



American Short Line and
Regional Railroad Association

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Office of Proceedings
February 14, 2022
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February 14, 2022

Scott M. Zimmerman
Acting Director, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

Re: STB Finance Docket No. 36496, Application of the National Railroad Passenger Corporation Under 49 U.S.C. § 24308 (C) – CSX Transportation, Inc., and Norfolk Southern Railway Company

Dear Acting Director Zimmerman:

Attached please find the testimony of Chuck Baker, President of the American Short Line and Regional Railroad Association, in the above-referenced matter, which will be provided during the hearing on February 15, 2022.

Respectfully submitted,

Sarah G. Yurasko

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 36496

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

**TESTIMONY OF CHUCK BAKER, PRESIDENT, AMERICAN SHORT LINE AND
REGIONAL RAILROAD ASSOCIATION**

My name is Chuck Baker, and I am the President of the American Short Line and Regional Railroad Association (“ASLRRA”). ASLRRA is the non-profit trade association representing the interests of approximately 500 short line and regional railroad members and 500 railroad supply, contractor, and service company members in legislative and regulatory matters. Short lines operate 50,000 miles of track, or approximately 30% of the national freight network, employing approximately 18,000 people, and connect manufacturers, businesses and farmers in rural communities and small towns to larger markets, urban centers, and ports. Approximately 478,000 employees in the manufacturing, agriculture, construction and other similar industries rely on short line services. Our railroad members operate in 49 states and in several cases account for the state’s entire rail network. Class II and III (“short line”) railroads play a vital role in maintaining rail service over tens of thousands of miles of light density lines throughout the country that in many cases were candidates for abandonment by their former owners.

Interest of the American Short Line and Regional Railroad Association

I will state right up front that neither ASLRRA nor any of our short line railroad members are opposed to passenger rail service, nor to Gulf Coast passenger rail specifically. In fact, some of our members successfully host passenger rail service today, and there are many more who would eagerly welcome collaborative conversations with Amtrak and States about potentially hosting new or expanded services. The establishment of new passenger routes, or improvements to existing routes, in general is a perfectly reasonable objective and we are well aware of the longstanding interest in restored Gulf Coast service.

However, it is imperative that the Surface Transportation Board (“STB”) require any passenger rail service provider proposing to start new service on freight-owned infrastructure to address potential impacts to the national freight rail system before allowing the service to start. We are concerned that the STB could set a bad precedent in this case that would allow a passenger rail service provider to come onto a host freight railroad, take up limited capacity, and negatively impact the delivery of freight service, all without injecting the amount of infrastructure improvements needed to avoid harm to current and future customers. It is our understanding that there are independent and credible studies in this case that demonstrate there would be meaningful harm to freight railroad operations should Amtrak be allowed to operate as proposed. The STB should review the reasonable set of infrastructure projects that the host freight railroads have proposed to protect the quality of freight service on which we all rely.

Freight rail operations should not be negatively impacted by the re-establishment of Gulf Coast passenger service, nor should a precedent be set that would result in freight rail operations being harmed in other places throughout the country as passenger rail grows over the next decade and beyond. If the precedent is set that passenger rail service can be expanded without

thoroughly assessing and managing the impacts to freight rail on the freight railroad's owned infrastructure, the fluidity and efficiency of our national freight rail system will be harmed. Short lines would be harmed directly in instances where that service is on short lines and indirectly harmed in instances where that service is on Class I that short lines rely on to provide fluid and efficient service to our customers.

If freight rail service is harmed for the benefit of passenger rail, it would be counterproductive and a net negative for the country. The widespread benefits of rail – notably safety, environmental sustainability, congestion reduction, and economic development, particularly in rural areas – come just as much if not more from efficient and robust freight rail service as they do from passenger rail service. Let's not rob Peter to pay Paul. I urge the Board to exercise caution in elevating passenger over freight, to the detriment of the whole network.

As you are well aware, the recently passed bipartisan infrastructure law provides a massive amount of funding for passenger rail. This investment allows for passenger rail expansion to be done the right way – in a way that protects the critical freight rail service already being provided and also creates new passenger rail services that the country can be proud of and that will attract significant enough ridership numbers to meaningfully address our national policy goals around safety, the environment, and mobility.

