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EXPEDITED CONSIDERATION REQUESTED

BY E-FILEING

October 11, 2017

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

 GRANTED Office of Proceedings	DECISION ID NO.: <u>46093</u>
	DECIDED DATE: <u>10-17-17</u>
	SERVICE DATE: <u>10/18/17</u>
	APPROVED: <u>[Signature]</u> Acting Director
☒ <u>Reply due 11-22-17</u>	

Re: NOR No. 42141 - National Railroad Passenger Corporation – Investigation of Substandard Performance of the Capitol Limited

Dear Ms. Brown

On behalf of Amtrak, I am writing to request an additional 30-day extension of time to reply to the letter that was filed in this proceeding on September 1, 2017 by Norfolk Southern Railway Company ("NS"), extending the due date for Amtrak's reply to the NS letter from October 23, 2017 to November 22, 2017.

In its September 1, 2017 letter, NS asks the Board to rule on its pending Motion to Dismiss as a result of the recent decision by the 8th Circuit in *Union Pac. R.R. Co. v. Surface Transp. Bd.*, 2017 U.S. App. LEXIS 12408 (8th Cir. July 12, 2017). The Board subsequently granted Amtrak's request for an extension of time to file its response until October 23, 2017. This extension was sought and granted "because of the [] October 10, 2017 deadline for interested parties in the 8th Circuit proceeding to consider filing a petition for a writ of certiorari with the U.S. Supreme Court and the impact any such filing could have on Amtrak's reply to the NS letter." See Amtrak's September 11, 2017 request for extension.

Various interested parties, including Amtrak, have since petitioned the U.S. Supreme Court to extend the deadline to file the petition for a writ another 30 days to November 9, 2017; accordingly, Amtrak respectfully seeks a parallel 30-day extension to file its reply to NS's September 1, 2017 letter, setting a new due date for November 22, 2017.

The Board has discretion under 49 C.F.R. §1104.7(b) to grant the extension of time requested by Amtrak for good cause. In light of the fact that Amtrak's reply to the NS letter may now be due before the deadline for filing petitions for writ of certiorari with respect to the 8th Circuit decision, Amtrak believes that it would be in the interest of the Board and all parties to this proceeding to allow Amtrak to respond to the NS letter after the anticipated November 9, 2017 certiorari deadline has passed. Amtrak's counsel has conferred with counsel for NS about



this 30-day extension request, and NS counsel has authorized us to inform the Board that NS does not oppose Amtrak's extension request.

Sincerely,

Edward Fishman
of Nossaman LLP

EJF:kmb



Certificate of Service

I, Edward J. Fishman, hereby certify that on October 11, 2017, a copy of the foregoing letter was served by e-mail or by first-class mail on all parties of record, as follows:

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