# Structure of Charges Review

Phase 4 Conclusions and Next Steps – 23 August 2022

# Structure of Charges Review – Phase 4 Conclusions and next steps

## 1. Introduction

HS1 Ltd has the 30-year concession from the Secretary of State (SoS) to own, operate and maintain High Speed 1 (HS1), the UK's only high-speed railway, as well as the stations along the route: St Pancras International, Stratford International, Ebbsfleet International and Ashford International. We fund these activities by levying charges on passenger train operators and freight train operators, which currently include Eurostar International Ltd (EIL), SE Trains Ltd (SETL), and DB Cargo.

HS1committed to undertaking a thorough review of the current Structure of Charges as a key CP3 commitment. The key strategic aim for the Structure of Charges Review is to encourage greater network usage to both lower costs overall as well as promoting the sustainability of rail in the longer term. This aim became more pertinent in light of the impact of Covid on the railway sector. This however needs to be balanced with the certainties the concession structure provides which is the basis of the private sectors acquisition of the asset. We have also focused on matters where HS1 has the direct ability to take decisions – given the broad set of stakeholders in the HS1 system, there are several areas where DfT and collaboration across several parties is needed to make a change.

The Structure of Charges Review was initiated in May 2021 and conducted in 4 phases (Section 2 outlines the phases). It has involved iterative consultation with stakeholders, reviews of approach adopted by other infrastructure managers, work with NR(HS) to understand in more detail the relationship between their direct and indirect costs and research into the impact of different trains on the network. We developed proposals based on the combination of this work for a final consultation with stakeholders.

This document concludes the Structure of Charges Review. It sets out, for each element considered in the Structure of Charges Review:

- Stakeholder feedback on HS1's proposals made in the Phase 3 consultation – we received responses from SET and EIL;
- EIL's comments on the Phase 3 proposals noted in its response to our Charging Model Rebuild consultation. EIL noted it had not raised these previously due to resource constraints while managing the impact of Covid. We have also taken these into account; and
- HS1's conclusions and next steps, having taken this feedback into account.

We then provide an overall conclusion summary for the Review.

This Phase 4 Conclusions and Next Steps should be read in conjunction with HS1's Phase 1 and Phase 3 consultation documents which provide more detail on the structure of charges and the analysis and work undertaken as part of this Review. We note that in the time since the Phase 3 consultation document, the regulation of HS1 stations and Long Term Charges is now overseen by the ORR, having been transferred from the DfT in late July 2022.

In a related process HS1 has formally launched its PR24 engagement. The PR24 process will take forward a number of elements from the review.

## 2. How we've undertaken the review and consulted stakeholders

We set out our plans to conduct the review in 4 phases as set out below. This document concludes the Structure of Charges Review.

- Phase 1, initial consultation: We are launching the review with this initial consultation to set the scene for the review and seek early views on the issues that stakeholders believe are important. **[COMPLETE]**
- Phase 2, optioneering: We will hold workshops or meetings with stakeholders and develop options for changes to the charging regime. We anticipate that this will take place from July to October. **[COMPLETE]**
- Phase 3, consultation on proposals: We aim to issue a second consultation in November 2021. It will set out the findings from the optioneering discussions, put forward proposals and seek stakeholder views on the proposals. **[COMPLETE]**
- Phase 4, conclusions: We aim to issue conclusions to the review by February 2022 **[THIS DOCUMENT]** and commence a charging model rebuild, some contractual amendments if required and feed into preparations for PR24. **[UNDERWAY]**

## 3. Investment Recovery Charges

**HS1 proposals:**

HS1 did not propose amendments to the HS1 Discount Policy – the policy for applying discounts to the Investment Recovery Charge (IRC) – currently other than the inclusion of discounts for Highspeed freight. We would consider discount proposals on new routes and on existing services that are considerably underutilised. We welcome any such applications from operators.

The IRC itself is not within scope of this review.

**Stakeholder feedback:**

EIL said the current application of the Policy is not appropriate – that the level of discount is too low and application has been inconsistent with previous discounts and approaches by other IMs. SET said the current drafting of the Policy is restrictive, that HS1 should make use of spare capacity and aid the industry's recovery from Covid.

