



SOUTHERN RAIL COMMISSION

April 23, 2021

Ms. Allison Davis  
Director  
Office of Proceedings  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20423-0001

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

Dear Ms. Davis,

Enclosed for electronic filing in the above captioned proceeding is the Southern Rail Commission's response to the National Railroad Passenger Corporation filing for an expedited hearing. Thank you for your attention to this matter.

Sincerely,

John Spain  
State of Louisiana

Knox Ross  
State of Mississippi

CC: Parties of Record

Enclosure

302138

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## **SOUTHERN RAIL COMMISSION**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
DOCKET NO FD 36496**

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**APPLICATION OF THE NATIONAL RAILROAD PASSENGER CORP.  
UNDER 49 U.S.C. § 24308(e) - CSX TRANSPORTATION, INC. AND  
NORFOLK SOUTHERN CORPORATION**

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**SOUTHERN RAIL COMMISSION RESPONSE FOR AN EXPEDITED HEARING**

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### **I. Introduction and Background**

The Southern Rail Commission (SRC) is a commission empowered by an interstate compact, which is authorized by Congress, and whose members are appointed by the governors from Mississippi, Louisiana, and Alabama. Members of the commission were appointed to the congressionally-created Gulf Coast Working Group (GCWG) led by the Federal Railroad Administration (FRA). Congress directed the GCWG “to evaluate the restoration of intercity rail passenger service in the Gulf Coast region between New Orleans, Louisiana, and Orlando, Florida” whose work includes developing “a prioritized inventory of capital projects and other actions required to restore such service and cost estimates for such projects or actions.”

To place this in perspective, passenger rail service was initiated in the Gulf Coast in 1894 via the Sunset Limited, which ran between New Orleans and Los Angeles. In coming years, this service was extended across the Gulf Coast of Louisiana, Mississippi, Alabama, and Florida. Trains served the Gulf Coast of Louisiana, Mississippi, Alabama, and Florida until 2005 when Amtrak suspended operations east following Hurricane Katrina. All transportation infrastructure along the Gulf has been rebuilt since Katrina, including rail infrastructure. The only mode of public transportation that has not been restored to the Gulf is passenger rail. Waiting over fifteen years for the restoration of passenger rail service is inexcusable for the citizens of this region. The results of the GCWG recommended the restoration of service for the city pairs of New Orleans to Mobile, established a performance schedule, and identified infrastructure improvements needed to facilitate two round trips per day to the serviced communities. The Southern Rail Commission successfully sought federal and non-federal funds to provide the infrastructure needed to re-establish a passenger route between New Orleans and Mobile, as well as study the connection between Baton Rouge and New Orleans.

### **II. Why the STB Should Expedite this Hearing**

From the beginning and throughout an eighteen-month process of the GCWG to restore Gulf Coast passenger rail services, SRC has maintained that the restoration and enhancement of service along the Gulf Coast should work for both freight and passenger rail interests. However, the host railroads, CSX Transportation in particular, have failed to reciprocate this sentiment, and their actions demonstrate what can only be understood as an unwillingness to negotiate in good faith and an opposition to bringing back passenger rail service to communities along the Gulf Coast. While the FRA has worked to reach consensus through research and negotiation, CSX has demonstrated an unwillingness to engage transparently and in good faith negotiations.



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CSX's claim that the freight issues they have raised have not been acknowledged by the working group have been proven misleading. The SRC has diligently worked to address the purported obstacles to restoring service that CSX identified:

- working with the US Coast Guard to successfully resolve bridge access issues,
- resolving missing and incomplete bridge tender log data, and
- making trips to ports and yards along the Gulf Coast to collaborate with locals identifying solutions to address access and movement concerns.

The SRC has been and continues to be an engaged, honest and committed member of the GCWG even after CSX informed the SRC they would no longer engage in the working group.

On July 17, 2017, the FRA and GCWG issued a report to Congress which fulfilled their congressional obligation to identify cities served, performance schedule to be maintained, and infrastructure investments to facilitate daily service. In the FY18 appropriations report, Congress accepted the FRA and GCWG report and took issue with CSX's report and cost estimate stating, "The Committee believes the GCWG report more accurately reflects the concerns (related to on-time performance requirements and delays at drawbridges) and is a more realistic cost estimate..."<sup>i</sup> Accepting CSX's unjustified cost estimate in exchange for accommodating passenger rail services would, in effect, overturn existing law. If upheld, all freight railroads would have a financial veto over passenger rail service and could ignore 49 U.S. Code § 24308, which states:

*"Amtrak may make an agreement with a rail carrier or regional transportation authority to use facilities of, and have services provided by, the carrier or the authority under terms on which the parties agree. ... If the parties cannot agree and if the Surface Transportation Board finds it necessary to carry out this part, the Board shall –*

- (i) order that the facilities be made available and the services provided to Amtrak; and*
- (ii) prescribe reasonable terms and compensation for using the facilities and providing the services.*

*When prescribing reasonable compensation...the Board shall consider quality of service as a major factor when determining whether, and the extent to which, the amount of compensation shall be greater than the incremental costs of using the facilities and providing the services."*

CSX's demands for up to \$2.3 billion are nothing close to "reasonable terms and compensation" for the "incremental costs of using the facilities and providing the services" requested along the route.

The final GCWG report recommended continued coordination and collaboration among GCWG members. However, CSX chose not to continue in any further conversations with the other stakeholders represented in the working group.

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Congress precisely intended STB's process to handle disputes such as these where there has been no solution after years of negotiation. We ask the STB to accept Amtrak's application to be heard and deny CSX and Norfolk Southern's request to deny such appeal. We further ask that STB set an expedited hearing schedule to bring



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resolution to a dispute that has denied the people of the Gulf economically important connections to six cities in Mississippi, Louisiana and Alabama. Congress, the United States Department of Transportation, and Amtrak have identified this route as of high importance and interest for the public. Continued investments in our passenger rail system are vital as our society becomes increasingly mobile and we look for ways to improve access to skilled workers, jobs, and new opportunities for economic development.

SRC believes without reservation that freight and passenger rail can not only accommodate each other, but any investment in infrastructure will allow both to thrive and meet on-time-performance metrics. We are assured the STB will conduct a fair and transparent process to resolve any outstanding issues as a result of an expedited hearing. We ask that our concerns be reflected in the decision for the STB to accept Amtrak's application for an expedited hearing.

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<sup>i</sup> U.S. Senate. Committee on Appropriations. *Departments of Transportation and Housing and Urban Development, and Related Agencies Appropriations Bill, 2018, (to Accompany S. 1655)*. (115 S. Rpt. 138). Available at: <https://www.congress.gov/115/crpt/srpt138/CRPT-115srpt138.pdf>