

May 8, 2018

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Via Electronic Filing

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

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Office of Proceedings
May 8, 2018
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Public Record

Re: Docket No. FD 36171 - *Commuter Rail Division of the Regional Transportation Authority and Northeast Illinois Regional Commuter Railroad Corporation (Metra) - Petition for Declaratory Order - Status of Chicago Union Station*

Dear Ms. Brown:

I submit this letter on behalf of National Railroad Passenger Corporation ("Amtrak").

On Friday, May 4, 2018, Metra filed a letter with the Board once again asking the Board to adopt a procedural schedule in this matter. Metra's letter, however, demonstrates that such a schedule is unnecessary and that the Board should dismiss the matter as premature. Metra and Amtrak undoubtedly have a different view of the law, but what is missing is an actual dispute between the parties that the Board can solve. Indeed, even Metra recognizes that Board resolution of the legal question it presents would be irrelevant unless and until (i) negotiations fail and (ii) Metra presents the Board with a terminal tracking rights application or a request for mediation. Metra does not dispute that any such request by Metra is unlikely, which is why the Board should decline to grant declaratory relief or adopt a procedural schedule.¹

¹ Metra wants the Board to grant declaratory relief that various statutory provisions apply to Amtrak even if Metra cannot invoke those provisions. See Metra 5/4/18 Letter at 2 n.2 (stating that the question whether the Board has jurisdiction to consider a terminal tracking rights application by Metra is only relevant if Metra files such an application). This shows why answering all relevant questions in a single proceeding would be most appropriate, especially when the most likely outcome is that the Board will not need to devote its resources to these issues at all.

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Metra suggests that the Board should adopt a procedural schedule because two other entities have “intervened.” But those entities, VRE and MTA, merely said that they would provide their views. A third, BNSF, just asked to be copied on the pleadings without indicating that it would seek to participate in this matter at all. And nothing in Metra’s letter (or VRE’s or MTA’s) suggests that there is any dispute between those entities and Amtrak, or that those entities have any “views” that are different than those expressed by Metra. The Board has all the information to recognize that Metra’s request is premature.

In its letter, Metra asks the Board to adopt a procedural schedule, but pointedly no longer asks the Board to adopt the procedural schedule requested in its initial Petition. That is understandable, since such a schedule has plainly been overtaken by events. Metra and Amtrak have made their views known. Accordingly, the only reason to adopt a procedural schedule would be to allow VRE and MTA to make a filing. Thus, should the Board decide to adopt a procedural schedule (which, again, Amtrak believes is unnecessary), it should set a procedural schedule as follows:

May 25: Metra, VRE and MTA to make any filings in support of the Petition

June 8: Amtrak to file its reply

No further replies permitted.

Amtrak believes if the Board determines that it needs more information, such a schedule would provide that information while still permitting a speedy resolution of the Petition.

Respectfully,



Thomas R. Waskom
*Counsel for National Railroad Passenger
Corporation (Amtrak)*

cc: Thomas J. Litwiler, Esq.
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Richard E. Weicher, Esq.