

SERVICE DATE – JULY 6, 2020

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36332

PETITION BY THE NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)
FOR PROCEEDING UNDER 49 U.S.C. § 24903(c)(2)

Digest:¹ This decision initiates Board-sponsored mediation until no later than October 30, 2020, and waives a regulatory provision that would otherwise limit the mediation period to 30 days.

Decided: July 6, 2020

On July 22, 2019, the National Railroad Passenger Corporation (Amtrak) filed a petition under 49 U.S.C. § 24903(c)(2), requesting that the Board institute a proceeding, establish a procedural schedule, and enter an order determining the compensation and terms for the use of Chicago Union Station by the Northeast Illinois Regional Commuter Railroad Corporation and the Commuter Rail Division of the Regional Transportation Authority (collectively, Metra).

By decision served September 27, 2019, the Board instituted a proceeding and established a procedural schedule, which, at the request of the parties, was subsequently revised several times. Following the close of discovery, on February 7, 2020, the parties jointly filed a list of issues for determination, and on May 18, 2020, the parties filed a joint stipulation regarding certain issues. The parties then filed confidential versions of their opening statements on May 20, 2020, followed by public versions on May 27, 2020, and confidential versions of their replies on June 24, 2020, followed by public versions on July 1, 2020.

On June 19, 2020, Amtrak and Metra filed a second joint stipulation and a request for mediation as to certain issues. The parties agree that mediation and any subsequent negotiations will be completed by October 30, 2020, and ask that the Board require them to submit to the Board for disposition any issues that cannot be resolved, with opening statements on those issues to be filed on November 20, 2020, and replies to be filed on December 11, 2020.

Mediation will be initiated pursuant to the parties' request, and this proceeding will be held in abeyance. The Chairman will soon appoint one or more mediators pursuant to 49 C.F.R. § 1109.3(a). Once appointed, the mediator or mediators will contact the parties to discuss the

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

timing and logistics for conducting the mediation, and other matters. At least one principal of each party, who has authority to commit that party, shall participate in the mediation and be present at any session at which the mediator or mediators request(s) that the principal be present. Given the scope and complexity of the issues at hand and the parties' intent to complete mediation and negotiation by October 30, 2020, the Board finds good cause here to waive the provision in 49 C.F.R. § 1109.3(b) limiting the mediation period to 30 days. The mediation period shall begin on the date of the first mediation session and run until no later than October 30, 2020. The Board may further extend mediation pursuant to mutual written requests of all parties to the mediation proceeding. 49 C.F.R. § 1109.3(b). The mediator or mediators are instructed to inform the Board when mediation has ended, with or without a resolution.

The parties ask the Board to adopt a modified procedural schedule for post-mediation filings. The Board declines to do so at this time. Rather, if the mediation concludes without a complete resolution of the issues, the parties at that time should identify the outstanding issues and propose a modified procedural schedule.

It is ordered:

1. The 30-day limitation to the mediation period specified in 49 C.F.R. § 1109.3(b) is waived.
2. Mediation will be initiated as discussed above.
3. This proceeding is held in abeyance pending the conclusion of mediation.
4. This decision is effective on its service date.

By the Board, Board Members Begeman, Fuchs, and Oberman. Board Member Oberman did not participate.