

**APPLICATION TO THE OFFICE OF RAIL REGULATION FOR
A PASSENGER TRACK ACCESS CONTRACT
UNDER SECTION 17 OF THE RAILWAYS ACT 1993**

1. Introduction

This form should be used to apply to the Office of Rail Regulation (ORR) for directions under section 17 of the Railways Act 1993 for a new track access contract. Section 17 is the means by which those seeking the right to use a railway facility (including Network Rail's network) apply for compulsory third party access if they have failed (for whatever reason) to reach agreement with the facility owner.

The form sets out ORR's standard information requirements for considering such applications. It cross-refers throughout to the published document on its criteria and procedures for the approval of access contracts¹. That document explains the process and timing for ORR's consideration of access applications and discusses the issues ORR will need to consider. Applicants should use the published model passenger track access contract as their starting point when drafting the contract they would like². Applicants are strongly encouraged to read ORR's criteria document before making an application. Cross-references to this document have been included on this form.

It is very important that the application is made in good time and prospective applicants are strongly advised to read (and if necessary take advice on) the procedures which are laid out in the Railways Act 1993 and ORR's published guidance in this respect.

The track access team at ORR will be happy to discuss prospective applications. Applicants are strongly encouraged to contact the Office at an early stage, preferably before making an application, to discuss their likely requirements. Contact details are shown at the foot of this form.

A copy of this form, and of ORR's model track access contract, can be accessed electronically and downloaded via the ORR website (www.rail-reg.gov.uk).

2. The application

2.1 Title of proposed contract:

Track Access Contract (Passenger Services) between Network Rail Infrastructure Limited and Wrexham Shropshire & Marylebone Railway Company Limited.

2.2 Contact details (*Company and named individual for queries*):

Company:	The Wrexham, Shropshire and Marylebone Railway Company
Contact individual:	Andy Hamilton
Job title:	Project Director
Address:	Great Central House Marylebone Station Melcombe Place London NW1 6JJ
Telephone number:	0845 260 5233
Fax number:	01926 729961
E-mail address:	andy.hamilton@wrexhamandshropshire.co.uk

¹ *Criteria and procedures for the approval of passenger track access contracts: fourth edition*, Office of Rail Regulation, May 2006 available at <http://www.rail-reg.gov.uk/server/show/nav.202>

² This is available at <http://www.rail-reg.gov.uk/server/show/nav.202>

2.3 Licence and Railway Safety Case/Certificate Please state whether the applicant intends to operate the services itself or have them operated on its behalf **3.9-3.14**

Please state whether the proposed operator of the services (a) holds a valid train operating licence under section 8 of the Railways Act 1993 or an exemption under section 7, and (b) has an accepted Railway Safety case under the Railways (Safety Case) Regulations 2000 or a Safety Certificate under the Railways and Other Guided Transport Systems (Safety) Regulations 2006. If the answer to (a) or (b) is no, please state the point which that person has reached in his obtaining of the licence or exemption and Railway Safety Case/Certificate (as the case may be)

The Wrexham, Shropshire & Marylebone Railway Company Ltd intends to operate the proposed services itself.

In respect of a train operating licence we are at an advanced stage of planning and are intending to make an application to the ORR in May 2007.

In respect of an accepted Safety Certificate we are currently developing our Safety Management system. We have met ORR-HMRI representatives and discussed deliverables and timings. We would intend to make a submission to ORR as soon as our plans on rolling stock and calling patterns are firmed up. We anticipate this being in April or May 2007.

3. The proposed contract

3.1 Executive summary Please provide an executive summary of the proposed contract. This should cover the services, the commercial terms, and the applicant's reasons for seeking the contract in the terms proposed. The summary in this section should also explain (here or by cross-reference to the answers in the sections below): **3.21**

- where there is an existing agreement in respect of the services in question, any differences between the existing agreement and the proposed contract (e.g. calling patterns, frequency, routes, rolling-stock, commercial terms etc); **3.74**
- any aspects in which the proposed contract contains bespoke provisions departing from the published model track access contract and the charging, performance and restrictions of use regimes established through ORR's periodic review (or subsequent interim reviews) of access charges; and **2.50-2.56**
6.2-6.3
- any material safety risks that have been identified arising from the proposed contract and the arrangements for their control and mitigation (by reference to the provisions of the operator's Railway Safety Case/Certificate and, so far as is possible, the Railway Safety Case/Certificate of the facility owner) **4.9-4.11**

This application is for a new track access contract between Network Rail Infrastructure Limited ("Network Rail") and The Wrexham, Shropshire & Marylebone Railway Company Limited ("Wrexham & Shropshire").

