

UK RailTours

Vintage Trains

VSOE - Northern Belle

VSOE - British Pullman