

SERVICE DATE – NOVEMBER 22, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36496

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

Digest:¹ This decision grants a joint motion to hold the proceeding in abeyance and cancels the evidentiary hearing scheduled on November 30, 2022, and the voting conference scheduled on December 7, 2022.

Decided: November 22, 2022

On April 4, 2022, the Board commenced the evidentiary hearing phase of this proceeding, which continued on April 5, 6, 8, 12, 14, 18, and 19, and on May 9, 11, and 12, involving 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 (collectively, the “Parties”). On October 28, 2022, the Board provided notice that the evidentiary hearing would continue on November 17 and 18, 2022, and scheduled a voting conference for December 7, 2022. See Appl. of the Nat’l R.R. Passenger Corp. Under 49 U.S.C. § 24308(e)—CSX Transp., Inc., FD 36496 (STB served Oct. 28, 2022). In response to the Parties’ joint motion to amend the procedural schedule, the Board granted the motion, directed the Parties to file a joint status report by November 21, 2022, indicating whether a settlement agreement had been reached, and postponed the November 17 and 18, 2022 hearing dates until November 30, 2022. See Appl. of the Nat’l R.R. Passenger Corp. Under 49 U.S.C. § 24308(e)—CSX Transp., Inc., FD 36496 (STB served Nov. 10, 2022).

On November 21, 2022, the Parties filed a joint motion to hold the proceeding in abeyance, informing the Board that, with the assistance of Board-sponsored mediators, they have agreed upon a settlement that will resolve this dispute once several conditions are met in the coming weeks and months. (See Parties Joint Mot. 1, Nov. 10, 2022.) The Parties explain that some of the conditions are not entirely within their control, and, therefore, the Parties reserve the right to reinstate this proceeding if certain of those conditions are not met. (Id.) The Parties state that if they do not notify the Board that the terms of the settlement have been fulfilled prior to June 30, 2023, they will file a joint status report no later than that date. (Id. at 2.)

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 Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

The Board will grant the joint motion to hold the proceeding in abeyance. The evidentiary hearing scheduled on November 30, 2022, and the voting conference scheduled on December 7, 2022, will therefore be cancelled. The Parties are directed to notify the Board as soon as the terms of the settlement have been fulfilled, and if no such notice is filed, to file a joint status report no later than June 30, 2023, updating the Board on the implementation of their settlement agreement.

It is ordered:

1. The joint motion to hold the proceeding in abeyance is granted, as discussed above.
2. The evidentiary hearing scheduled on November 30, 2022, and the voting conference scheduled on December 7, 2022, are cancelled, as discussed above.
3. The Parties are directed to notify the Board as soon as the terms of the settlement have been fulfilled, and if no such notice is filed, to file a joint status report no later than June 30, 2023, as discussed above.
4. This decision is effective on its service date.

By the Board, Board Members, Fuchs, Hedlund, Oberman, Primus, and Schultz.