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December 13, 2021

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VIA EMAIL

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: *Application of the National Railroad Passenger Corp. Under 49 U.S.C. § 24308(e) - CSX Transportation, Inc. and Norfolk Southern Railway Company, FD 36496*

Dear Ms. Brown:

On December 8, 2021 without first contacting counsel for Amtrak in an attempt to address the issue, counsel for NS filed a letter with the Board complaining of certain alleged “deficiencies” in Amtrak’s highly confidential Reply Evidence filing on December 3, 2021. NS complains that dealing with the redactions in Amtrak’s Reply Evidence has “create[d] unnecessary challenges for both NS and CSX Transportation, Inc. (“CSXT”)” as they are preparing their rebuttal submissions. Of course, the “unnecessary challenges” that NS complains of were entirely avoidable had CSX and NS been willing, as Amtrak requested, to revisit their designations of all of their workpapers as confidential or highly confidential. Because of their refusal to do so, Amtrak was required to redact large portions of its Reply Evidence. Amtrak continues to believe that the information in its Reply Evidence is not competitively sensitive and that Amtrak should be allowed to file its Reply Evidence publicly, as is more fully set forth in Amtrak’s pending Motion to Allow Public Filing.

NS complains that Amtrak has failed to affix the Highly Confidential designations in the cover letter or the body of the pleading. NS also complains that “[i]t is customary before in proceedings before the Board, to protect against inadvertent disclosure to reflect evidence . . . filed under seal information that was redacted in public versions of a filing by using single brackets to denote redacted confidential information and double brackets to reflect redacted highly confidential information.” NS cites no rule of the Board or provision of the protective order requiring this formatting and Amtrak has found none. In fact, in the case NS cites, the protective order required double brackets to be used to designate Highly Confidential Information. There is no such language in the protective order in this case. Nonetheless, in the spirit of cooperation, Amtrak is submitting here a revised highly confidential filing that conforms

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to NS's requests.

NS also complains that the Highly Confidential and Public versions are not identical. However, the versions are substantively exactly the same and the issue of line spacing arose only because of the redactions.

Sincerely,

/s/ Kali Bracey

Kali Bracey

cc: Raymond A. Atkins, Matthew J. Warren, Stephen Laudone (CSXT)
Parties of Record