EIL said the Review is not meaningful if IRC is not included within scope, noting charging at the maximum cap does not promote competitiveness and ignores productivity gains made by TOCs.

**HS1 conclusions:**

HS1 has implemented discounts in accordance with policy. As part of this review HS1 has already benchmarked its policy against other infrastructure managers and legal requirements.

We note that for the EIL application mentioned, it had announced the start of a commercially-viable service to Amsterdam when it applied for an IRC discount, so did not meet the Discount Policy criteria. HS1 has provided discounts in the past where the application meets the policy requirements – the full criteria can be found in Annex 3 of the HS1 Network Statement[1].

As noted in the Phase 3 consultation, HS1 will consider discount proposals from TOCs on both new and existing routes and welcome any proposals on how this could increase traffic volumes and support recovery. As TOCs are aware, HS1 is also working with stakeholders on system solutions to address cost pressures and support recovery in train volumes.

We therefore conclude that the HS1 Discount Policy remains fit for purpose at this time.

HS1 has not changed its position that IRC itself is out of scope. As noted throughout, IRC is out of scope as it is established by contract and the sale of HS1. It is set at the cap in the Concession Agreement as it is a fundamental aspect of the concession funding structure and HS1 does consider IRC discounts as part of our Discount Policy. We note that EIL has provided no evidence to support the assertion that charging in accordance with the cap does not promote competitiveness.

## 4. Route Specified Upgrades and ERTMS

**HS1 proposals:**

HS1 continues to consider ERTMS should be treated as a renewal. However, based on the ORR's decision that ERTMS should be treated as a Specified Upgrade, HS1 will now take forward two activities to ensure we remain compliant with our asset stewardship obligations under the HS1 concession:

1. Bring forward the principles to support an initial Specified Upgrade proposal for ERTMS design activities for consideration by operators, DfT and the ORR; and

2. Commence high level dialogue with the DfT and the ORR on the longer-term funding of ERTMS which will need to be addressed as part of the PR24 process.

**Stakeholder feedback:**

EIL and SET reiterated concerns about the treatment and funding of ERTMS raised in previous consultations. EIL requested a formal review of whether ERTMS is still needed on HS1 infrastructure, noting it cannot support any pre-funding of an ERTMS Specified Upgrade. SET said the ORR should provide explicit evidence of the significant additional benefits that classify it as a Specified Upgrade. It also had queries about the scope and cost-effective pricing of the ERTMS project and the introduction of the AIRC.

**HS1 conclusions:**

ERTMS is a critical renewal that is required on the HS1 asset to avoid future obsolescence. It is also being driven by the schedules of delivery in France and the EU to ensure efficient delivery across the asset and to align operability, but HS1 is also monitoring the domestic roll out. If it is

[1] https://highspeed1.co.uk/media/qyqlidgg/hs1-network-statement-2023.pdf

to be funded by the TOCs, HS1 believes the most efficient way to fund ERTMS is through the renewal's annuity – as it avoids the need to include financing costs.

HS1 has raised the TOCs concerns again with DfT and ORR and tested the classification again. After further consideration, DfT and ORR have reconfirmed their position that it must be classified as a Specified Upgrade.

Given the DfT and ORR's position, HS1 as asset steward must proceed with developing a Specified Upgrade proposal for early design works and fund it through an AIRC. This needs to start now to enable the necessary work to bring forward more detailed ERTMS project and funding proposals at later stage gates. HS1 welcome views on the timeframe for this AIRC recovery.

The more detailed ERTMS project proposal is being developed with knowledge of the estimated timelines for implementation by other IM managers and potential rolling stock renewal/refurbishment cycles – we will be seeking discussions with the TOCs on this. The next phase of the project will develop these timelines further with a view to identifying the most cost-effective method of implementation. HS1 is only exploring funding sources for the fixed infrastructure implementation of ERTMS.

HS1 will continue to explore the longer term funding of ERTMS. This will be a major consideration as part of PR24 and HS1 has already started discussions on this with TOCs and authorities as part of early PR24 engagement.