Wrexham & Shropshire is applying for a new Open Access track access contract under section 17 of The Railways Act 1993. There is no existing agreement and therefore rights applied for are new.

The contract is proposed to take effect at 0200 on 9th December 2007 the Principal Change Date. The proposed contract is set to expire on the Principal Change Date in December 2017.

Wrexham & Shropshire is seeking access rights to operate trains from Wrexham

General to London Marylebone calling at Ruabon, Chirk, Gobowen (for Oswestry), Shrewsbury, Wellington, Telford, Cosford, Wolverhampton, Tame Bridge, Birmingham International and Banbury. The access rights would be for 5 trains in each direction on each weekday, 4 in each direction on a Saturday and 3 in each direction on a Sunday.

Wrexham & Shropshire has been having ongoing dialogue with Network Rail on the structure of the proposed timetable for this new service (the rights for which are sought in this application) and also on agreeing the terms of the proposed Track Access Agreement.

It has been the stated intention of both parties to work towards a section 18 application, this being evidenced by the fact that the vast majority of the terms have been agreed (see section 3.2). However Network Rail are currently unable to support a section 18 application in the timescales necessary to deliver a service start point within the December 2007 timetable because:

- Network Rail has yet to finalise the December 2007 timetable and therefore does not feel able to commit to the Schedule 5 section of the agreement; and
- Network Rail has not completed the remodelling of the December 2008 timetable to satisfy the requirements of the DfT and therefore does not feel able to commit to Schedule 5 section of the agreement even if the December 2007 timetable was finalised and agreed;

The contract sought is a model clause format with adjustments to cover application to an Open Access Operator (see section 3.3).

The specified equipment is Class 67 locomotives with Mk3 loco hauled coaching stock. We are still investigating the possibility of using modern DMU vehicles (Class 158 and 170) if these should come available as a result of the current franchise negotiations.

The vehicles in question are currently cleared for all proposed routes with the exception of:

- the Mk3 Driving Van Trailer between South Ruislip and London Marylebone. Initial indications are that no problems are expected in achieving route clearance for these vehicles.
- The Class 158 between Aynho Junction and London Marylebone.

3.2 Terms not agreed with the facility owner Please set out here those specific areas of the proposed contract which the applicant has **not** been able to agree with the facility owner, the reasons for the failure to agree and the reasons for seeking these provisions **2.24**
3.72-3.74

Wrexham & Shropshire has held extensive discussions with Network Rail to develop a Track Access Agreement for implementation in May 2007. These discussions are still relevant for the revised proposal starting December 2007. During these discussions drafts of the proposed agreement have been shared.

The latest draft attached has been altered in light of Network Rails comments on the previous application and the changes associated with the proposed stop at Tame Bridge.

1.1 Definitions

- **Expiry Date** – Appendix 3 to the Supporting Information contains an exchange of correspondence between the applicant and the facility owner indicating the Network Rail process which Network Rail have disclosed to the applicant only in November 2007 for agreeing an access term beyond December 2008.

Schedule 3 – 1 Collateral Agreements

Network Rail have stated that they believe that a Station Access Agreement is needed for Birmingham New Street station. We do not believe that it is appropriate for the operator to require a Station Access Agreement just to be able to use the signal post telephones. If that were the case operators would need such an agreement for all stations that they operate through that have a signal on the end of the platform regardless of whether there is a right to stop.

Schedule 5

All the text and tables in this schedule are subject to finalisation of actual paths.

