

ANNEXES

1. Annex 3.3.3 - Capacity Reservation Framework Agreement - GYSEV Zrt.

The following modifications were made:

Infrastructure Manager may terminate this Agreement with immediate effect within 30 days of the commencement of the examination in the following cases:

- if Non-RU Applicant has not submitted a capacity request within the scope of the Contract within 365 days prior to the examined date in the case of the first examination within 20 months, or has submitted it, but the capacity request has not been used. The Infrastructure Manager may examine this case for the first time after 1st February 2023.
- if Non-RU Applicant under the scope of the Agreement has not appointed any Railway Undertaking for the use of the rail network capacity 10 times ~~according to examinations carried out at any time~~ during a timeframe of 180 days prior to the examined date.

Infrastructure Manager may terminate this Agreement with immediate effect in the following cases:

- if a competent registry Authority or Court in its final order decides on liquidation, forced annulment, final accounting of the Non-RU Applicant,
- if Non-RU Applicant is under bankruptcy proceedings,
- if Non-RU Applicant seriously breaks Agreement in other respects.

2. Annex 5.7 - Performance Regime

1. I. Scope of the Performance Regime

The chapter I. was modified as follows:

The scope of the Performance Regime covers:

- a) railway company operating nationwide open access, not for own railway network (hereinafter referred to as infrastructure manager),
- b) railway undertaking (RU),
- ~~c) non-RU applicant~~
- ~~d) rail regulatory body,~~
- ~~e) Rail Capacity Allocation Body (hereinafter referred to as VPE)~~

Territorial scope of the performance regime covers the nationwide open access railway networks in Hungary.

2. III. Principles of the Performance Regime

The following paragraphs were modified in the chapter:

Provisions of the Performance Regime shall equally and non-discriminatory apply both to the RUsapplicants and infrastructure managers. General requirement of the Performance Regime is simplicity, transparency, liability, cost-efficiency, usage of measurable data, as well as it must not impose exaggerated legal and/or administrative burden either on RUsapplicants or on infrastructure managers.

If the request for rail capacity is submitted by a non-RU applicant but the train path is not used, the payment obligation is imputable and compensation can be determined if they are included in the framework contract concluded as it is indicated in Paragraph 54/(4) of the Railway Act ~~in order to ensure the basic principles set out in Paragraph 67/K. Section (3) of the Railway Act.~~

Performance Regime is part of the 'General Terms and Conditions for the Use of Railway Infrastructure' of the contractual connection concluded between the infrastructure manager and the RUsapplicants.

3. IV.1 Incentive scheme to facilitate punctual train run

The following paragraphs were modified in the chapter:

Secondary delay: When another train in delay causes delay to the particular running train irrespectively of the owner of the train path and the original reasons of the another train's delay. This type of delay is a consequence of constraint induced by another train.

Infrastructure Manager has ~~only in those cases~~ possibility for coding a delay as a timetable compilation fault only in those cases, if the Infrastructure Manager can demonstrate that despite correct and accurate network core data, traffic management circumstances and information transmitted to VPE, delay has arisen from the improper compilation of timetable or allocation of the train path.

4. IV.2. Reservation fee

The chapter was modified as follows:

The reservation fee shall be charged for those ~~applicants-RUs~~ who regularly do not use the train paths allocated to them. The regularly unused train paths are considered as a certain ratio of the total allocated but cancelled train paths for the examined month, as well as train paths concerned in cancellation failure for the examined month.

5. IV.2.3 Methodology for accounting the incentive scheme

The following paragraphs were modified in the chapter:

~~As long as the train path request is submitted by a non-RU applicant but the allocated train path is not used, the RU applicant(s) designated in the train path order is(are) obliged to pay the reservation fee. If there is no designated RU applicant in the order or the~~

~~designated RU applicant rejected the designation, the non-RU applicant is bound by the payment obligation. In case of non-RU applicant the reservation fee has to be examined in one piece, regarding the train paths allocated for the non-RU applicant, irrespectively from the number of RU applicants designated in them.~~

If the ratio of cancelled train paths, as well as train paths concerned in cancellation failure reaches 60% within the sum of all allocated train paths in the case of the particular RU applicant at the concerned infrastructure manager, the infrastructure managers count the reservation fee connected to the network part managed by own themselves, based on the ratio of basic service charges of concerned paths, which is determined as degree of the incentive scheme.

In case of dissolution with legal successor, or companies merge, or if the applicant-RU transforms in such other way where the right of ownership - connected to the train path and service requests handled by the applicant it formerly - is designated unambiguously for another legal entity, the applicant it does not have to pay the reservation fee even if - because of IT facilities - the applicant it has to cancel its train paths and service requests ordered earlier and has to withdraw the submitted demands, so that the successor can submit them again.

6. IV.2.4 Procedure in exceptional cases

The chapter was modified as follows:

In case of emergency, extreme weather conditions, or possessions for safety of operation Infrastructure Managers are entitled to withdraw train paths requested by the applicants and allocated by VPE. Withdrawal of a train path by the Infrastructure Manager due to emergency, extreme weather conditions, or possessions for safety of operation is not qualified as train path cancellation, rules of reservation fee in this case is out of scope. The same rule is to be applied in case of withdrawal initiated by Infrastructure Managers due to possession if it is implemented by VPE and not the train path owners cancel the affected train paths.

7. IV.2.6 Hypothesis relating to the incentive

The chapter was modified as follows:

Expectation connected to the incentive, that the applicants' RUs' cancellation ratios per infrastructure managers should not exceed 60% on yearly basis (except those special values, which have explanatory reason).

8. VII. Settlement of disputes, appeal

The chapter was modified as follows:

VII.1 Settlement of a complaint: between the Infrastructure Manager and the ~~applicants~~ RUs

Principles of disputing of data used as basis of incentive element of the Performance Regime and disputing of penalties to be paid by ~~authorised applicant~~ RU upon invoices prepared by the infrastructure managers on the grounds of the Performance Regime:

- 1) Infrastructure manager is obliged to hand over information and ensure access for ~~railway undertaking~~ RUs to any kind of information (basis of calculations, breaking down of the amount to be paid per train path) deriving from the application of the incentive elements of the Performance Regime as regards train paths required by ~~authorised applicant~~ them.
- 2) Infrastructure manager and ~~applicant~~ RU are obliged to agree in the network access, or equivalent contract on possibilities to be used during the settlement of complains by parties concerned (possibility of an inside view of dossiers, making remarks, debating, corrections, etc.), what obligatory procedural times can be applied for certain phases of actions, feed-backs and commenting, and also time limit must be defined beyond which parties lose the right to complain if any procedural term are qualified as a term of preclusion.

9. VIII.1 Modification of the Performance Regime

The chapter was modified as follows:

Procedure for modification regarding changes which arise from the hypothesis analysis of ~~effects of~~ the Performance Regime ~~on minimising the disruptions on the railway network~~, or which arise from amendments to legal rules or to the Network Statement:

10. IX. Examination, analysis of other impacts affecting the optimal allocation of capacity

The chapter was modified as follows:

~~The reduction of elements of Performance Regime creates the possibility for~~ VPE endeavours to make analyses on deeper level, which can be the base of suggestions regarding quality development, and of elaboration of concrete action plans.