



SIDLEY AUSTIN LLP  
1501 K STREET, N.W.  
WASHINGTON, D.C. 20005  
+1 202 736 8000  
+1 202 736 8711 FAX

AMERICA • ASIA PACIFIC • EUROPE

+1 202 736 8889  
RATKINS@SIDLEY.COM

302697

July 9, 2021

**By E-Filing**

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20006

**ENTERED**  
**Office of Proceedings**  
**July 9, 2021**  
**Part of**  
**Public Record**

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

Dear Ms. Brown:

CSX Transportation, Inc. (“CSXT”) and Norfolk Southern Railway Company (“NS”) write to respectfully request that the Board deny Amtrak’s renewed request for an interim order as moot in light of the representations in the “Notice Regarding Amtrak’s Pending Request for Interim Order” filed by the National Railroad Passenger Corporation (“Amtrak”) on July 6, 2021.

In its Application, Amtrak requested the Board “issue an interim order requiring CSX and NS to provide Amtrak with access to their rail lines between New Orleans and Mobile in order to perform all necessary preparations for the [proposed] Gulf Coast Service.” Application at 1. As CSXT and NS explained in their Motion to Dismiss, this interim order request was devoid of detail concerning the precise work to be performed or how Amtrak planned to complete said work. Although the Application stated that the interim access would be to complete the infrastructure projects outlined in the Gulf Coast Working Group’s 2017 report, *see id.* at 6, Amtrak then asserted in opposition to the Motion to Dismiss that it only sought access to “perform the necessary safety, training, and other functions critical to commencing the Gulf Coast Service.” Amtrak Response at 17–18. CSXT and NS explained that 49 U.S.C. § 24308(e) does not authorize the Board to issue an interim order allowing Amtrak the access it desires.

Subsequent events have since clarified the limited interim access Amtrak sought. On May 10, 2021, Amtrak requested access to CSXT and NS facilities to “perform various safety, operations, and stations infrastructure assessments along the route” and stated that “an interim order may not be necessary” if CSXT and NS provided the requested access.

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Notice at 5. CSXT agreed to the specific access requests submitted by Amtrak on June 16, 2021, and NS explained that Amtrak's existing access to its lines was sufficient to accomplish the preparatory work. *Id.* at 6, 10–11. Amtrak's renewed request for an interim order is thus moot as requesting nothing Amtrak does not already have.

To dispel any confusion, a capacity study *continues to be as necessary* as it always has been. It is needed to determine what infrastructure is required to support adding passenger trains to the Gulf Coast corridor without unreasonably degrading freight service. Numerous freight stakeholders in Alabama have voiced their opposition to the “leap before you look” request by Amtrak, where passenger trains are forced onto the track without the benefit of the longstanding practice of a cooperative Amtrak-freight rail capacity study that has been requested by CSXT and NS.<sup>1</sup> CSXT and NS are not opposed to Amtrak's desire to bring new passenger service to the Gulf Coast, but it should be done the right way. CSXT gave Amtrak the limited access it requested because that is the way these kinds of access initiatives are handled—giving Amtrak access to its stations to study whatever improvements are needed at the stations and conducting a capacity study to study improvements needed to the line of road. But it is also a standard, industry norm to study the capacity of the line *before* introducing new passenger service. Freight rail customers deserve no less.

It thus remains CSXT's and NS's position that Amtrak should be held to its commitment to permit CSXT and NS (at our expense) to complete the independent HDR study to determine what additional infrastructure is needed. Moreover, an operations modeling study will greatly assist the Board in its assessment of the environmental impacts of Amtrak's Application.<sup>2</sup> CSXT and NS continue to urge the Board to dismiss the remainder of Amtrak's Application without prejudice—or hold the Application in abeyance—until such time as Amtrak cooperates with CSXT and NS in completing an operations modeling study.

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<sup>1</sup> The Board should also note that many community and industry leaders and organizations have expressed concern that the institution of Amtrak service without adequate capacity and infrastructure improvements could cause significant congestion and service reductions in freight service with a corresponding adverse impact within their communities.

<sup>2</sup> To date, the Board is not only without a completed study, but also lacks the requisite Environmental and Historic Report that Amtrak was required to submit with its Application under the Board's rules.

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Sincerely,

*/s/ William A. Mullins*

William A Mullins  
Baker & Miller PLLC  
2401 Penn. Ave. N.W. Suite 300  
Washington, D.C. 20037  
*Counsel for Norfolk Southern  
Railway Company*

*/s/ Raymond A. Atkins*

Raymond A. Atkins, Ph.D.  
Sidley Austin LLP  
*Counsel for CSX Transportation, Inc.*

cc: FD 36496 Service List