



311126
ENTERED
Office of Chief Counsel
April 13, 2026
Part of
Public Record

Bradon J. Smith

Extension: 5312

Email: bsmith@mmr-law.com

303 W. Madison Street
Suite 1100
Chicago, Illinois 60606

Telephone 312.902.1600
Facsimile 312.902.9900

April 13, 2026

Via Electronic Filing

Ms. Anika S. Cooper
Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
Washington, D.C. 20423

 GRANTED Office of Chief Counsel ☐	DECISION ID NO.: 53002
	DECIDED DATE: 4/16/2026
	SERVED DATE: 4/16/2026
	APPROVED:  Chief Counsel

Re: FD 36910

***Denver Transit Operators, LLC —
Petition for Declaratory Order —
Denver Transit Dispatch Department***

*Reply to Brotherhood of Railroad Signalmen's Petition
to Intervene—Motion for Protective Order Unredacted
Exhibit*

Dear Ms. Cooper:

Denver Transit Operators, LLC filed the referenced reply on April 10, 2026. The sole exhibit to the reply was an exchange of correspondence (with redactions) between a then-Brotherhood of Railroad Signalmen official and a government employee. The undersigned viewed information he redacted within the correspondence as sensitive but immaterial to, and unnecessary to submit for, the Board's consideration.¹ Case Administration staff have asked the undersigned to file an unredacted copy of the exhibit today; that has necessitated the enclosed motion for protective order.

¹ E.g., the then-redacted information was never "submitted" to the Board under 49 C.F.R. § 1104.14 (a)-(b) or asked to be considered by the Board on a "confidential" basis (because it was not submitted at all).

Yours,

A handwritten signature in blue ink that reads "Bradon J. Smith". The signature is written in a cursive, flowing style.

Bradon J. Smith
Attorney for Denver Transit Operators, LLC

CC: FD 36910 Service List Counsel of Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36910

DENVER TRANSIT OPERATORS, LLC

PETITION FOR DECLARATORY ORDER —

DENVER TRANSIT DISPATCH DEPARTMENT

Denver Transit Operators, LLC Motion for Protective Order

Under 49 C.F.R. § 1104.14(b) and per Surface Transportation Board Case Administration staff request for Denver Transit Operators, LLC (“Denver Transit”) to make certain information available to the Board, Denver Transit hereby requests that the Board issue a protective order allowing Denver Transit to file under seal the executed, un-redacted “Confidential Exhibit A” to Denver Transit’s reply to the Brotherhood of Railroad Signalmen petition to intervene filed April 10, 2026.

Exhibit A contains certain information exchanged between a Brotherhood of Railroad Signalmen local official and a United States Railroad Retirement Board employee about the supposed operations of commuter trains. The Exhibit has information that implicates individual privacy interests as well as sensitive information related to rail infrastructure and non-observable data

associated with Regional Transportation District¹ commuter rail operations. It merits protection from disclosure.² *Nat’l R.R. Passenger Corp. — Application under 49 U.S.C. § 24308(e) — CSX Transportation, Inc. and Norfolk Southern Railway Company*, FD 36496 (STB served Jan. 28, 2022), 4.

In light of the sensitive nature of this information, Denver Transit thus requests that the Board designate the unredacted Exhibit A as “Confidential” and filed under seal. Denver Transit further requests the Board adopt the proposed protective order contained in the appendix to govern access to the unredacted exhibit; it is similar to that entered in other proceedings. *See e.g., Illinois Central Railroad Company — Trackage Rights Exemption — BNSF Railway Company*, FD 35753 (STB served August 15, 2013).

¹ The RTD is the commuter rail authority for Denver. The attachments to the email in Exhibit A included sensitive rail operations information that was shared without RTD or Denver Transit Operators-authorization from a personal computer.

² Denver Transit redacted this information in light of its sensitivity and because it had no need to submit this information to support its reply; the information was immaterial to the merits. *See e.g., 49 C.F.R. 1104.4(a)-(c)* (requiring a protective order only when the underlying material is “submitted” to the Board.”).

Respectfully submitted,

MARWEDEL, MINICHELLO & REEB



Bradon J. Smith

Stefan D. Wallach

303 West Madison Street

Suite 1100

Chicago, Ill.

**Attorneys for Denver Transit Operators,
LLC**

Dated: April 13, 2026

PROTECTIVE ORDER

1. For the purposes of this Protective Order, “Confidential Information” means the unredacted “Exhibit A” submitted as part of the Denver Transit Operators, LLC Reply to the Brotherhood of Railroad Signalmen petition to intervene. All capitalized words not otherwise defined here shall have meanings corresponding to the Board’s regulations at 49 C.F.R. § 1101.2.

2. Confidential Information shall be provided to a Party pursuant only to this Protective Order and only upon execution and delivery to Denver Transit of the attached Undertaking. Confidential Information shall be used solely for the purpose of this and any related Board proceedings, or any judicial review proceeding arising therefrom, and not for any other business, commercial or other competitive purpose.

3. Confidential Information shall not be disclosed in any way or to any person without the written consent of Denver Transit or an order of the Board, and then solely for use in connection with this and related Board proceedings, or any judicial review proceeding arising therefrom, provided that such person has been given and has read a copy of this Protective Order and agrees to be bound by its terms by executing the attached Undertaking prior to receiving access to this information.

4. Any documents containing Confidential Information must be destroyed, and notice of such destruction must be served on Denver Transit, at the completion of this and any related Board proceedings, or any judicial review proceeding arising therefrom.

5. If the Board retains the Confidential Information, it shall, in order to keep it Confidential, treat the information in accordance with the procedure set forth at 49 CFR § 1104.14.

6. If any Party intends to use Confidential Information at hearings or otherwise in this proceeding or in any related Board proceedings, or in any judicial review proceeding arising therefrom, the Party shall submit any filings or documents setting forth or revealing such Confidential Information to the Board, or the reviewing court as appropriate, under seal, and shall accompany such submission with a written request to the Board or the court to (i) restrict attendance at any hearing during discussion of such Confidential Information, and (ii) restrict access to the portion of the record or briefs reflecting discussion of such Confidential Information in accordance with the Protective Order.

7. All Parties must file simultaneously a public, redacted version of any redacted, Confidential Information submission that party filed with the Board. The Confidential version may be served on other parties in electronic format only.

8. All Parties must comply with all of the provisions stated in this Protective Order unless good cause, as determined by the Board, is shown by any party to warrant suspension of any of the provisions herein.

UNDERTAKING

I, _____, have read the Protective Order governing the filing of Confidential Information by Denver Transit Operators, LLC in FD 36910 and understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any data or information obtained under this Undertaking, or to use or permit the use of any techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and presentation of evidence and argument in FD 36910 or any judicial review proceedings taken or filed in connection therewith. I further agree not to disclose any data or information obtained under this Protective Order to any person who is not also bound by the terms of this order and has executed an Undertaking in the form hereof. At the conclusion of this proceeding (including any proceeding on administrative review, judicial review or remand), I will promptly destroy any documents containing or reflecting Confidential Information, other than file copies, kept by outside counsel, of pleadings and other documents filed with the Board.

I understand and agree that money damages would not be a sufficient remedy for breach of this Undertaking, and that Denver Transit shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.

Dated: _____

Signature: _____

Name: _____

Party: _____