Schedule 5 Table 5.1 – Specified Equipment

Network Rail have not agreed to Class 67 and loco-hauled coaching stock as Specified Equipment. Wrexham & Shropshire recognise that Section Running Times and route clearance for the Mk3 DVT between South Ruislip and Marylebone would be required prior to final agreement.

Schedule 5 Table 8.6

Network Rail do not agree and argue that the stabling rights should be available to all operators. We believe that if the planned operation depends on these stabling facilities being used as a part of that plan this should be reflected in the rights. Otherwise it would be possible for another operator to plan to use the same facility resulting in trains arriving at Wrexham with no facilities available to remove them from the main line platforms.

Schedule 8 – Appendix 3

Network Rail have objected to the deletion of this Appendix – however in the drafting it was deleted by Network Rail. Wrexham & Shropshire have never seen this Appendix, neither does it appear to be a part of the model contract on the ORR website. We have requested sight of this from Network Rail with a view to including it at the next draft.

3.3 Departure from ORR's model passenger track access contract Please set out here, with reasons, any areas where the drafting of the proposed contract omits, amends or adds to ORR's published template passenger track access contract (as appropriate, cross-referencing to the answers below). Wherever the proposed contract contains a new process (e.g. a self-modification provision) ORR will wish to see a flowchart illustrating that the process is robust, internally consistent and leaves no loose ends **2.50-2.56**
6.2-6.3

The application adopts the model with departures only to reflect that the applicant is not a franchisee or franchise operator. We list in Appendix 1 to this application the departures which have been made and the rationale.

3.4 Duration of contract Please indicate the commencement date sought for the proposed **4.74-4.79**

contract, and provide justification for the proposed duration (in particular, giving reference to ORR's policy on long-term access contracts³ where contracts would be for longer than five years)

The contract is proposed to commence from the Principal Change Date in December 2007. We seek a 10 year contract, reflecting the level of risk being taken and the level of investment by shareholders and third parties.

Principal factors which lead us to seek a 10 year contract are:

- The level of financial risk in the business plan, which requires parent company loans during the start-up phase over the first three years. We attach a document "Supporting Evidence" to provide support to this application which demonstrates the build-up of the market over many years, which means the viability of the business plan depends on long term returns;
- The level of investment in rolling stock refurbishment will be significant in order to create a quality environment that supports the business plan vision. This investment will deliver trains that will have a long term service life;
- Investment in railway infrastructure and facilities at Wrexham General station by Network Rail on behalf of the Welsh Assembly Government to support stabling of trains and the creation of jobs in Wrexham; and
- Support for the long term future of the business through training grants from the Welsh Assembly Government's Department of Lifelong Learning and Skills.

³ *Long-term access contracts: final conclusions*, Office of Rail Regulation, June 2005 available at <http://www.rail-reg.gov.uk/upload/pdf/240.pdf>

4. The expression of access rights and the consumption of capacity

4.1 Benefits Please set out what specific benefits will result from the proposed contract. In particular, please describe any new rights sought or significant changes in the pattern of services, their benefits to passengers and their impact on existing operators **4.30-4.36**

NEW RIGHTS SOUGHT

In developing our proposals we have sought to identify the optimum use of rolling stock. The table below shows our assessment of the number of train sets required to operate between one and seven return train services between Wrexham and London each day:

Return Train Services Operated per Day (A)	1	2	3	4	5	6	7
Train Sets Required in Traffic (B)	1	2	2	3	3	4	5
Total Train Sets Required (C = B + 1)	2	3	3	4	4	5	6
Single Journeys Operated per Train Set per Day (D = (2 x A) / C)	1.0	1.3	2.0	2.0	2.5	2.4	2.3

At each service level, we have identified the number of train sets required in traffic, and added one spare set in reaching the total set requirement. Our analysis shows that the most efficient level of service is five return workings per day, operated using three train sets in traffic. Under this scenario, each train set operates on average 2.5 single journeys per day and leads to the efficient utilisation of train crew and on-board staff.

