

**BEFORE THE
SURFACE TRANSPORTATION BOARD
DOCKET NO. FD 36496**

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March 28, 2022
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Public Record

**APPLICATION OF THE NATIONAL RAILROAD PASSENGER
CORPORATION UNDER 49 U.S.C. § 24308(e) – CSX
TRANSPORTATION, INC. AND NORFOLK SOUTHERN
CORPORATION**

**JOINT STIPULATION OF UNCONTESTED FACTS
AND JOINT LIST OF ISSUES TO BE DECIDED**

Pursuant to the Board’s February 8, 2022 Decision,¹ the National Railroad Passenger Corporation (“Amtrak”), CSX Transportation, Inc. (“CSXT”), Norfolk Southern Railway Company (“NSR”), and the Alabama State Port Authority and its rail carrier division, the Terminal Railway Alabama State Docks (collectively, “the Port”), submit this Joint Stipulation of Uncontested Facts and Joint List of Issues to Be Decided.

Joint Stipulation of Uncontested Facts

1. In this proceeding, Amtrak seeks to provide twice-daily round-trip passenger service between New Orleans, Louisiana and Mobile, Alabama—the *Gulf Coast* service.

2. Amtrak proposes to operate Gulf Coast passenger service between New Orleans, Louisiana, and Mobile, Alabama (the “Gulf Coast Corridor”) over rail lines

¹ Decision at 2, *Application of the Nat’l Passenger R.R. Corp. Under 49 U.S.C. § 24308(e)—CSX Transp., Inc. and Norfolk S. Ry. Co.*, STB Docket No. FD 36496 (served Feb. 8, 2022) (“February 8 Decision”).

owned by CSXT (136.8 miles), NSR (3.7 miles), and Amtrak (3.6 miles), and utilized in certain locations by other freight rail carriers.

3. CSX and NS are rail carriers over whose rail lines Amtrak is seeking to operate additional trains.

4. The Port, which has been permitted by the STB to intervene in this proceeding over Amtrak's objection, pursuant to a decision served on January 28, 2022, operates railroad facilities through Terminal Railway Alabama State Docks ("TASD") supporting terminal freight activity at the Port of Mobile.

5. TASD is not a rail carrier over whose rail lines Amtrak is seeking to operate additional trains.

6. TASD trains operate over portions of CSXT's railroad lines in Mobile over which lines Amtrak proposes to operate its Gulf Coast passenger service.

7. The Gulf Coast Corridor includes at least 160 grade crossings.

8. There are seven movable bridges located directly on the proposed passenger route between New Orleans and Mobile. There are an additional six bridges on adjoining lines that were included in the 2021 Gulf Coast RTC Model.

9. Four international seaports are located along the Gulf Coast Corridor as follows: New Orleans, Gulfport, Pascagoula, and Mobile.

10. Two of those ports, New Orleans and Mobile, are major terminals that host the operations of multiple railroads.

11. In New Orleans, six of the seven Class I rail carriers converge on NSR's Back Belt trackage ("Back Belt") to interchange with one another and two

smaller carriers in the region. If the Board approves the CP-KCS merger (and it is subsequently implemented as currently proposed), all U.S. Class I railroad systems then in existence will reach the New Orleans gateway.

12. Before Amtrak suspended passenger service post-Katrina, Amtrak served the Gulf Coast region via three different services, two of which ran between the same city pair as the proposed Gulf Coast Service.

13. Between April 1984 and January 1985, and again between June 1996 and March 1997, Amtrak operated a daily state-funded service sponsored by the Southern Rail Commission called the *Gulf Coast Limited* between New Orleans and Mobile.

14. In 2005, Hurricane Katrina caused significant damage to rail infrastructure in the Gulf Coast region, which led to the suspension of Amtrak's Los Angeles, CA to Orlando, FL *Sunset Limited* passenger service east of New Orleans.

15. In both the Passenger Rail Investment Act of 2008 ("PRIIA") and the Fixing America's Surface Transportation Act of 2015 ("FAST Act"), Congress required Amtrak to develop a plan to restore passenger service to the Gulf Coast. In the 2015 FAST Act, Congress directed the creation of the Gulf Coast Working Group ("GCWG") to, among other things, evaluate all options for restoring intercity passenger service in the greater Gulf Coast region.