## 5. Renewals Costs

**HS1 proposals:**

HS1 is tied to the regulated approach to renewals and noted there does not appear to be an agreed approach to taking forward renewals differently. The ORR have advised HS1 must take a 40 year view and recover all costs to remain compliant with the Concession. This will need to be revisited as part of the PR24 process.

HS1 and DfT will look to review the Escrow Investment Strategy to help drive better returns on the funds in escrow.

**Stakeholder feedback:**

EIL reiterated comments that given the impact of Covid the renewals funding needs to be fundamentally reviewed, that alternative methodologies should be considered and without this the Structure of Charges Review will have no value. EIL also questioned the level of accuracy of renewals cost estimation for 40 years out. SET acknowledged the DfT's position and noted that HS1 is obliged to respond to the industry's financial pressures and lower train volumes due to Covid.

EIL and SET consider that the decrease in traffic over the past two years due to Covid should have led to cost savings in OMRC over this period and future renewals and ongoing maintenance costs, which should be passed on to TOCs. EIL also noted that the proposed change in split in the NRHS cost stack (section 5 below) allocates a higher share of costs to direct costs, which suggests that more costs vary directly with the level of traffic than previously assumed and therefore higher cost savings. EIL and SET requested evidence that HS1 has reviewed the evidence of impact of lower volumes during Covid and revised these costs.

There were no comments on the review of the Escrow Investment Strategy.

**HS1 conclusions:**

HS1 has already consulted on the matter of the 40-year funding approach through this Review. While HS1 agrees different approaches to renewals need to be considered, as stated previously this can only be enabled when the DfT and ORR accept that HS1 does need to recover full costs over 40 years, or failing that a change to the HS1 Concession.

As EIL and SET are aware, HS1 has been working with system stakeholders to prepare both short and long term annuity options for dealing with these issues – the latter will be largely based on discussions had during PR19. HS1 initiated this work from February at the System Strategy Dinner to provide short term annuity relief to operators. The longer term options will be discussed as part of PR24.

Throughout the pandemic HS1 has been working with NR(HS) to challenge how renewals and ongoing maintenance costs have been impacted by reduced volumes during the height of Covid.

Since EIL and SET made these comments, HS1 at the May System Strategy Dinner explained at a high level how NR(HS) analysis shows that the fall in traffic volumes over a 2 year period has not fundamentally altered the track renewal profile for CP3. The majority of renewals over the 40 year profile are not traffic dependent (e.g. non-wear related track renewals and civil structures). Furthermore, maintenance of the HS1 asset was also not materially altered by the fall in volumes over this period as HS1 is required to maintain it to high standards to operate the asset safely and in line with our Concession obligations. HS1 has done work to look at cost causation between direct and indirect costs based on CP3 commitment from ORR and given a proxy of how this would be incorporated into PR24, which will need to be consulted on and approved as part of PR24 (as set out in section 6 below).

HS1 is happy to have a session with these TOCs if they would like to discuss this evidence in more detail.

As part of PR24 process, the Specific Asset Strategy (SAS) for track will be updated to reflect future volume forecasts. We would welcome EIL's and SET long term train forecasts to support this. HS1 is also exploring the relationship between track damage and vehicle tonnage, and the link between maintenance costs and performance, as part of PR24 as outlined in this Review and in early engagement on PR24.

HS1 will continue to engage with DfT to review the Escrow Investment Strategy.

## 6. Split between direct and indirect charges.

**HS1 proposals:**

HS1 set out the proposed likely amendments to the split between direct and indirect costs related to NR(HS) cost stack following a detailed cost causation review with NR(HS). Any changes would be implemented as part of the PR24 process and subject to extensive consultation with stakeholders and decision by the ORR.

With regards to the specific impact of different trains on the infrastructure, HS1 would bring forward new EMGTPA calculations (if required) based on emerging evidence from our R&D activities as part of the PR24 process and consult on this in detail with stakeholders at that time.