We are sincerely hopeful that the STB rulings in this case will create a helpful precedent going forward to allow for the mutual success of freight and passenger rail and also to create a clear and transparent process for how new or expanded passenger rail services can be implemented on host freight rail infrastructure.

Suggested Principles for Potential Passenger Rail Service

When considering potential new or expanded passenger rail operations on host short line

railroads, ASLRRA has put together the following suggested principles, also provided in the attached appendix in outline form, focusing on safety, access and capacity, full compensation and risk mitigation, and a customized approach.

1. Safety First

Safety has to come first when passenger or commuter trains share track or rights-of-way with freight trains. Any potential freight host would need to understand exactly which additional FRA (and potentially other) safety regulations would be applicable to the additional service.

2. Access and Capacity

Passenger rail use of freight rail corridors should not compromise freight railroads' ability to serve present or future customers. The parties should agree to the level of passenger service on the line. ASLRRA recommends that the parties obtain a neutral third-party transparent study accounting for both current and projected freight volumes, and changes in train makeup and train length. The parties should negotiate the method for passenger operations schedule changes or expansions. This should include an analysis of operational impacts and any needed infrastructure improvements, including additions of siding or lines. Additional concerns should be addressed if it is new service or alternative route for the passenger railroad.

3. Full Compensation and Risk Mitigation

Freight railroads should be compensated for the use of their tracks and not be expected to subsidize commuter or passenger railroads. The parties should negotiate all operations in advance, including liability for damages, performance incentive payments, and additional administrative costs. Freight hosts must evaluate all additional capital and ongoing expenses that would be incurred for the new service, including: grade crossing improvements, PTC or other signal system installation, track investment to upgrade the class of track (and the associated

maintenance-of-way expense), additional dispatching needs, additional facilities necessary for passenger rail service, and additional insurance needs and/or liability containment. The parties should also negotiate each additional or ongoing expense, and what occurs if/when passenger operations cease.

4. Proposals Should Be Individually Evaluated

Finally, each project involving passenger rail on freight-owned corridors has unique challenges and circumstances that should be evaluated on a case-by-case basis, rather than driving to a one-size-fits-all approach for evaluating new or expanding passenger service on a line shared by freight rail.

I appreciate the opportunity to present the perspective of the short line railroad industry on this matter and would be pleased to answer any questions you might have.

Appendix

ASLRRA Suggested Principles for Passenger Rail Service on Host Short Line Freight Railroads

I. Safety First

- A. Safety must come first when passenger or commuter trains share track or rights-of-way with freight trains.
- B. Freight hosts need to become knowledgeable regarding how additional FRA and other safety regulations would apply to the additional service.

II. Access and Capacity

- A. Passenger rail use of freight rail corridors should not compromise freight railroads' ability to serve present or future customers.
 - 1. Parties should agree to the level of passenger service on the line
 - i. Recommend neutral 3rd party study
 - a. Should be transparent
 - b. Should account for both current and projected freight volumes
 - c. Should account for changes in train makeup and train length
 - ii. Parties should negotiate how passenger operation schedules are to be changed or expanded
 - a. Should include an analysis of operational impacts
 - b. Should include an analysis of any additional needed infrastructure improvement
 - 2. Parties should address capacity concerns
 - i. Ensure that the line can support the service proposed
 - ii. Determine whether additional sidings or lines are necessary
 - iii. Additional concerns should be addressed if it is new service or alternative route for the passenger railroad

III. Full Compensation and Risk Mitigation

- A. Freight railroads should be compensated for the use of their tracks and not be expected to subsidize commuter or passenger railroads.
 - 1. Parties should negotiate liability for damages
 - 2. Parties should negotiate performance incentive payments
 - 3. Parties should negotiate additional administrative costs
- B. Freight hosts must evaluate additional capital and ongoing expenses would be incurred for the new service, including:
 - 1. Grade crossing improvements
 - 2. PTC or other signal system installation
 - 3. Track investment to upgrade the class of track (and the associated maintenance-of-way expense)
 - 4. Any additional dispatching needs

5. Any additional facilities necessary for passenger rail service
 6. Additional insurance needs and/or liability containment
- C. Parties should negotiate:
1. For each additional/ongoing expense
 2. What occurs if/when passenger operations cease

IV. Individual Evaluation of Each Project

- A. Each project involving passenger rail on freight-owned corridors has unique challenges and circumstances that should be evaluated on a case-by-case basis.