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Testimony of Mr. Jim Mathews

President & CEO

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**RE: Docket No FD 36496, Application of the National Railroad Passenger Corporation
Under 49 U.S.C. § 24308(e) – CSX Transp., Inc. and Norfolk S. Ry. Co.**

Chair Oberman, Vice-Chair Schultz, and Members of the Board, the *Rail Passengers Association* is very grateful for the opportunity to appear here to share the voices of America's many millions of passengers as you consider this incredibly important matter.

This morning, those passengers are frustrated.

They're frustrated that host railroads insist on flipping the burden of proof on its head to require Amtrak to prove that its service won't harm operations, especially when Congress intended that it is up to host railroads to demonstrate unreasonable impairment.

They're frustrated that host railroads, having produced what even DOT considers an "insufficient" operational analysis, have instead turned to breathless PR and unverifiable cost claims to burden any new service with so much gold plate that it is doomed to fail.

They're frustrated that host railroads continue to mislead the public and shippers alike that Amtrak is refusing to pay for needed infrastructure improvements, when the reality is that millions in public funds have already been identified and committed to support these investments, and that Amtrak has already offered to pay for certain improvements.

They're frustrated that host railroads continue to ignore the terms of the 'Grand Bargain' they struck with the American taxpayer to create Amtrak in 1971, in which we have agreed for each of the past 50 years to pay public money to relieve hosts of their common-carrier responsibilities in exchange for access to their tracks for a reasonable fee.

They're frustrated that after six years of working alongside stakeholders – Amtrak, the Southern Rail Commission, representatives of the states – host railroads refused to recognize the Gulf Coast Working Group's analysis and conclusions, instead commissioning a separate study intended to undermine the Group's work, and then walking away from even that effort as that study's deadline date came and went.

Punctuated by bad-faith arguments, misleading public-relations campaigns, petty withdrawals of cooperation, and wholesale rejection of the consistently expressed will of Congress, the 16-year history of this dispute over restarting passenger service in the Gulf Coast clearly illustrates that this is about much more than 150 miles between New Orleans and Mobile.

While I can only speculate on the host railroads' motives, the practical reality is that this would stop any American passenger-rail expansion in its tracks. Last November, some fifty years of patient advocacy secured a record \$66 billion for long-overdue investment in our skeletal passenger rail network. This will improve the lives of more than 100 million Americans and produce long-term and long-lasting benefits of tens of billions of dollars every year. Host railroads now appear desperate to stop it.

CSX and N-S have imposed harmful delays to restoration, costing the U.S. taxpayer millions, and depriving the three served states – Alabama, Mississippi, and Louisiana – of potentially billions of dollars in economic benefits. Some of the poorest communities in America exist in these states, and it is a particular cruelty that these underserved areas are once again having to do without in the service of a cynical opposition to progress and improved well-being.

Here at the Association, our professional staff estimates socio-economic benefits using a model we co-developed with the University of Southern Mississippi that is similar to, but expands upon, the modeling performed by USM's Trent Lott Center on behalf of the Southern Rail Commission. And, like USM, we also use the widely accepted IMPLAN tool to further model additional benefits.

Our analysis is in complete accord with USM's 2018 Gulf Coast findings. In addition to tens of millions of dollars injected into the three states' economies over a four-year construction period, operating two daily Amtrak trains could generate anywhere from \$120 million to as much as \$1 billion every single year for the Gulf in the form of jobs, increased tourism, and even higher tax receipts at the state, local, and tribal level.

This is genuine, meaningful improvement in the lives and livelihoods of thousands of people who live, work, and raise their families in these states. Now, the newly passed infrastructure bill expands this kind of investment to many dozens of communities nationwide, including investments targeting what Congress calls "traditionally underserved communities and areas of persistent poverty."

It is hard to overstate how vitally important it will be for the Surface Transportation Board to vindicate Congress's intent regarding railroads' obligations to host passenger rail service, an intent reinforced through 25 successive Congresses under both Republican and Democratic leadership and given particular force in the Bipartisan Infrastructure Law signed in November.

The American people, acting through their elected representatives in Congress, have consistently voted for 50 years to approve spending taxpayer funds in this way, upholding their end of 1971's 'Grand Bargain.' They have done this because they recognize there is a significant and compelling public interest in supporting regular passenger rail service to places where the private sector cannot profitably provide it.