**Stakeholder feedback:**

The stakeholders had no direct comments on the proposed amendments to the NR(HS) cost stack, although EIL noted it will need to see the details and underlying evidence on the proposed final split to be able to comment.

With regards to the impact of different trains, SET would like to understand the anticipated benefit to operators of the two R&D PhD positions looking at the impact of different trains and the associated timescales for this work. EIL stated that any shift in allocations based on different train weights or speeds should only apply to those cost categories that are directly influenced by these factors. It also noted that the current methodology assumes a linear relationship between weight and cost causation, that EIL is sceptical it's proportionate and hasn't been supported with robust evidence. EIL awaits the research findings and opportunity to comment when consulted, noting any change in methodology needs to be justified with reliable evidence.

EIL also commented on HS1's responses in the Phase 3 Consultation to EIL's earlier feedback related to direct and indirect costs. It noted:

- The HS1's statement that EIL had not been charged OMRCA1 on up to 15,000 paths was incorrect – it had paid IRC and full OMRC on at least 10,000 trains that did not operate.
- With regards to HS1's statement that TOCs rejected proposals on electrical asset decommissioning, EIL was advised by HS1 it would be a costly investment with low return. EIL regards the HS1 traction electricity infrastructure as over-specified with unacceptably high system usage and welcomes proposal that might deliver energy cost savings.

**Conclusion:**

HS1 will proceed with implementing the proposed amendments to the direct and indirect split for NR(HS) cost stack in consultation with stakeholders as part of the PR24 process. (The likely amendments are set out in the table below.)

The focus of the PhD R&D work is to have detailed modelling and evidence to better understand track degradation rates over time as driven by different train set types. This will enable HS1 to better evidence and apportion track costs to operators reflecting the damage their trains do to the network. Currently HS1 uses an economic model and EGMPTA to do this. We expect this R&D work to conclude in mid 2025, but will feed in emerging findings into the PR24 process as they arise. We note EIL's comments and will of course share the research findings for discussion and consultation.

HS1 therefore considers it is still appropriate to bring forward new EMGTPA calculations (if required) based on emerging evidence from our R&D activities as part of the PR24 process and consult with stakeholders on this.

In response to EIL's additional comments:

- HS1 can confirm that EIL did pay all OMRC and IRC in accordance with contract on all trains in the FWT in the Dec 2019 to Dec 2020 timetable year.

- EIL and other stakeholders noted their willingness to reconsider HS1's energy cost saving proposals, such as on feeder stations, at the February System Strategy Dinner that HS1 arranged. HS1 is exploring a proposal for this and will present these considerations to TOCs and other stakeholders.

**Proposed amendments to the NR(HS) cost split**

| NRHS COSTS | | Direct /Indirect CP3 | Direct /Indirect CP4 |
|---|---|---|---|
| **Payroll** | | | |
| | Infrastructure | 20/80 | 28/72 |
| | Operations | 0/100 | No change |
| | Safety and Assurance | 0/100 | No change |
| | Managing Director | 0/100 | No change |
| | Services | 0/100 | No change |
| | | | |
| **Contribution to National Function Services** | | 0/100 | 0/100 |
| | | | |
| **Recoveries** | | 0/100 | 36/64 |
| | | | |
| **Plant and Vehicles** | | | |
| | Plant | 0/100 | 15/85 |
| | Vehicle Fleet | 0/100 | 42/58 |
| | Tamper | 80/20 | 100/0 |
| | Plain Line Grinding | 80/20 | 100/0 |
| | S&C Grinding | 80/20 | 100/0 |
| | Track Recording | 0/100 | 100/0 |
| | Infrastructure Freight Haulage | 100/0 | No Change |
| | | | |
| **Specialist Contractors** | | 20/80 | 17/83 |
| | | | |
| **Materials** | | 0/100 | 22/78 |
| | | | |
| **Security of Infrastructure** | | 0/100 | No change |
| | | | |
| **Consultancy and Fees** | | 0/100 | No change |
| | | | |
| **Other** | | 0/100 | 5/95 |
| | | | |
| **Enhanced Maintenance** | | 0/100 | 14/86 |

## 7. Split between international and domestic operators AND

## Split between freight and passenger charges.

**HS1 proposals:**

HS1 was content that the current splits in the charging model reflect general traffic patterns. HS1 will continue to review the split between LSER services to Ebbsfleet and Ashford and Freight services patterns as part of the PR24 process and provide updates to stakeholders.

