

**EXPEDITED TREATMENT REQUESTED
PUBLIC VERSION****BEFORE THE
SURFACE TRANSPORTATION BOARD
DOCKET NO. FD 36496**

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

UNOPPOSED MOTION TO CONTINUE EVIDENTIARY HEARING

CSX Transportation, Inc. (“CSXT”) respectfully moves the Surface Transportation Board (“Board”) to continue the evidentiary hearing scheduled to begin March 9, 2022, to April 5, 2022. CSXT represents that Norfolk Southern Railway Company, the Port of Mobile,¹ and the National Railroad Passenger Corporation do not oppose this request. The parties agree that it would preferable to not have the hearing continued beyond the first full week in April, if possible.

CSXT does not lightly make this request, given the prior instructions by the Board regarding the procedural schedule and the agency’s workload. However, ^{Redacted}

} Granting this request for a three week delay to the hearing will avoid any prejudice to CSXT’s ability to put on an effective case in chief.

¹ The Port of Mobile consists of the Alabama State Port Authority and its rail common carrier operating division, Terminal Railway Alabama State Docks.

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Continuing the evidentiary hearing to April 5 will not delay resolution of this proceeding. During the pre-hearing conference, the Board acknowledged that the evidentiary hearing was likely to last more than two days based on the estimated examination time for each witness as well as opening and closing statements. While the parties were encouraged to work together to efficiently present their evidence, the Board repeatedly articulated its commitment that every party would have the time needed to present its evidentiary case.² The Board also observed that if a third day was needed for the evidentiary hearing, the earliest the evidentiary hearing could resume would be the week of March 21, 2022, or later, depending on witness availability and the Board Members' schedules.³ If the hearing were continued to April 5–6, the Board and the parties could reserve April 7 in the event a third day is necessary to complete the evidentiary presentations.

CONCLUSION

For the reasons set forth above, CSXT requests that the Board continue the evidentiary hearing to April 5–6, 2022, with April 7 held in reserve in the event three days are needed. CSXT also requests that the Board revise the following pre-hearing deadlines as follows:

² See, e.g., Pre-Hearing Conference, *Application of the Nat'l R.R. Passenger Corp. Under 49 U.S.C. § 24308(e)—CSX Transp., Inc. and Norfolk S. Corp.*, STB Docket No. FD 36496 (Feb. 16, 2022) (“Pre-Hearing Conference”), at 43:15–44:11 (“We’ve gotten to the question of which witnesses. As I have read everyone’s anticipated time expectations and I don’t mean to say this to criticize because I think it’s very hard to know that far in advance of a hearing exactly how examinations are going to go. But if we add everything up, this case could never happen in two days. And if that much testimony is needed, it is not the Board’s plan to limit you to the two days that are scheduled.”); *id.* 49:58–50:07 (“[T]here are a lot of complexities and I do not want to artificially cut off anybody, including Amtrak, from putting on the case they need to put on.”).

³ See *id.* 44:20–46:00.

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Joint Stipulation of Uncontested Facts	March 29, 2022
Joint List of Issues to Be Decided	March 29, 2022
Exhibit List/Visual Aids Exchanged	March 29, 2022
Objections to Exhibits/Visual Aids	March 31, 2022
Submission of Exhibits to Board	April 1, 2022

Respectfully submitted,

/s/ Raymond A. Atkins

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Dated: February 23, 2022

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of February 2022, a copy of the foregoing Unopposed Motion to Continue Evidentiary Hearing was served by email or first-class mail on the service list for Finance Docket No. 36496.

/s/ Raymond A. Atkins

Raymond A. Atkins
SIDLEY AUSTIN LLP