In exchange, the American taxpayer deserves good-faith negotiations and fully transparent assessments of the costs and burdens that will be imposed.

The overriding principle at play is Amtrak's legal right to access freight railroad tracks for a fair and reasonable cost. At one time, CSX said it would take \$2.3 billion to accommodate two daily trains and warned that even that amount might not create a railroad fluid enough to satisfy the new 80% Customer On-Time Performance standard for passenger service.

That was neither reasonable nor fair. In fact, it was indefensible. Today's figure is around \$440 million, but even that is a far cry from the \$66 million the Southern Rail Commission says it will take to get this service started. This kind of disparity calls into question not only CSX's estimate but the methodology, and motive, in producing it.

Furthermore, host railroads continue to invoke a "competition-sensitive" privilege as a way to sidestep giving stakeholders straight answers about the challenges that this project may pose. Government agencies, Amtrak, and others are willing to pay their share, so long as it's defensible and transparent. But for the moment, host railroads claim that to even discuss the number of train movements would compromise their shippers' business secrets. This is curious, considering that this information is readily available to anyone with a lawn chair and the patience to count.

Our Association has many experienced railroaders among its membership, some with decades of experience in railroad operations and planning and many who physically keep an eye on the railroad every day. Based on what they have conveyed to me, CSX is apparently operating only about four through-freights on the Mobile to New Orleans line, with a couple of shorter local freights serving trackside industry.

The through trains are about 200 cars long. They don't fit in any of the existing intermediate sidings between Mobile and Michoud, Louisiana. Apart from the very time-consuming and largely impractical step of splitting a train between two sidings, only one of these 15,000-foot trains can operate over the rail line at a time. With a running time of five to six hours between Mobile and New Orleans, CSX can only operate four of these a day – 800 cars each day. Prior operations, fully utilizing capacity with multiple sidings all dispatcher-controlled, could potentially operate *sixteen* daily 110-car freight trains, totaling a potential of 1,500 to 1,600 cars. As a result of the long-train strategy with no corresponding capacity investment, CSX has artificially and needlessly capped the Mobile - New Orleans line capacity at 800 cars a day. That cap prevents any strategy to "grow the business."

And now CSX is holding the new Gulf Coast passenger service hostage, demanding that Amtrak fix what CSX broke and replace the capacity CSX just unilaterally made unusable by operating freight trains longer than sidings on the New Orleans to Mobile route.

This should not be a prerequisite for the start of rail passenger service. There are other options, as DOT alluded in its *amicus* brief before this Board.

This modest Gulf Coast service restoration is something that many thousands of local residents want, and many millions of Americans need. It will produce an overall return on taxpayers' equity of many times what will be invested to produce it. There is no real public evidence that operation of this service would unreasonably impair CSX or N-S operations, and what little

evidence the host railroads have produced has been insufficient and unverifiable. Congress has spent millions of dollars over the years to advance this project, and after nearly two decades the Gulf Coast's economies and the taxpaying public deserve to see it move forward. And Amtrak has a long-standing legal right to access host railroad infrastructure, for appropriate payment, supported over many years and through multiple iterations of rail-related law and regulation by Congress and policymakers alike.

On behalf of millions of Americans who stand to benefit and tens of thousands of citizens of Alabama, Mississippi, and Louisiana who have patiently waited their turn to use modern, properly operated passenger rail, the *Rail Passengers Association* very respectfully asks the Surface Transportation Board this morning to:

1 – Vindicate congressional intent to build passenger-rail policy around a presumption of shared-use public-private investment and infrastructure;

2 – Affirm Amtrak's long-standing statutory right to access host railroad infrastructure under reasonably negotiated terms and compensation;

3 – Order restoration of the Gulf Coast passenger rail service without hindrance or delay;

4 – Hold host railroads accountable for transparency, insisting that as beneficiaries of ongoing support in the form of relief from common-carrier obligations, host railroads must not withhold important, non-proprietary or non-competition sensitive information around passenger rail needs, and;

5 – Maintain Board oversight and vigilance over cost assessments and claims on all sides to ensure that any additional examination of the need for capital investments, operational changes, or other measures happens quickly and in the fullest possible view of the public.

I would like to thank the Board for its attention this morning and to applaud its leadership in proactively seeking public input on this vital service. I am happy to take any questions, and my staff and I, as always, remain ready to supply any additional information that the Board or staff may request.