



THE COMMONWEALTH OF MASSACHUSETTS
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STATE REPRESENTATIVE
1ST HAMPSHIRE DISTRICT

301794

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street S.W., Room 1034
Washington, DC 20423-0001
March 17, 2021

ENTERED
Office of Proceedings
March 22, 2021
Part of
Public Record

Re: *FD 36472 CSX Corporation and CSX Transportation, Inc. — Control and Merger — Pan Am Systems, Inc., Pan Am Railways, Inc., Boston & Maine Corporation, Maine Central Railroad Company, Northern Railroad, Pan Am Southern LLC, Portland Terminal Company, Springfield Terminal Railway Company, Stony Brook Railroad Company, and Vermont & Massachusetts Railroad Company*

FD 36472 (Sub-No. 5) Pittsburg & Shawmut Railroad, LLC d/b/a Berkshire & Eastern Railroad — Operation of Property of Property of Rail Carrier Pan Am Southern LLC — Pan Am Southern LLC and Springfield Terminal Railway Company Vermont Rail System's Notice of Intent to Participate, Opposition to Application and Petition, and Reply to Proposed Procedural Schedule

Dear Mrs. Brown:

Please accept this letter as a formal comment on the CSX Pan-Am transfer, filed under Docket Number FD_36472. I am writing to you regarding the proposed acquisition of Pan-Am Systems Inc. by CSX Transportation, Inc. As the State Representative to the 1st Hampshire District, this acquisition will have a major effect on the constituents I represent in my district and on residents across the commonwealth of Massachusetts. I urge you to consider the concerns that have risen with this proposed acquisition.

The first concern of note is that this acquisition should be classified as "significant". This potential acquisition involves one of the largest class 1 railroads in the United States and the largest class 2 railroad in the United States. The size of this acquisition will impact many communities and it is important to classify it properly so that proper considerations can be given. A "significant" classification is necessary because of the lack of competition it will create, and it would not meet the standards for a minor transaction. Allowing this transaction to go through with no other arrangements would give CSX ownership of 50 percent of Pan Am Southern LLC(PAS) and control PAS operations via the Springfield Terminal Railway Company. PAS has been critical in combating CSX as the only class 1 railroad in New England because it gave Norfolk Southern Railway Company, a 50 percent owner of PAS, a means to compete with CSX.

A second area of concern regards Passenger Rail Service. My district is currently served by the Valley Flyer, which runs between the Patriot Corridor and the Connecticut River Main Line, and would deeply benefit from passenger rail service either along the Patriot Corridor or along the Worcester-Springfield line to connect the region to Boston. The application, in fact, does speak to passenger rail on page 46 with the following:

“No adverse impacts on commuter or other passenger service are anticipated. No lines will be downgraded, eliminated, or operated on a consolidated basis. CSXT and the PAR Railroads will continue to abide by the contracts they have entered with the various commuter and passenger railroads that they share railroad lines with. B&E, the new PAS operator, will adhere to all commitments previously made by Springfield Terminal regarding operations involving PAS and commuter service on PAS lines. CSXT has been engaged in discussions with the commuter agencies MassDOT and MBTA and passenger railroad Amtrak to give those authorities assurances that the Proposed Transaction and the Related Transactions will not reduce the service being provided to the commuters or passengers.”

As well as on page 192 with:

“Upon request, CSX will work with passenger rail authorities to reinstate pre-pandemic frequencies and schedules.”

Under the proposed acquisition, CSX will “cooperatively work” with MassDOT and the MBTA to consider the introduction and expansion of passenger service, but it does not say that CSX will “cooperatively work” with the MassDOT and the MBTA to introduce or expand passenger rail service. This is an important distinction for my constituents and all residents of the Commonwealth as traffic congestion continues to worsen and more residents would like to use Rail Services. This distinction is particularly important given the past difficulties in negotiating with CSX to introduce passenger service on the Berkshire Flyer route as well as East-West corridor between Worcester, Springfield and Pittsfield. Massachusetts’ experience is not unique as other states, notably Florida and Virginia, have only been able to expand passenger service along CSX-owned rail corridors by acquiring ownership of corridors.

Another area where we would like to see progress is the question of Positive Train Control. Positive Train Control (PTC) is rail safety technology that is required by federal law on most passenger rail corridors. On page 192 of the application, it states:

“CSXT plans to install Positive Train Control (“PTC”) (I-ETMS) on the PAR System line segment north of the Massachusetts/New Hampshire State line to Brunswick, ME, which hosts the Amtrak Downeaster service described above. The PTC installation and funding responsibility will be coordinated with Amtrak. MBTA has installed PTC (ATC-ACES), which is in service between Boston, MA and the Massachusetts/New Hampshire State line.”

The Consolidated Appropriations Act 2021 (H.R. 133), which became law on December 27, 2020, included the following wording on page 668, “... at least \$50,000,000 of the amount provided under this heading shall be available for the development, installation and operation of railroad safety technology, including the implementation of a positive train control system, on State-supported routes as defined under section

24102(13) of title 49, United States Code, on which positive train control systems are not required by law or regulation." The wording here makes these funds available to support the implementation of PTC only on state-supported Amtrak routes. At the moment the only state-supported Amtrak routes without PTC are the Downeaster, the Ethan Allen Express, the Valley Flyer, and the Vermonter. In Massachusetts, PTC is in use on all segments of the MBTA commuter rail network and on the Amtrak-owned line between Springfield and New Haven. PTC is also operational along the CSX east-west corridor between Worcester and the New York border.

However, the application is silent on the topic of Positive Train Control for the MassDOT-owned Connecticut River Main Line, where both freight and passenger service operate today. The application is an opportunity for Positive Train Control to be installed on this line and a partnership between MassDOT, Pan Am Southern, and CSX to apply for the available federal funding for PTC would be a welcome and necessary change, particularly in light of the application's stated goal of having "no adverse impacts on commuter or other passenger service."

In addition to the concerns regarding rail safety, CSX plans to significantly reduce labor forces in the Northeast area. The plan is to operate the same lines with hopefully more passengers with about 75 percent of the current workforce. This is extremely concerning because there was no explanation for the reductions. The Allied Rail Union does not understand how it will be possible to maintain, at a minimum, the same lines with the same volume of traffic with such a large reduction in workforce. In particular, the plan to operate, with more or greater traffic, over the same infrastructure but with only 48% of the maintenance of way work force is particularly worrisome.

This is a major acquisition that will have long-standing implications on the future of passenger and freight rail in Massachusetts and beyond. I ask that you classify this potential acquisition as "significant" so that the affected areas will receive the proper treatment they deserve and that you require that the application address the important issues of positive train control and labor in order to protect and expand service. Nothing about this potential acquisition is minor, and I hope to see the necessary changes to reflect the true nature of this transaction.

Respectfully,

Lindsay N. Sabadosa
State Representative, 1st Hampshire