**Stakeholder feedback:**

SET stated that the number of vehicles, speed and tonnage should be taken into account when considering the split between operators. The current split based on train kilometres and train minutes does not take into account the difference in impact on the infrastructure between a 6-car 395 unit travelling at 140mph and an 16/18-car 374/373 unit travelling at 186mph.

EIL did not raise any comments.

**HS1 conclusions:**

HS1's charging model does already take into account the number of vehicles, speed and tonnage and HS1 is happy to have a session with SET's modellers to set this out. As noted above, research is being conducted to test the validity of the EMPTGA methodology currently used.

HS1 maintains it position not to make any amendments but keep the current splits under review as part of PR24.

## 8. Pass through costs

**HS1 proposals:**

HS1 will take forward proposals in PR24 to expand the scope of OMRCC charges to include a range of other supplier and regulator costs that HS1 do not have any control over – e.g. regulatory fees set by the ORR and RSSB and British transport Police costs.  HS1 will also bring forward a number of small-scale energy efficiency initiative proposals for consideration with operators that would be recovered through OMRCC.

**Stakeholder feedback:**

EIL and SET do not support reallocating the regulatory costs to OMRCC. EIL also did not think the RSSB and BTP costs should be reallocated.

EIL believes this is HS1 classifying its own regulatory fees as pass through costs, while TOCs already pay regulatory fees of their own. It considers that HS1 has a duty to meet its own costs, which operators have no ability to influence, from its own funds.

EIL and SET consider this approach is removing cost risk to HS1 and shifting it to the TOCs, giving HS1 no incentive to manage these costs in an efficient manner and to budget. If these costs are reallocated, SET said it should have input from the outset to ensure remit of charges meet business needs and demonstrate value for money.

EIL added that HS1's is taking a wide interpretation of the pass through costs definition in the Concession Agreement; that the Concession already stretches a reasonable interpretation of 'pass-through costs' by specifically referring to rates, insurance and non-traction electricity and this shouldn't be expanded further as this risks more costs being declared as pass through costs.

**HS1 conclusions:**

Operators already pay for ORR regulatory fees through HS1 costs as agreed by the ORR in PR19 and in previous control periods. HS1 has no ability to influence these costs. The purpose of making ORR Regulatory Fees an OMRCC charge is to give TOCs greater transparency over costs imposed on them by the ORR and will allow HS1 to engage TOCs more directly on the setting of these charges.

We note that the definition of pass-through costs in Schedule 10 of the Concession Agreement is a wide definition, being costs that the ORR determines are suitable to include. Section 10A of Schedule 10 of the Concession Agreement also provides that no adjustment to pass through costs can be made if HS1 has not provided reasonable evidence to the ORR that these costs were efficiently incurred, so a reallocation does not alter HS1's cost risks or efficiency incentives.

HS1 still considers it appropriate to bring forward proposals in PR24 to expand the scope of OMRCC charges as proposed. This will be reviewed and consulted on with stakeholders as part of the PR24 process.

HS1 and TOCs have agreed the small-scale energy efficiency initiative proposals being taken forward and costs are being recovered through OMRCC.

## 9. Other operators

**HS1 proposals:**

The decision to allocate stations Qx and LTC costs to GTR is something that must be agreed with the DfT. Based on the position of DfT that costs should not be allocated to GTR, HS1 would no longer pursue the Thameslink Box issue.

**Stakeholder feedback:**

EIL said it was unacceptable that GTR remains out of scope of HS1 station charges given the continued increase in GTR services at St Pancras station and associated passenger footfall. It felt the multiple roles of DfT (Landlord, owner of a TOC and determining the stations LTC) could lead DFT to face conflict of interest.

SET requested further information on why DfT came to this decision. It suggested the data on footfall can ascertain the levels of usage of passengers using the station via Thameslink.