In addition experience on Hull Trains has indicated that this is the critical mass of service needed to justify the level of marketing overhead to make the business a success including a call centre, a business travel facility, internet sales etc

We are therefore seeking rights to operate five return workings on weekdays. The following shows our outline specification for a weekday timetable:

Weekday Timetable Specification

Wrexham	0550	0715	1115	1515	1815
Gobowen	0610	0735	1135	1535	1835
Shrewsbury	0630	0755	1155	1555	1855
Telford	0650	0815	1215	1615	1915
Wolverhampton	07s10	08s35	12s35	16s35	19s35
Tame Bridge	0720	0845	1245	1645	1945
Banbury	08s10	09s35	13s35	17s35	20s35
Marylebone	0915	1045	1445	1845	2145
Marylebone	0640	1035	1335	1635	2005
Banbury	07u50	11u45	14u45	17u45	21u15
Tame Bridge	0840	1235	1535	1835	2205
Wolverhampton	08u50	12u45	15u45	18u45	22u15
Telford	0910	1305	1605	1905	2225
Shrewsbury	0930	1325	1625	1925	2245
Gobowen	0950	1345	1645	1945	2305
Wrexham	1010	1405	1705	2005	2325

On Saturdays, we are seeking rights for four return workings as shown below:

SATURDAY TIMETABLE SPECIFICATION

Wrexham	0635	0900	1300	1700
Gobowen	0655	0920	1320	1720
Shrewsbury	0715	0940	1340	1740
Telford	0735	1000	1400	1800
Wolverhampton	07s55	10s20	14s20	18s20
Tame Bridge	0815	1040	1440	1840
Banbury	08s55	11s20	15s20	19s20
Marylebone	1000	1225	1625	2025
Marylebone	0835	1235	1635	1935
Banbury	09u40	13u40	17u40	20u40
Tame Bridge	1020	1420	1820	2120
Wolverhampton	10u40	14u40	18u40	21u40
Telford	1100	1500	1900	2200
Shrewsbury	1120	1520	1920	2220
Gobowen	1140	1540	1940	2240
Wrexham	1200	1600	2000	2300

On Sundays, we are seeking rights for three return workings as shown below:

Sunday Timetable Specification

Wrexham	0900	1400	1800
Gobowen	0920	1420	1820
Shrewsbury	0940	1440	1840
Telford	1000	1500	1900
Wolverhampton	10s20	15s20	19s20
Tame Bridge	1040	1540	1940
Banbury	11s20	16s20	20s20
Marylebone	1225	1725	2125
Marylebone	0935	1335	1835
Banbury	10u40	14u40	19u40
Tame Bridge	1120	1520	2020
Wolverhampton	11u40	15u40	20u40
Telford	1200	1600	2100
Shrewsbury	1220	1620	2120
Gobowen	1240	1640	2140
Wrexham	1300	1700	2200

On weekdays, Saturdays and Sundays, in addition to the stops in the timetable specifications above we are seeking:

- Rights to call all services at Ruabon and Chirk
- Rights to call some services at Wellington and Cosford, for up to three trains at each of those locations
- Rights to call at Birmingham International to set down southbound and to pick up northbound

We include at Appendix 1 & 2 of the Supporting Evidence document detailed timetable proposals. Appendix 1 is the timetable we seek for the start of service whilst Appendix 2 is the timetable we have been discussing with Network Rail based on May 2007.

SPECIFIC BENEFITS

Our proposals offer significantly improved rail travel options, and principally something no existing operators provide, namely a through service to London from an area that currently has none. Furthermore, our proposals will also:

- Stimulate the market for rail travel, by offering choice and value for money, increasing the relevance of rail as a mode of travel from this area;
- Strongly promote the use of rail locally through links with local businesses and communities through adopting similar approaches to those successfully implemented by Hull Trains to build its business;
- Have the least possible impact on franchised train operators. Our analysis has shown that the services proposed will not be primarily abstractive in terms of revenue. Our business case rests on stimulating a significant increase in market share for rail as a whole and minimising abstraction; and
- Deliver a benefit to cost ratio of 8:1 by providing significant economic and non-financial benefits to the wider area.

We include at Section 5 of the Supporting Evidence document our detailed assessment of the benefits of our proposals. Included is a comprehensive analysis of the impact we believe our proposals have on existing franchised operators.

