

Via electronic filing

July 10, 2019

Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

ENTERED
Office of Proceedings
July 10, 2019
Part of
Public Record

Re: STB Finance Docket No. 36025, Texas Central Railroad and Infrastructure, Inc. & Texas Central Railroad, LLC – Authority to Construct and Operate – Petition for Exemption from 49 U.S.C. § 10901 and Subtitle IV – Passenger Rail Line Between Dallas, TX and Houston, TX

Dear Ms. Brown:

Earlier today, Texas Central Railroad and Infrastructure, Inc. & Texas Central Railroad, LLC (collectively, “TCR”) filed a Motion for Extension of Time (“Motion”) in the above-captioned proceeding, requesting an additional thirty (30) days to provide supplemental information in response to the Board’s decision issued on June 20, 2019. Before filing the Motion, counsel for TCR contacted counsel for Delta Troy Interests, Ltd. (“Delta Troy”) and counsel for Texans Against High Speed Rail, Inc. (“TAHSR”) to determine if Delta Troy and TAHSR would consent to the requested extension. In response, both Delta Troy and TAHSR were very clear that they would not oppose the 30-day extension of time for TCR “to the extent that TCR is willing to consent to extend the due date for the filing of replies by an additional 30 days (i.e. total of 48 days).”¹

TCR’s Motion is somewhat misleading in that it failed to fully describe the position of Delta Troy and TAHSR. Instead of advising the Board of Delta Troy’s and TAHSR’s conditional consent to its extension request, the Motion simply stated that Delta Troy and TAHSR “have represented that they do not oppose Texas Central’s request for a 30-day extension.” With this letter, Delta Troy and TAHSR clarify that they do not oppose the additional thirty (30) days for TCR to file its supplemental information (resulting in a new due date of August 21, 2019) **so long as** an additional thirty (30) days is also provided for all replies to the supplemental information (resulting in a new due date of October 8, 2019).

The Board appropriately has requested more detailed and comprehensive information and data from TCR regarding its proposed passenger service and construction project. In its original schedule, the Board provided only eighteen (18) days for replies to the supplemental information to be filed by TCR, which would appear insufficient to allow for a comprehensive

¹ See Exhibit 1, electronic mail message from Karyn Booth, outside counsel for Delta Troy, to Maggie Fawal, outside counsel for TCR (July 9, 2019).

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review and analysis of the new information and the drafting of any responses, especially if TCR has 60 days to develop its supplemental information. Also, eighteen days for replies is less than the typical response time to any motion or petition filed with the Board.²

Therefore, Delta Troy and TAHSR respectfully request that should the Board extend the time for TCR to file its supplemental information by 30 days, it should also extend the time for all replies to the supplemental information by an additional 30 days to October 8, 2019. Counsel for TCR has stated that TCR does not oppose this extension request for the submission of replies.³

Thank you for your assistance in this matter. Please do not hesitate to contact the undersigned if you should have any questions.

Sincerely,

/s/ Karyn A. Booth

Karyn A. Booth
David E. Benz
Thompson Hine LLP
1919 M Street NW, Suite 700
Washington, DC 20036
phone: 202.263.4108
Attorneys for Delta Troy Interests, Ltd.

/s/ Patrick McShan

Blake L. Beckham
M. Patrick McShan
The Beckham Group, P.C.
3400 Carlisle, Suite 550
Dallas, TX 75204
phone: 214.965.9300
Attorneys for Texans Against High Speed Rail, Inc.

² 49 CFR § 1104.13(a).

³ Prior to filing its Motion, TCR advised counsel for Delta Troy and TAHSR that “Should Delta Troy and TAHSR choose to file one, our clients will not oppose a request for a 30-day extension of time to file replies.” See Exhibit 2, electronic mail message from Maggie Fawal, outside counsel for TCR, to Karyn Booth, outside counsel for Delta Troy, and Patrick McShan, outside counsel for TAHSR (July 10, 2019). However, rather than having the parties file separate motions to extend the procedural schedule, as TCR suggests, Delta Troy and TAHSR submit that it would be more efficient for the Board to address both extension requests at one time.