SET also queried why GTR is discounted from contributing to common area station costs yet are included in the One Team initiative that will soon be introduced.

**HS1 conclusions:**

We acknowledge EIL and SET's concerns about the treatment of the Thameslink Box. HS1 had previously engaged closely with DfT and GTR and sought more granular information to identify the impact of GTR passengers entering the station. We have raised this issue again with DFT in early 2022, but DfT has not changed its position. HS1 doesn't have the detail on DfT's decision.

We note that HS1's One Team initiative does not include GTR – this is separate initiative to NRIL's One Team project.

Because of the DfT's confirmed position, HS1 will not pursue this issue any further.

## 10. Other Incentives

**HS1 proposals:**

After careful consideration, HS1 would not intend to introduce new incentive-based charges in CP3 or CP4. HS1 would also look at potential contractual amendments to incentivise the booking of an FWT and to bring metered billing into effect.

**Stakeholder feedback:**

EIL noted that HS1 should not discard the possibility of proposing new charging categories – waiting until CP4 is of no value to EIL and won't encourage further use of the infrastructure. EIL would be happy to discuss this.

EIL and SET had comments on the propose potential contractual amendments – these are captured below in Section 15 Contractual Amendments.

**HS1 conclusions:**

HS1 remains of the view that new charging categories are not needed at this time given the current capacity usage on HS1. However, HS1 would be happy to consider any proposals if EIL wishes to bring these forward.

HS1's response on the comments related to contractual amendments are set out in Section 15 below.

## 11. New Market Segments

**HS1 proposals:**

With the support of stakeholders, HS1 will bring forward new market segments in future Network Statement Consultations and a list of indicative charges.

**Stakeholder feedback:**

There were no further comments on this proposal.

**HS1 conclusions:**

HS1 will continue to consider new market segments to bring forward in future Network Statement Consultations along with any indicative charges.

## 12. Station Enhancements Policy

**HS1 proposals:**

HS1 will bring forward its Station Enhancements Policy in the next Network Statement Consultation.

**Stakeholder feedback:**

EIL and SET provided detailed feedback on the station enhancements policy through the separate consultation on the policy as part of the Network Statement update.

In its SoC Phase 3 consultation response, SET further noted funding station enhancements will be difficult given the financial pressures in the wake of Covid. It asked if HS1 was considering alternative funding options for upcoming large-scale projects which will require enhancements and noted HS1 needs to reduce the risk that these costs are pushed onto TOCs.

**HS1 conclusions:**

HS1 has now finalised the Station Enhancements Policy. After taking stakeholder feedback into account, it has been published as a standalone document on HS1's website.

HS1 recognises the cost constraints faced by SET, and we are working with SET to explore alternative funding options for upcoming projects such as the St Pancras lift enhancement. We note that the Station Enhancements Policy is based on a 'beneficiary pays' principle which will be applied on a case-by-case basis for the specifics of each proposal – where a TOC is a beneficiary, it should contribute to the costs.

## 13. Freight Charges and Ripple Lane

**HS1 proposals:**

Regarding freight charges, HS1 would bring forward new EMGTPA calculations (if required) based on emerging evidence from our R&D activities.

HS1 would continue to support DfT activity to transfer Ripple Lane to Network Rail (NRIL), noting the decision is one to be agreed by DfT/ORR and NRIL.

**Stakeholder feedback:**

There were no stakeholder comments on these proposals.

**HS1 conclusions:**

If appropriate, HS1 will proceed with bringing forward new EMGTPA calculations based on emerging evidence from our R&D activities, noting this would be subject to consultation with stakeholders as part of PR24.

Since the Phase 3 Consultation, DfT has considered and decided it would not transfer Ripple Lane to NRIL. HS1 was not provided with any detail about DfT's decision. Based on DfT's position, HS1 will not pursue this issue further.

## 14. Research and Development Fund

**HS1 proposals:**

HS1 would bring forward an approach to R&D funding as part of PR24 based on an approach that fairly allocates costs to different stakeholders. This will be considered in the charging model rebuild.

