

SERVICE DATE – APRIL 6, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36281

PETITION BY THE SOUTHEASTERN PENNSYLVANIA TRANSPORTATION
AUTHORITY FOR RELIEF UNDER 49 U.S.C. § 24903

Decided: April 5, 2021

On March 11, 2019, the Southeastern Pennsylvania Transportation Authority (SEPTA) filed a petition requesting that the Board institute a proceeding and issue an order under 49 U.S.C. § 24903(c)(2) prescribing the terms of an agreement between SEPTA and the National Railroad Passenger Corporation (Amtrak) governing the use of passenger rail stations and associated parking facilities along SEPTA's Paoli/Thorndale Line, Trenton Line, and Wilmington/Newark Line. (SEPTA Pet. 1, 5.)

On March 22, 2019, Amtrak and SEPTA filed a joint motion to hold this proceeding in abeyance pending resolution of a related court proceeding in the U.S. District Court for the District of Columbia.¹ By decision served on March 27, 2019 (March 2019 Order), the Board instituted a proceeding, ordered Amtrak to continue to provide SEPTA access to the stations under the terms of the current Station Agreement for the duration of this proceeding, and held the proceeding in abeyance until further order of the Board.²

On February 4, 2021, the parties jointly notified the Board that the district court issued a final decision on February 1, 2021. On March 24, 2021, SEPTA filed an unopposed motion to continue to hold this proceeding in abeyance pending the resolution of the appellate proceedings in the U.S. Court of Appeals for the District of Columbia Circuit.³ (SEPTA Mot. 2.) SEPTA requests that the Board: (1) continue to hold this proceeding in abeyance pending the final disposition of the appellate proceeding; (2) require that, pending final disposition of the proceeding, the parties will maintain the status quo under the Station Agreement, with the exception that the parties may enter into amended, new or different agreements with the express written consent of both parties, see 49 U.S.C. § 24903(c)(2); and (3) hold that, any final

¹ See Nat'l R.R. Passenger Corp. v. Se. Pa. Transp. Auth., No. 1:19-cv-00537-TNM (D.D.C. filed Feb. 28, 2019).

² That decision also stated that Amtrak and SEPTA may enter into amended, new, or different agreements with the express written consent of both parties. See 49 U.S.C. § 24903(a)(6).

³ See Nat'l R.R. Passenger Corp. v. Se. Pa. Transp. Auth., No. 21-7021 (D.C. Cir. filed Mar. 4, 2021); Nat'l R.R. Passenger Corp. v. Se. Pa. Transp. Auth., No. 21-7024 (D.C. Cir. filed Mar. 18, 2021).

determinations by the Board, including compensation, if any, will apply retroactively to commence on March 30, 2019. (SEPTA Mot. 3.)

Pursuant to the March 2019 Order, this proceeding remains in abeyance pending further order of the Board. By its terms, the Board's order regarding SEPTA's access to stations remains in effect. See March 2019 Order, slip op. at 2-3. As stated in the March 2019 Order, the Board's final decision will address the parties' request to make the Board's determinations retroactive. Id. at 3. The parties will be directed to serve the Board with the court of appeals' final decision within 10 days of the conclusion of those proceedings.

It is ordered:

1. Pursuant to the March 2019 Order, this proceeding remains in abeyance until further order of the Board.
2. The parties are directed to serve the Board with the court of appeals' final decision within 10 days of the conclusion of those proceedings.
3. This decision is effective on its service date.

By the Board, Allison C. Davis, Director, Office of Proceedings.