4.2 Congested infrastructure Please state whether the part(s) of the network to which this application relates have been declared congested by the facility owner, under regulations 23-25 of the Railways Infrastructure (Access and Management) Regulations 2005⁴? **4.84-4.85**

The facility owner has informed us that no parts of the network to which this application relates have been declared congested.

4.3 Adequacy Please set out to what extent and by what process (if any) the applicant has satisfied itself that there is sufficient network capacity for the services in the proposed contract, and the implications for overall network performance and the facility owner's maintenance and renewal activities **4.17-4.38**

We have developed a timetable in conjunction with Network Rail, which we believe is fully compliant with Rules of the Plan and Rules of the Route for the May 2007 timetable detailed at Appendix 2 of the Supporting Evidence document. This timetable does not fully meet the aspirations of Wrexham & Shropshire, which are reflected 4 above, however it does serve to prove that capacity exists on the various sections of the route.

We have worked closely with the Network Rail train planners throughout the preparation of our proposed timetable. It has been prepared on the basis aiming to be compliant with Rules of the Route and Rules of the Plan. Further, the magnitude of our proposal at a total of 10 trains per weekday is minor in the context of the overall train service on the routes proposed, and should be capable of being accommodated with the use of flexing rights.

⁴ These regulations are available at <http://www.opsi.gov.uk/si/si2005/20053049.htm>

We have carried out Railsys analysis using an indicative timetable for the Marylebone to Leamington section of the route in conjunction with Chiltern Railways. The report is appended to the Supporting Evidence document at Appendix 7. The analysis demonstrates that the proposed Wrexham & Shropshire has a negligible effect on the Chiltern Railways PPM. We see no reason why the result would differ if the same analysis were to be conducted for the rest of the proposed route – however currently no Railsys model exists for the other sections, although we understand that one is being developed for the West Midlands.

We are currently conducting some analysis of our proposed timetable against the existing timetables on the routes we seek to operate on to establish the quantum of change in the annual tonnage passing over each section of the route as a result of this proposal. When this is complete we will discuss the implications with Network Rail.

4.4 Flexing rights Please provide a general description of the extent of the facility owner's flexing rights in the proposed contract, the rationale for the extent of flex provided, including changes from that in any existing agreement in respect of the services in question, and the extent to which the provisions have been agreed with the facility owner **2.44-2.49 4.51**

Unlike a franchised passenger service the new open access services are designed to take into account the expected volume of custom in the early years and the optimum arrival times at London Marylebone for weekday services, while for weekend services the departure and arrival times are spread across the day.

The departure time of the services is constrained primarily by the arrival time ranges at destination set out in paragraph 8.5 and Table 8.3 and by the only journey time protection which is Maximum Journey Time set out in Table 6.1.

Schedule 5, with the exception of the areas referred to in 3.2 above, has been agreed with the facility owner.

4.5 Protected rights and obligations Please describe the extent to which the proposed contract contains any protected rights and/or protected obligations (i.e. protection from subsequent amendment of the Network Code under Condition C8), and explain the justification for the form and extent of protection sought by reference to ORR's criteria **4.69-4.70**

No such rights and obligations are sought.

4.6 Journey time protection Please describe the extent to which the proposed contract affords journey time protection to any services (by establishing maximum journey times, fastest key journey times or maximum key journey times), and explain the justification for the form and extent of protection sought by reference to ORR's criteria **4.52-4.66**

The only protection sought is Maximum Journey Time protection. This is believed to be the minimum protection reasonably required for the services to be commercially viable since prospective passengers will need to be satisfied that the direct service will not take appreciably longer than a train journey involving a change of train

and/or that the journey time is not appreciably longer than that by private car or coach.

The Maximum Journey Time – in Schedule 5 paragraph 6.1 and Table 6.1 has been calculated by Network Rail and agreed with the applicant in accordance with the guidelines agreed between ORR and Network Rail.