**Stakeholder feedback:**

EIL considers that R&D should not be treated as a renewal – that it is not an indexed 40 year look ahead payment – nor should it systematically be a pass through costs. EIL felt that HS1 should contribute equally to R&D costs, and that it is business cost 'at risk' that should be funded by HS1 upfront.

EIL added further comments about the funding and governance of R&D expenditure. It supports the continuation of the R&D Panel to ensure scrutiny and good governance of low-level R&D expenditure, to the extent the Panel is effective. Larger R&D projects may require separate consultation and funding arrangements to reflect the characteristics of long-term investments that may enhancements and new services as well as renewals. Any R&D funded by TOCs through the regulated charge should be open to review and challenge by the TOCs, only approved by ORR to the extent its objectives benefits TOCs and their customers, involve reasonable, affordable and efficient costs, and achieve its stated objectives within a reasonable timeframe.

**HS1 conclusions:**

We agree that R&D should not form part of the 40-year renewals annuity. This issue was raised in PR19 and this is why HS1 treated this cost in CP3 as a cost recovered through O&M. HS1's proposals will incorporate these considerations. With regards to HS1 contributions, as HS1 fully recovers OMRC costs from operators, HS1 will not contribute to R&D costs.

HS1 has worked with stakeholders (including TOCs) to set up and govern the R&D fund. All these stakeholders receive regular updates and details on the R&D projects. Effective operator engagement on R&D projects will be critical in taking these forward.

Taking this feedback into account, HS1 will proceed with bringing forward R&D funding proposals as part of PR24 via the Charging Model rebuild for consultation with stakeholders.

## 15. Contractual Amendments

**HS1 proposals:**

HS1 would commence consultation on several amendments to the HS1 PAT/FAT in 2022 with a focus, amongst others, on:

- Amendments to clarify the approach to the volume re-opener process;
- Amendments to bring into effect meter billing for traction power;
- Amendments to clarify and improve the OMRC-C washup process; and
- An exploration of contractual requirements that lock EIL into a volume of firm rights in the First Working Timetable (FWT) but gives greater flexibility for EIL to amend specific paths within that volume to flex operations (noting they would not have firm rights to these amendments).

**Stakeholder feedback:**

On contractual amendments to bring in metered billing, EIL said it expects a full consultation on adjustments to EC4T charges and the proposed PAT changes. It said this cannot be treated in isolation and must be part of wider work in respect of the excessive system usage losses on HS1.

On potential contractual amendments to incentivise booking FWTs, EIL noted that the contractual arrangements for invoicing HS1's FWT doesn't incentivise operators to incorporate any risk into medium-term planning. Nor does it permit EIL any flexibility to make operational, external event or customer-driven short term changes to their train plans. EIL welcomes HS1's offer to discuss changes to the Passenger Access Terms as proposed in the Phase 3 Consultation Document. SET would like to understand EIL's rationale for the proposed amendments, and if changes can be made without detriment to other operators or the DfT.

EIL also seeks continued engagement on outstanding contractual disputes related to Performance Regime.

There were no comments made on the other proposed contractual amendments.

**HS1 conclusions:**

HS1 has been engaging with EIL and SET on proposals for metered billing and system usage. We have now brought forward the proposed changes to the PAT to bring metered billing into effect – these are currently out for consultation with the TOCs.

For the other potential contractual amendments, HS1 will engage and consult all parties on any proposed changes and this will set out the rationale for those changes, including potential changes to incentivise FWT bookings. HS1 will proceed with taking this forward in due course.

Regarding the outstanding Performance Regime disputes, HS1 has been engaging with EIL on proposed settlements to conclude the disputes.

## 16. Charging Model

**HS1 proposals:**

HS1 will commence its charging model rebuild in Spring 2022 – this is a key CP3 commitment.

**Stakeholder feedback:**

EIL noted it looks forward to working with HS1 on the new charging model and suggests this should be completed before the work on CP4 starts.

