

ENTERED
Office of Proceedings
November 10, 2022
Part of
Public Record

**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**

JOINT MOTION TO AMEND THE PROCEDURAL SCHEDULE

CSX Transportation, Inc., Norfolk Southern Railway Company, the National Railroad Passenger Corporation, and the Alabama State Port Authority and its rail common carrier operating division, Terminal Railway Alabama State Docks (together, the “Parties”), respectfully move the Surface Transportation Board (“Board”) to issue an order amending the procedural schedule as set forth below.

On October 28, 2022, the Board set an accelerated schedule for the conclusion of the evidentiary hearing and closing arguments (November 17 and 18) and a voting conference (December 7).¹ On October 31, 2022, the Parties moved the Board to stay the above-captioned proceeding until December 1 while the Parties continued to engage in Board-sponsored mediation. The Board denied the Parties’ motion in its November 2, 2022 Decision without prejudice, and stated that it would consider a request to reschedule the hearing for November 30 and December 1 if the Parties’ chief executive officers all affirmed that they have made “substantial progress . . . towards reaching a settlement” by November 10.²

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. (“Gulf Coast Proceeding”)*, STB Docket No. FD 36496 (served Oct. 28, 2022).

² Decision at 2, *Gulf Coast Proceeding*, FD 36496 (served Nov. 2, 2022).

The Parties continue to make substantial progress in their discussions but require additional time to resolve outstanding issues. The Parties therefore request that the Board postpone the hearing currently set for November 17 and 18 to November 30 and December 1 to allow the Parties to continue negotiating through next week.³ On November 21, the Parties will file a joint status report stating whether a settlement agreement has been reached or whether a hearing and closing arguments are still needed.

In support of this request, attached as Exhibit A is a joint statement from the chief executive officers of each Party attesting to the substantial progress that has been made toward a settlement agreement and to the substantial probability that a settlement will be reached before the voting conference scheduled for December 7.

CONCLUSION

In sum, the Parties jointly request that the Board enter an order amending the procedural schedule as follows:

November 21, 2022	Joint Status Report on Settlement
November 30 – December 1, 2022	Hearing and Closing Arguments (if necessary)
December 7, 2022	Voting Conference (if necessary)

³ As the Parties explain in their Joint Witness List filed today, if a hearing is necessary no Party plans to call witnesses for direct or cross examination, and the Parties would proceed directly to closing arguments.

Respectfully submitted,

/s/ Jessica Ring Amunson

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*Counsel for Norfolk Southern Railway
Company*

Dated: November 10, 2022

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of November 2022, a copy of the foregoing Joint Motion to Amend the Procedural Schedule 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

Exhibit A

Statement of Substantial Progress

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STATEMENT OF SUBSTANTIAL PROGRESS

We, the undersigned, certify that the National Railroad Passenger Corporation, CSX Transportation, Inc., Norfolk Southern Railway Company, and the Alabama State Port Authority and its rail carrier division, the Terminal Railway Alabama State Docks have made substantial progress towards reaching a settlement of the issues raised in the above-captioned proceeding, and believe that there is a substantial probability that a settlement will be reached as discussions continue.



Stephen J. Gardner
Chief Executive Officer
NATIONAL RAILROAD PASSENGER
CORPORATION

Joseph R. Hinrichs
Chief Executive Officer
CSX TRANSPORTATION, INC.

John C. Driscoll
Director and Chief Executive Officer
ALABAMA STATE PORT AUTHORITY AND
TERMINAL RAILWAY ALABAMA STATE
DOCKS

Alan H. Shaw
Chief Executive Officer
NORFOLK SOUTHERN RAILWAY
COMPANY

Dated: November 9, 2022

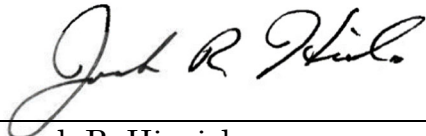
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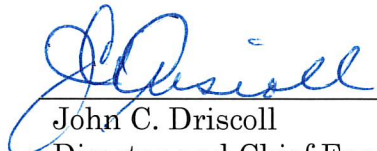
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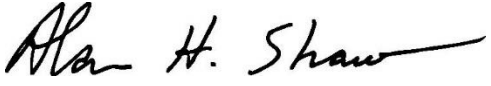
STATEMENT OF SUBSTANTIAL PROGRESS

We, the undersigned, certify that the National Railroad Passenger Corporation, CSX Transportation, Inc., Norfolk Southern Railway Company, and the Alabama State Port Authority and its rail carrier division, the Terminal Railway Alabama State Docks have made substantial progress towards reaching a settlement of the issues raised in the above-captioned proceeding, and believe that there is a substantial probability that a settlement will be reached as discussions continue.

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