4.7 Other limitations on flexibility Please describe the extent to which the proposed contract contains any other restrictive obligations on the facility owner (e.g. regular service intervals, clockface departures, dedicated platforms etc), and explain the justification for any such provisions by reference to ORR's criteria **4.39-4.48**

As indicated at 4.4 and 4.6 the minimum limitations have been sought consistent with running a commercially viable service. No restrictive obligations of the nature referred to e.g. regular service intervals, clockface departures, dedicated platforms) are sought by the applicant.

4.8 Specified equipment Where the proposed contract contains changes to specified equipment (rolling stock), please give full details, including timescales, and the extent to which the vehicle and route acceptance procedure in the Network Code (Part F) has been completed **4.49-4.50**

We are currently evaluating a number of rolling stock options and intend to narrow this down in the near future. It is not realistic to finalise the choice until certainty about a Track Access Agreement is clear.

Our options currently include:

- Class 67 locomotive and Mk3 coaching stock
- Class 170 Turbostar
- Class 158

In terms of vehicle and route acceptance, whilst no formal discussions have taken place with Network Rail we do not anticipate any problems:

- the Class 67 and coaching stock is currently cleared for all routes with the exception that the Mk3 DVT (if used) has yet to be formally cleared for the section from South Ruislip to Marylebone. Initial work indicates that this will not be a problem;
- the Turbostars are currently cleared for all routes; and
- the Class 158's are cleared for all routes from Wrexham to Aynho Junction, and are known to be smaller in profile than the Class 165's operated by Chiltern Railways on the Routes from Banbury to London.

4.9 Moderation of competition Where applicable, please describe the extent to which the proposed contract seeks contractual protection from the introduction of competing services on specific flows, and explain the justification for such protection by reference to ORR's policy on moderation of competition **4.71-4.73**

Not applicable

4.10 Franchise obligations Please indicate the extent to which the services in the proposed contract are necessary to fulfil obligations under a franchise agreement with the Department for Transport or Transport Scotland **4.3-4.4**

Not applicable.

4.11 Public funding Please indicate whether (and if so to what extent) the services in the proposed contract are subject to financial support from central or local government (other than the Department for Transport or Transport Scotland), including Passenger Transport Executives, and provide a point of contact at that body **3.32 4.23 4.35-4.38**

There is no direct public funding sought or proposed for these services. You will note from elsewhere that the Welsh Assembly Government are investing in facilities at Wrexham General station that will be available for Wrexham & Shropshire, ATW and other operators to use, and that we are seeking a grant from the Welsh Assembly Government to assist in the training costs for the 50 – 60 new jobs created in Wrexham.

4.12 Passenger Focus Please indicate whether (and if so to what extent) the services in the proposed contract have been discussed with Passenger Focus, and provide copies of any relevant correspondence **3.32 4.38**

We have been in correspondence and dialogue with Passenger Focus on a number of occasions. We have spoken and written to them in connection with the current proposed changes and have offered to meet them in the near future to discuss further.

4.13 Route utilisation strategies If applicable, please also state which route utilisation strategies (RUSs) are considered relevant to this application and whether the proposed rights are consistent with that RUS. If the proposed rights are not consistent, please state the reasons for this. **2.29 4.5-4.8**

The West Midlands Route Utilisation Strategy (RUS) was published by SRA in 2005. The Strategy identifies “access between Shrewsbury/Telford and London” as a key issue. The RUS examines options for both peak and all day services between Shrewsbury and London, concluding that both merit further examination, and notes that the viability of a peak service “is dependent on the deployment of diesel trains on the West Coast”.

DfT published its West Coast Main Line Strategy Progress Report in May 2006. This examined the potential for delivering the options outlined in the RUS, concluding that diesel trains cannot be made available to cover any of the Wolverhampton to Euston services. Trains which might have been extended to start from Shrewsbury, and diesel operation of Pendolino trains would be precluded by the high costs of such an operation.

It seems to us that the specification of any existing or future DfT franchise will therefore exclude the provision of any through services between Shropshire and London in the medium term, bearing in mind that the current Midlands franchises are likely to be compatible with our proposed 10 year term.

We firmly believe our proposals present the best economic approach to meeting

stakeholder aspirations, and satisfying this key issue identified in the RUS. Our proposals provide both peak and off peak services through a business model that is cost-effective and requires no taxpayer support.

