

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

EX PARTE 765

**JOINT PETITION FOR RULEMAKING TO ESTABLISH A VOLUNTARY
ARBITRATION PROGRAM FOR SMALL RATE DISPUTES**

MOTION FOR EXTENSION OF TIME

CSX Transportation, Inc., The Kansas City Southern Railway Company, Norfolk Southern Railway Company, Union Pacific Railroad Company, and the U.S. operating subsidiaries of Canadian National Railway Company (“CN”) (collectively, “Petitioners”) hereby respectfully request a 31-day extension of time to file comments in this proceeding. Pursuant to the Board’s Notice of Proposed Rulemaking (“NPRM”) in this proceeding, comments are currently due January 14, 2022, and reply comments are due March 15, 2022.¹ Petitioners request that these deadlines be extended to Monday, February 14, 2022, for comments and Friday, April 15, 2022, for reply comments.

Petitioners are diligently working to prepare their comments. However, additional time is needed to analyze the revised arbitration program proposed in

¹ Notice of Proposed Rulemaking, *Joint Petition for Rulemaking to Establish a Voluntary Arbitration Program for Small Rate Disputes*, Docket No. EP 765 (STB served Nov. 15, 2021).

the NPRM and provide comments in response. The Board itself has recognized the complexities associated with the proposed arbitration program,² and this additional time would allow Petitioners to coordinate with interested parties and provide the Board with a thorough and complete response to the proposed rule, particularly given several Petitioners' interests and obligations in other active Board proceedings.³ The brief extension requested would not prejudice any party and would ensure the Board has the information it needs to make a well-informed decision in this proceeding. Petitioners understand that the Board seeks to provide for "parallel consideration" of this proceeding and *Final Offer Rate Review*, Docket No. EP 755.⁴ The revised schedule proposed in this motion will allow the proceedings to remain closely coordinated. Should the Board wish to keep the schedules aligned, however, Petitioners would not object to a similar extension of the schedule in Docket No. EP 755.

² Report on Pending STB Regulatory Proceedings, Third Quarter 2021, at 7; Report on Pending STB Regulatory Proceedings, Second Quarter 2021, at 9.

³ See, e.g., *First-Mile/Last-Mile Service*, Docket No. EP 767 (comments due Dec. 17, 2021, and replies due Feb. 17, 2022); *Final Offer Rate Review*, Docket No. EP 755 (comments due Jan. 14, 2022, and replies due Mar. 15, 2022); *Appl. of Nat'l R.R. Passenger Corp. Under 49 U.S.C. § 24308(e)*, Docket No. FD 36496 (rebuttal evidence due Dec. 23, 2021, hearing proposal due Dec. 30, 2021, and hearing Feb. 15–16, 2022); *CSX Corp.—Control & Merger—Pan Am Sys., Inc.*, Docket No. FD 36472 (hearing Jan. 13–14, 2022); *Can. Pac. Ry.—Control—Kan. City S.*, Docket No. FD 36500 (comments, protests, and responsive applications due Feb. 28, 2022); *Reciprocal Switching*, Docket No. EP 711 (Sub-No. 1) (hearing March 15–16, 2022).

⁴ Supplemental Notice of Proposed Rulemaking, *Final Offer Rate Review*, Docket No. EP 755 (STB served Nov. 15, 2021), slip op. at 3.

For these reasons, Petitioners respectfully request that the Board extend the time allowed for submitting comments in this proceeding to Monday, February 14, 2022, and for submitting reply comments to Friday, April 15, 2022.

Respectfully submitted,

/s/ Adam J. Godderz

Adam J. Godderz

David C. Reeves

THE KANSAS CITY SOUTHERN RAILWAY
COMPANY

P.O. Box 219335

Kansas City, MO 64121

*Counsel for The Kansas City Southern
Railway Company*

/s/ Raymond A. Atkins

Raymond A. Atkins

Matthew J. Warren

Morgan B. Lindsay

SIDLEY AUSTIN LLP

1501 K Street, N.W.

Washington, DC 20005

*Counsel for CN, CSX Transportation,
Inc., Norfolk Southern Railway
Company, and Union Pacific Railroad
Company*

Dated: December 6, 2021

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of December 2021, I served a copy of the foregoing Motion for Extension of Time by email on all parties on the official Service List for STB Docket No. EP 765.

/s/ Morgan B. Lindsay
Morgan B. Lindsay