16. The GCWG Report states that there are many elements of railroad infrastructure that impact a line's ability to accommodate freight and passenger rail

traffic, as well as the speed and reliability of that traffic. Those elements include track, signals, grade crossings, and bridges.

17. The GCWG Report identified as its preferred option restoring service between New Orleans, LA and Orlando, FL, via a long-distance train for one daily round trip, and restoring service between New Orleans, LA and Mobile, AL, via state-supported train for one daily round trip.

18. The GCWG issued a report in 2017, which set forth the Federal Railroad Administration's ("FRA") recommended infrastructure investments for both the minimum improvements needed to restore passenger service and improvements to support the service level for continued future operations to enhance the reliability and reduce the trip time of passenger trains. The FRA recommended \$5,376,000 for station upgrades and installation of a Mobile station track as the minimum infrastructure needed for passenger rail service to commence. The FRA also recommended \$94,881,000 in infrastructure improvements to the rail lines to support the service level for continued future operations. The effectiveness of the improvements for on-time performance had not been validated as part of the Report, in part because the Metrics and Minimum Standards for Intercity Passenger Rail Service (49 C.F.R. Part 273) were not yet promulgated at the time. The Report recommended evaluation of whether these improvements would contribute to on-time performance as a next step.

19. CSX released a "Report on Operations Modeling Analysis for Implementing Passenger Rail Service on CSX Lines in the Gulf Coast Corridor" on

August 11, 2016. This report did not take into consideration any impacts on NSR or TASD.

20. In this proceeding, CSX and NS have taken the position that Amtrak must fund 14 infrastructure projects, at a total cost of between \$405 and \$440 million, as a pre-condition to Amtrak commencing *Gulf Coast* service between New Orleans and Mobile on the terms proposed by Amtrak.

21. There is \$66 million in federal and state capital funds dedicated for restoration of the *Gulf Coast* service.

22. Amtrak's pre-2005 *Sunset Limited* service over the Gulf Coast Corridor operated three times a week overnight. Amtrak proposes to operate two round-trip trains daily for the restored passenger service. In April 2005, the *Sunset Limited* service took approximately 3 hours and 50 minutes to operate eastbound from New Orleans to Mobile, and took approximately 5 hours and 51 minutes to operate westbound from Mobile to New Orleans.

23. Under its operating agreement with CSXT, Amtrak has the right to restart the suspended *Sunset Limited* service at any time.

24. In January 2020, the parties agreed to sponsor a joint Rail Traffic Controller (RTC) study to analyze or develop "useful input" on the reintroduction of passenger service in the Gulf Coast region.

25. The parties' agreement required Amtrak to procure and pay the contractor to perform the 2020 Rail Traffic Controller study for the parties.

26. Under the HDR RTC Study Agreement, HDR would model proposed Amtrak operations and any infrastructure needed to support them. The RTC Study Agreement was valid for one year, but the study was not completed by January 2021, and Amtrak elected not to renew the agreement.

27. In January 2021, Amtrak requested that “CSXT and NSR agree to permit the Gulf Coast Service to commence on January 1, 2022, in accordance with a specific twice-day schedule and terms proposed by Amtrak.”

28. On March 16, 2021, the National Passenger Railroad Corporation (Amtrak) filed an application (“Application”) with the Board, pursuant to 49 U.S.C. § 24308(e), for entry of an order requiring CSX Transportation, Inc. and Norfolk Southern Corporation to allow Amtrak to operate additional intercity passenger trains over the rail lines of CSXT and NSR between New Orleans, LA and Mobile, AL beginning on or about January 1, 2022 on the terms proposed by Amtrak in Amtrak’s January 27, 2021 letters to CSXT and NSR. Amtrak’s Application also sought an interim order from the Board requiring CSXT and NSR to provide Amtrak with access to their rail lines between New Orleans and Mobile to perform all necessary preparations for Gulf Coast Service to commence.

29. The Board granted the tri-party (CSXT/NSR/Amtrak) proposed Motion for Protective Order in FD 36496 on April 14, 2021, to facilitate the highly confidential and confidential exchange of information amongst the parties.

