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SERVICE DATE – NOVEMBER 14, 2019

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35743

APPLICATION OF THE NATIONAL RAILROAD PASSENGER CORPORATION UNDER
49 U.S.C. § 24308(a)—CANADIAN NATIONAL RAILWAY COMPANY

Digest:¹ This decision grants a request to extend the mediation period in this proceeding until January 10, 2020, and waives a regulatory provision that would otherwise limit the mediation period to 30 days.

Decided: November 13, 2019

On July 30, 2013, the National Railroad Passenger Corporation (Amtrak) filed an application under 49 U.S.C. § 24308(a)(2), asking the Board to establish reasonable terms and compensation for Amtrak's use of the facilities (including rail lines) and services of Illinois Central Railroad Company and Grand Trunk Western Railroad Company (collectively, Canadian National Railway Company (CN)). After initial discovery, the parties submitted briefs, evidentiary filings, and various motions over a period of several years. On August 9, 2019, the Board issued interim findings and guidance and initiated Board-sponsored mediation pursuant to 49 C.F.R. § 1109.2(a)(2) to facilitate further negotiation between the parties.

On October 23, 2019, Amtrak and CN filed a joint request to extend the mediation period (which was scheduled to expire on October 24, 2019) until January 10, 2020, and, to accommodate that request, waive the 30-day limit for such extensions under 49 C.F.R. § 1109.3(b).

The Board favors the resolution of disputes through mediation in lieu of formal Board proceedings whenever possible. 49 C.F.R. § 1109.1. The Board will grant the parties' request to extend the mediation period. The Board also finds good cause here to waive the restriction in § 1109.3(b) limiting mediation periods to 30 days to permit the mediation period to run until January 10, 2020.

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 Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

It is ordered:

1. The 30-day limitation to the mediation period specified in 49 C.F.R. § 1109.3(b) is waived.
2. The parties' request to extend the mediation period until January 10, 2020, is granted.
3. The decision is effective on its service date.

By the Board, Board Members Begeman, Fuchs, and Oberman.