5. Incentives

5.1 Charges and performance Please indicate, and explain the reasons for, any instances where the proposed contract departs from the charging and/or performance regimes established by ORR's periodic review (or subsequent interim reviews) as reflected in ORR's model passenger track access contract, including the financial implications (e.g. establishment of an access charge supplement or rebate) **5.1-5.43**

The proposed contract does not depart from the charging regime established at the last periodic review (for the charging period 2004-2008) as that applies to open access operators. The applicant and Network Rail have agreed that the Access Charge Supplement for Restrictions of Use (ACSRU), (Schedule 4 Part 5) will apply. Schedule 8 adopts the performance regime in the model contract (subject to the insertion of benchmarks and to the operation of Schedule 11 as explained at 3.3 above). The applicant therefore considers that the financial implications for Network Rail will be entirely consistent with the last charging review (or subsequent interim review).

We have agreed with Network Rail to use the first year's performance as the basis of agreeing a benchmark, using Schedule 11 of the Track Access Agreement.

5.2 Train operator performance Please describe any planned initiatives associated with the operation of the services in the proposed contract aimed at improving the applicant train operator's own performance **4.30 5.1**

As a new operation there is clearly no current benchmark to improve on. However all our plans are predicated on a highly performing punctual railway. We will carry out a number of activities in the mobilisation of the business to ensure that this is delivered including reliability modifications to rolling stock and thorough training of drivers and operational staff in the mitigation of delay due to equipment failure. Train performance will also be a significant influencing factor in the final selection of rolling stock maintenance arrangements.

We will set up a detailed performance monitoring system and develop appropriate performance initiatives and JPIPs.

5.3 Facility owner performance Please describe any planned initiatives associated with the operation of the services in the proposed amendment aimed at improving the facility owner's own performance. **4.30 5.1**

We will set up a detailed performance monitoring system and seek to develop performance initiatives with the facility owner as dictated by the on-going trends

There is no proposed amendment.

5.4 Restrictions of use Please indicate and explain the reasons for any instances where the proposed contract departs from the restrictions of use (possessions) compensation regime established by ORR's periodic review of access charges and his subsequent interim review of the possessions incentives regime **5.44-5.51**

It is not the intention of the applicant and the facility owner to depart from the restrictions of use (possessions) compensation regime established by ORR's last periodic review or the subsequent interim review of the possessions incentives regime (see 5.1 as to ACSRU). We have not yet had the opportunity to review the changes to Schedule 4 Part 3 proposed by ORR.

6. Enhancement

6.1 Enhancement details Where the proposed contract provides for the delivery of any network enhancements, or the services in the proposed contract are predicated on any planned network enhancements, please give full details of the relevant enhancement schemes, including a summary of outputs from the scheme, timescales and the extent to which the network change procedure in the Network Code (Part G) has been completed (where appropriate, by reference to submissions made under ORR's enhancement reporting framework) **4.82-4.83**

Implementation of the full timetable is predicated on the provision by Network Rail of enhanced infrastructure facilities at Wrexham General to enable us to service trains there overnight. We understand that these facilities will be funded by the Welsh Assembly Government and that Network Rail will be seeking ORR approval to include the facilities in the Regulatory Asset Base.

It is anticipated that the work will be completed by Dec 2007 and that the specification will include:

- Review of the condition of the permanent way in the two up bay sidings and associated switches and signalling. Any necessary remedial works will be carried out. Although still part of the Network these facilities have seen very little use in the last few years;
- Installation of electrical and water supplies and associated equipment to enable the overnight servicing of Rolling Stock;
- Installation of new fencing and CCTV equipment to provide security for stabled rolling stock;
- Provision of facilities to allow the handling of on train refuse and train cleaning materials and equipment; and
- Provision of the necessary facilities in the station buildings to support an operational depot of up to 60 people.

6.2 Enhancement charges Please confirm that the arrangements for the funding of any network enhancements are consistent with ORR's Policy Framework for Investments⁵, and summarise the level and duration of payments, and the assumed rate of return (see chapter 3 of the Conclusions document) **5.7 5.12-5.14**

Not applicable.

