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OFFICE of the
RAIL REGULATOR

Railtrack PLC (in Railway Administration)
Railtrack House
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12 December 2001

for the attention of
Simon Osborne Esq
Company Secretary and Solicitor

PERFORMANCE PENALTY

1. I refer to the final order ("the order") made under section 55 of the Railways Act 1993 on 24 November 1999, requiring Railtrack to ensure that the minutes delay (as defined in the order) in the period of 12 months from 1 April 1999 was at least 12.7 per cent less than the minutes delay in the period of 12 months beginning on 1 April 1998 ("the obligation"). Under the order, if Railtrack failed to comply with the obligation it was required to pay a monetary penalty of £400,000 for each one-tenth of a percentage point by which it failed to achieve that target. Provision was made in the order to adjust the minutes delay where Railtrack had reduced delays to the greatest extent reasonably practicable or it was subsequently determined that delay was not attributable to Railtrack.
2. In accordance with paragraphs 7 and 8 of the order, on 31 May 2000 Railtrack provided a statement and certificate which indicated the minutes delay for the purpose of the order. The certified minutes delay showed an improvement in minutes delay per passenger train of 10.0%. This did not meet the target required by the obligation.
3. Under paragraph 5 of the order, on 31 July 2000, Railtrack required the Regulator to make a determination under paragraph 3 of the order granting Railtrack relief from the obligation by not counting certain of, or adjusting, the minutes delay.
4. Following exchange of correspondence on 21 December 2000 and 20 February 2001, the Regulator wrote to Railtrack on 16 May 2001 indicating the approach he was minded to take in respect of that determination, including the reasons for that approach and that the result of such a determination would be that the monetary penalty would be £7.9 million.
5. By letter dated 28 June 2001 Railtrack accepted that approach. I therefore determine that the non-counting and adjustment to the minutes delay for the purpose of paragraph 3 of the order are as set out in the letter dated 16 May 2001.

MICHAEL BESWICK

Director Infrastructure Regulation

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6. Accordingly, under paragraph 2 of the order Railtrack is required to pay a monetary penalty of £7.9 million within one month from the date of this letter. By virtue of paragraph 6(3) of Schedule 28 to the Transport Act 2000 (which came into effect on 1 February 2001) Railtrack is required to pay that monetary penalty to the Strategic Rail Authority.

7. A copy of this letter goes to the Strategic Rail Authority, and to the Special Railway Administrator and the Health and Safety Executive. The Regulator has advised the Special Railway Administrator of his intention to levy this penalty.

A handwritten signature in black ink, appearing to read "Michael Beswick".

MICHAEL BESWICK

duly authorised by the Rail Regulator