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April 8, 2022

VIA E-FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E. Street, S.W., Room 1034
Washington, D.C. 20024

 GRANTED Office of Proceedings	DECISION ID NO.: <u>51209</u>
	DECIDED DATE: <u>4/18/2022</u>
	SERVED DATE: <u>4/18/2022</u>
	APPROVED:  Acting Director
☐ _____	

Re: Docket No. FD 35743
Application of the National Railroad Passenger Corporation Under 49
U.S.C. § 24308(a) – Canadian National Railway Company

Dear Ms. Brown:

We represent National Railroad Passenger Corporation (“Amtrak”) in the above-captioned proceeding. Enclosed please find a Motion for Extension of Procedural Schedule, with a request for expedited consideration.

Thank you for your attention to this matter. Should you have any questions, please contact the undersigned.

Respectfully submitted,

Jerry A. Cuomo

Jerry A. Cuomo

Enclosure.

cc: All Parties of Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 35743

APPLICATION OF THE NATIONAL RAILROAD PASSENGER CORPORATION UNDER
49 U.S.C. § 24308(a) – CANADIAN NATIONAL RAILWAY COMPANY

MOTION FOR EXTENSION OF PROCEDURAL SCHEDULE

EXPEDITED CONSIDERATION REQUESTED

The National Railroad Passenger Corporation (“Amtrak”), with the consent of Illinois Central Railroad Company and Grand Trunk Western Railroad Company (together “CN”), requests, pursuant to 49 C.F.R. § 1104.7(b), that the Board extend the deadlines for the Parties’ submissions set forth in the present procedural schedule in this matter. As this motion seeks the extension of approaching deadlines, Amtrak asks the Board to review this motion on an expedited basis.

BACKGROUND

On January 25, 2022, the Parties filed a joint motion to reactivate this proceeding and establish a procedural schedule to resolve the remaining issues in dispute following the Board’s August 9, 2019 Interim Decision. (Doc. # 303581). On March 2, 2022, the Board reactivated the matter, and entered a procedural schedule which required that the Parties make their: opening submissions on May 2, 2022; reply submissions on July 1, 2022; and rebuttal submissions on August 1, 2022. (Doc. # 5116). Amtrak believes that good cause exists for an extension of these deadlines pursuant to 49 C.F.R. § 1104.7(b), as set forth below.

GROUND FOR RELIEF AND EXTENSION SOUGHT

Amtrak is in the process of preparing its opening submission which, under the present

schedule, is due on May 2, 2022. James Blair (Amtrak's Assistant Vice President - Host Railroads) has been extensively involved in the preparation of Amtrak's submission and his input into same is critically important to the presentation of Amtrak's position to the Board in this matter. Currently, the Board is conducting a hearing in the separate matter entitled *Application of the National Railroad Passenger Corporation Under 49 U.S.C. § 24308(e) - CSX Transportation, Inc., and Norfolk Southern Railway Company*, Docket No. FD 36496 (hereinafter "Gulf Coast"). Mr. Blair is intimately involved in the Gulf Coast matter, acting as both Amtrak's client representative at the hearing and testifying as a witness on behalf of Amtrak during the hearing. As such, Mr. Blair's time, attention and resources have been dedicated almost exclusively to preparing for and participating in the hearing in the Gulf Coast matter. Additionally, as the Board is aware, the hearing in the Gulf Coast matter is taking longer than anticipated and will proceed beyond the days previously allocated by the Board (April 4, 5, 6 and 8). (See March 23, 2022 Decision issued in Gulf Coast matter). The Board's future hearings in Gulf Coast (which have today been scheduled for April 11, 12, 14, 18 and 19 and May 2-4 (if necessary)) will further require Mr. Blair's time, attention and resources.

Accordingly, Amtrak believes that an extension is warranted to enable Amtrak, with Mr. Blair's essential assistance and input, to finalize its initial submission in this case. Based on its consultations with CN's counsel concerning schedules and conflicts, Amtrak requests, with CN's consent, an extension for initial submissions to May 27, 2022, with a concurrent extension of the Parties' subsequent reply and rebuttal filing deadlines.

Amtrak believes that good cause exists for this adjustment to the procedural schedule entered by the Board. The requested extension will not prejudice either Party. To the contrary, CN has consented to the request and the extension will enable Amtrak to finalize its initial

submission with the necessary assistance and input of Mr. Blair. Further, the short requested extension will not result in any appreciable delay of the Board's consideration of this case or its issuance of a final decision. Accordingly, good cause exists for the Board to enter the following amended procedural schedule:

May 27, 2022

Opening Submissions due

Each party's opening submission shall include a copy of the current operating agreement marked up to show the changes the party seeks

July 26, 2022

Reply submissions due.

Reply submissions may include, at the party's option, a revised markup of the current operating agreement.

August 25, 2022

Rebuttal submissions due.

WHEREFORE, Amtrak respectfully requests that the Board granted the requested relief and entered the amended procedural schedule referenced herein.

Respectfully submitted,

Jerry A. Cuomo

Jerry A. Cuomo

Landman Corsi Ballaine & Ford, P.C.

One Gateway Center, 22nd Floor

Newark, NJ 07102

Counsel for National Railroad Passenger Corporation

Dated: April 8, 2022

CERTIFICATE OF SERVICE

I, Jerry A. Cuomo, declare under penalty of perjury that the foregoing is true and correct.

Pursuant to 49 § 1104.12, I hereby certify that on the 8th day of April, 2022 I have caused to be served a copy of the foregoing Motion for Extension of Procedural Schedule, upon the following parties of record via USPS First Class Mail:

David T. Rankin
2500 Lou Menk Drive
P.O. Box 961039
Fort Worth, TX 76161

Michael K. Murphy
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5306

Mark C. Hansen
1400 West 52nd Avenue
Denver, CO 80221

David B. Kutrosky
300 Lakeside Drive, 14th Floor East
Oakland, CA 94612

Executed on: April 8, 2022

By: *Jerry A. Cuomo*
Jerry A. Cuomo

CERTIFICATE OF SERVICE

I, Jerry A. Cuomo, declare under penalty of perjury that the foregoing is true and correct.

Pursuant to 49 § 1104.12, I hereby certify that on the 8th day of April, 2022 I have caused to be served a copy of the foregoing Motion for Extension of Procedural Schedule, upon all parties of record via electronic mail.

Executed on: April 8, 2022

By: *Jerry A. Cuomo*
Jerry A. Cuomo