**HS1 conclusions:**

HS1 is working to this timeframe and welcomes TOCs engagement on this. HS1 has now concluded its consultation on the direction of travel for the Charging Model Rebuild to seek stakeholders' initial views. We will soon hold a second consultation on how this feedback has been taken into account, recognising that the Model, particularly the proposed functional and input changes, will need to be subject to extensive consultation with stakeholders through the PR24 process.

## 17. Overall Conclusion and Next Steps

In summary, having considered the further feedback from stakeholders, HS1 has concluded that our proposals and actions remain appropriate.

We acknowledge the issues and concerns raised by stakeholders in their response to the Phase 3 consultation, which have been raised during the earlier phases of this Review. Many of these relate to the cost pressures and demand challenges faced by TOCs following the impact of Covid and macroeconomic and structural developments. HS1 has long recognised these concerns and that these are best be addressed through HS1 system strategies and solutions. That is why since early this year we have been driving forward collaborative engagement and action on potential strategic solutions with parties in the HS1 system, both measures that could be implemented in CP3 (such as work on CP3 renewals annuity approaches) and as part of the PR24 process (as set out in this review). This Phase 4

The following table sets out a summary of the conclusions on each of the elements considered in our Structure of Charges Review and the actions we will take moving forward. The main changes since our Phase 3 proposals is not to pursue the Thameslink box issue and the Ripple Lane transfer to NRIL. These are proposals that must be agreed with DfT who, after further review, have confirmed their position not to take these forward.

HS1 will take forward these next steps over the remainder of CP3 in consultation with stakeholders.

| Item in Structure | Conclusions and Next Steps |
|---|---|
| **Investment Charges** | HS1 discount policy remains appropriate.<br>HS1 will consider discount proposals for new and underutilised routes in line with the current policy. |
| **AIRC** | HS1 will bring forward a Specified Upgrade and AIRC proposal for early design works on ERTMS. |
| **Renewals Costs** | HS1 to revisit options for long-term renewals annuity as part of PR24, noting this can only be enabled with support from the DfT and ORR.<br><br>HS1 will continue to engage DfT to review the Escrow Investment Strategy. |
| **Direct / Indirect Cost Split** | The direct / indirect cost splits used in CP3 will be updated in the PR24 process based on the methodology presented in this review. The splits and analysis will be shared with stakeholders and consulted on at that time.<br><br>HS1 will bring forward new EMGTPA calculations (if required) based on emerging evidence from our R&D activities in consultation with stakeholders. |
| **Split between operators** | HS1 will not make any amendments to the current splits but keep these under review as part of the PR24 process. |
| **Pass Through Costs** | As part of PR24 process, HS1 will bring forward proposals to expand the scope of OMRCC charges to include a range of other supplier and regulator costs.<br>Small-scale energy efficiency initiatives are being progressed and costs recovered through ORMCC. |
| **Other Operators** | Based on DfT's reconfirmed position, HS1 is no longer taking the Thameslink Box issue forward based on advice from the DfT. |
| **Other Incentives** | HS1 does not intend to introduce new incentive-based charges in CP3 or CP4 at this time. We are looking at potential contractual amendments to incentivise the booking of an FWT (see below). |
| **New Market Segments** | HS1 will continue to consider new market segments to bring forward in future Network Statement Consultation. |
| **Stations Enhancement Policy** | HS1 has finalised and published the Station Enhancements Policy on our website. |
| **Freight Charges and Ripple Lane** | HS1 will bring forward new EMGTPA calculations (if required) based on emerging evidence from our R&D activities.<br><br>DfT has concluded not to transfer Ripple Lane to Network Rail so HS1 will not pursue this further. |
| **Research and Development Fund** | HS1 will bring forward an approach to R&D funding as part of PR24 based on approaches that fairly allocates costs to different stakeholders. This will be considered in the charging model rebuild and consulted on with stakeholders. |
| **Contractual Amendments** | HS1 has commenced engagement with TOCs on proposed PAT changes related to metered billing. HS1 will consult all parties on other amendments to the HS1 PAT/FAT in 2022. |
| **Charging Model** | HS1 has commenced work on its charging model rebuild which will be consulted on extensively as part of the PR24 process. |