30. On October 20, 2021, Amtrak filed a renewed request for an interim order directing CSXT to give Amtrak access to CSXT’s Choctaw Yard in order to

conduct an engineering survey of as a site for a temporary layover track for Gulf Coast Service passenger trainsets. In a decision served November 29, 2021, the Board granted Amtrak access to Choctaw Yard over CSXT's objection. CSXT complied with the Board's order to allow Amtrak access to Choctaw Yard for an engineering survey.

31. The Board ordered a period of discovery in this proceeding governed by Administrative Law Judge Thomas McCarthy and the Board's discovery rules. During the period from August 13, 2021, and October 4, 2021, CSXT, NSR, and Amtrak all participated in discovery, which included the issuance of and responding to interrogatories and requests for production, multiple meet and confers, exchanges of discovery letters, and five discovery conferences before Judge McCarthy.

32. Amtrak does not anticipate the need for station tracks at service launch but does anticipate the construction of a combination station and layover track at Mobile, Alabama in the long term.

33. Until a combination station and layover track at the downtown Mobile station location is available, Amtrak anticipates using a layover track in Mobile, Alabama. Amtrak anticipates using a temporary layover track at CSXT's Choctaw Yard at Mobile, where Amtrak previously stored its *Gulf Coast Limited* train, provided that CSXT grants Amtrak access to a section of track suitable for such use. The specific track that Amtrak last used as layover track in Choctaw Yard in 1997

when the *Gulf Coast Limited* service ceased to operate was removed by CSXT in or about 2019.

34. If the layover track were to be located in Choctaw Yard, Amtrak proposes to conduct the following activities there: minimal maintenance activities including minor locomotive maintenance; basic train cleaning services (emptying trash); routine crew briefings; and access for train crews and mechanical personnel.

35. In addition to construction of a layover track at Choctaw Yard, Amtrak anticipates needing enough space for a crew sign-up location and will likely also require enough space for a mechanical trailer and a shed for mechanical and cleaning supplies.

36. Amtrak anticipates that each passenger train will take approximately 15 minutes to conduct deadhead moves between the Mobile station location and the Choctaw Yard layover track before and after each service run. This estimated length of time includes all time spent, including getting into and out of Choctaw Yard.

37. Amtrak anticipates that each passenger train will occupy the CSX mainline at the Mobile station location for approximately 15 minutes prior to and at the conclusion of each service run.

38. Amtrak's current proposed schedule for its Gulf Coast Service is set forth in Appendix A of the Application, subject to any reasonable changes that would produce additional operating efficiencies.

39. Amtrak developed a tentative initial Gulf Coast passenger service schedule and then provided that tentative initial schedule to HDR. Amtrak did not use RTC modeling for the Gulf Coast Service schedule.

40. Amtrak developed recovery times in its proposed Gulf Coast passenger schedule to be consistent with corridor services of similar length or trip time nationwide and based initially on schedules operated previously on the corridor.

41. Amtrak's current plan is that Gulf Coast Service will be limited to two round-trips per day over the Gulf Coast Corridor between New Orleans, LA and Mobile, AL.

42. Amtrak anticipates that at service launch, each of its passenger trains will have a locomotive at each end, with one locomotive pulling and the other set to idle.

43. On June 1, 2021 CSX and the United States Coast Guard began a pilot program with scheduled openings for the Three Mile Creek bridge in Mobile, Alabama which provides more predictability to vessel and freight operations by reducing the number of unplanned openings.

Joint List of Issues to Be Decided

The Joint List of Issues to Be Decided listed below only include those issues that the parties jointly agreed to submit in their March 28 joint response; however, none of the parties waive their right to assert additional Issues to Be Decided as part of their evidentiary case.

1. What constitutes unreasonable impairment to freight transportation under 49 U.S.C. § 24308(e)(2)(A)?
2. Have the carriers demonstrated that their freight transportation will be impaired unreasonably by passenger service on the Gulf Coast corridor on the terms proposed by Amtrak?
3. All issues identified in the Board's decision served on March 14, 2022.

Respectfully submitted,

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Dated: March 28, 2022

CERTIFICATE OF SERVICE

I, Jessica Ring Amunson, certify that I have this day served copies of this document upon all parties of record in this proceeding, by email on the service list to Finance Docket No. 36496.

March 28, 2021

/s/ Jessica Ring Amunson

Jessica Ring Amunson