⁵ *Policy Framework for Investments: Conclusions*, Office of Rail Regulation, October 2005, available at <http://www.rail-reg.gov.uk/upload/pdf/255.pdf>

7. Other

7.1 Associated applications to ORR Please indicate whether this application is being made in parallel with, or relates to, any other current or proposed applications to ORR (e.g. in respect of track, station or light maintenance depot access contracts or agreements) **3.17**

We have written to all TOC's with whom we wish to enter into Station and Depot Access Agreements. The mobilisation project plan shows that we intend to develop these aiming for submission to the ORR in June 07, however we note that some of the TOC's have declined to meet us until the ORR have made a determination on this application.

7.2 Supporting information Please indicate here any further justification or relevant information in support of the application, including a list and explanation of any other material being submitted (and supply copies with the application) **3.30**

We have included the following information in support of this application:

- Appendices attached to this application form
- A document of Supporting Evidence including appendices containing:
 - Proposed timetables
 - Assessment of the ratio of generation and abstraction
 - List of Stakeholder support
 - NATA Appraisal Summary Table
 - Letter from Network Rail stating position
- Draft Track Access Contract

7.3 Side letters and collateral agreements Please confirm here that the whole of the proposed contract between the parties has been submitted with this application and that there are no side letters or other documents which qualify or otherwise affect the proposed access contract **6.12-6.16**
6.21

The applicant confirms that the whole of the proposed contract between the parties has been submitted with this application and that there are no side letters or other documents which qualify or otherwise affect the proposed contract, other than those referred to in Schedule 3.

7.4 Confidentiality exclusions Please indicate clearly any elements in the application and the proposed contract that the applicant would wish to exclude from wider consultation on the grounds of confidentiality specified in section 71(2) of the Railways Act 1993, and provide a full justification for each instance by reference to those statutory grounds. Subject to its decision on such exclusions, it is ORR's intention to publish this application and the proposed contract on the ORR website. (NB under the process established by Schedule 4 of the Railways Act 1993, ORR is obliged to send a copy of the application **in full** to the facility owner) **3.23-3.27**

There are no elements in this application form which the applicant would wish to exclude from wider consultation on the grounds of confidentiality specified in s71(2) Railways Act 1993 ("Exclude"). There are limited areas of the Supporting Evidence document which the applicant wishes to Exclude. These are identified as being deleted within the redacted version of the Submission Document. The ground for exclusion is commercial confidentiality, related to the applicant's business case and its methodology for establishing the market economics to which s71(2)(b) applies.

There are no areas of the proposed contract that the applicant would wish to Exclude with the exception of areas of Schedule 4 and 8 which will be derived from the applicant's projected revenues. Again the ground for exclusion is commercial confidentiality. These areas to which s71(2)(b) applies are also commercially sensitive for purposes of the Freedom of Information Act.

8. Certification

Warning: Under section 146 of the Railways Act 1993, any person who, in giving any information or making any application under or for the purposes of any provision of the Railways Act 1993 (including section 17), makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is guilty of an offence and so liable to criminal prosecution **3.31**

I certify that the information provided in this form is true and complete to the best of my knowledge

Signed

Date 5th March 2007

Name (in caps) Andrew Hamilton

Job title Director

For (company) The Wrexham, Marylebone and Shropshire Railway Company Ltd

9. Submission

9.1 What to send

Please supply, in hard copy, the signed top copy of this application form, one copy of the proposed draft contract, with copies of any documents incorporated by reference (other than established standard industry codes or other instruments) and any other attachments, supporting documents or information. **3.30**

Please also supply the application, the proposed contract and, insofar as it is possible, any other supporting information, in electronic form, by e-mail or on disc, **in plain Microsoft Word format** (i.e. excluding any macros, auto-para or page numbering, or other auto-formatting). **3.28-3.29**

9.2 Where to send it

Manager, Track Access Team
Directorate of Rail Markets, Passengers & Freight
Office of Rail Regulation
One Kemble Street
London
WC2B 4AN

ORR Form Passenger S17 May 2006