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/s/ Richard H. Streeter

Richard H. Streeter

Law Office of Richard H. Streeter

5255 Partridge Lane, NW

Washington, DC 20016

phone: 202.363.2011

Attorneys for Texans Against High Speed Rail, Inc.

cc: All parties of record

Exhibit 1

From: Booth, Karyn
Sent: Tuesday, July 09, 2019 1:42 PM
To: Fawal, Margaret K.
Cc: Floyd, Kathryn K.; Johnson, Jay C.; Patrick McShan; Richard H. Streeter; Benz, David
Subject: RE: FD 36025 - Motion for Extension of Time

Maggie,

I have spoken with our client, Delta Troy, about TCR's 30-day extension of time request. Delta Troy does not oppose TCR's request for an additional 30 days (i.e. total of 60 days) to respond to the Board's request for supplemental information to the extent that TCR is willing to consent to extend the due date for the filing of replies by an additional 30 days (i.e. total of 48 days). I have also spoken with Patrick McShan who is counsel for Texans Against High Speed Rail (TAHSR) who received the same extension request and Patrick has authorized me to inform you that TAHSR takes the same position as Delta Troy, such that it does not oppose the extension request to the extent that TCR is willing to consent to an additional 30 days for reply filings.

Regards,
Karyn

Karyn Booth | Thompson Hine LLP
Partner and Chair of Transportation Practice
1919 M Street, NW, Suite 700, Washington, DC 20036
Office: 202.263.4108 | **Mobile:** 202.365.8602
Fax: 202.331.8330 | **E-mail:** Karyn.Booth@ThompsonHine.com
Web: <http://www.ThompsonHine.com>

Ranked a top-tier firm nationally for Transportation by Chambers USA: America's Leading Lawyers for Business and by U.S. News Media Group/Best Lawyers

From: Fawal, Margaret K. [<mailto:MKFawal@Venable.com>]
Sent: Tuesday, July 09, 2019 10:14 AM
To: Booth, Karyn
Cc: DePew, Aimee; Floyd, Kathryn K.; Johnson, Jay C.; Benz, David
Subject: FD 36025 - Motion for Extension of Time

CAUTION EXTERNAL EMAIL

Ms. Booth,

I am writing to inform you that our clients, Texas Central Railroad, LLC and Texas Central Railroad and Infrastructure, Inc., intend to file with the STB a request for a 30-day extension of time to respond to the Board's June 20th decision in FD 36025. We would like to inform the Board as to the position of your client, Delta Troy Interests, Ltd., on such an extension. We plan to file the motion for extension first thing tomorrow morning. We therefore request that you let us know whether your client opposes or does not oppose the extension by close of business today, July 9th.

Best,

Maggie

Margaret K. Fawal, Esq. | Venable LLP
t 202.344.4791 | f 202.344.8300 | m 512.630.1652
600 Massachusetts Avenue, NW, Washington, DC 20001

MKFawal@Venable.com | www.Venable.com

This electronic mail transmission may contain confidential or privileged information. If
you believe you have received this message in error, please notify the sender by reply
transmission and delete the message without copying or disclosing it.

Exhibit 2

From: Fawal, Margaret K. <MKFawal@Venable.com>
Sent: Wednesday, July 10, 2019 9:43 AM
To: Booth, Karyn
Cc: Floyd, Kathryn K.; Johnson, Jay C.; Patrick McShan; Richard H. Streeter; Benz, David
Subject: RE: FD 36025 - Motion for Extension of Time

CAUTION EXTERNAL EMAIL

Karen and Patrick,

Thank you for the quick response. Should Delta Troy and TAHSR choose to file one, our clients will not oppose a request for a 30-day extension of time to file replies.

Thank you again,

Maggie

Margaret K. Fawal, Esq. | Venable LLP
t 202.344.4791 | f 202.344.8300 | m 512.630.1652
600 Massachusetts Avenue, NW, Washington, DC 20001

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Cc: Floyd, Kathryn K. <KKFloyd@Venable.com>; Johnson, Jay C. <JCJohnson@Venable.com>; Patrick McShan <patrick@beckham-group.com>; Richard H. Streeter <rhstreeter@gmail.com>; Benz, David <David.Benz@thompsonhine.com>
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Regards,
Karyn

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Fax: 202.331.8330 | **E-mail:** Karyn.Booth@ThompsonHine.com
Web: <http://www.ThompsonHine.com>

Ranked a top-tier firm nationally for Transportation by Chambers USA: America's Leading Lawyers for Business and by U.S. News Media Group/Best Lawyers

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Maggie

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