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Expedited Consideration Requested

244311

September 11, 2017

By E-Filing

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings
September 11, 2017
Part of
Public Record

Re: NOR No. 42141 - National Railroad Passenger Corporation – Investigation
of Substandard Performance of the Capitol Limited

Dear Ms. Brown:

On behalf of Amtrak, I am writing to request a 30-day extension of time to reply to the letter that was filed in this proceeding on September 1, 2017 by Norfolk Southern Railway Company ("NS"). In that letter, NS asks the Board to rule on its pending Motion to Dismiss as a result of the recent decision by the 8th Circuit in *Union Pac. R.R. Co. v. Surface Transp. Bd.*, 2017 U.S. App. LEXIS 12408 (8th Cir. July 12, 2017). Amtrak's reply to the letter filed by NS would be due by September 21, 2017 under the Board's applicable regulations. See 49 C.F.R. §1104.13(a). However, Amtrak respectfully requests a 30-day extension of this reply period because of the upcoming October 10, 2017 deadline¹ for interested parties in the 8th Circuit proceeding to consider filing a petition for writ of certiorari with respect to the 8th Circuit's decision and the impact any such filing could have on Amtrak's reply to the NS letter.

The Board has discretion under 49 C.F.R. §1104.7(b) to grant the extension of time requested by Amtrak for good cause. In light of the fact that Amtrak's reply to the NS letter would otherwise be due before the deadline for filing petitions for writ of certiorari with respect to the 8th Circuit decision referenced in the NS letter, Amtrak believes that it would be in the interest of the Board and all parties to this

¹ See Sup. Ct. R. 13(1) ("a petition for writ of certiorari to review a judgment in any case...is timely filed when it is filed with the Clerk of this Court within 90 days after entry of the judgment").



proceeding to allow Amtrak to respond to the NSletter after the certiorari deadline has passed. Amtrak's counsel has conferred with counsel for NS about this 30-day extension request, and NS counsel has authorized us to inform the Board that NS does not oppose Amtrak's extension request.

Sincerely,

Edward Fishman
Counsel for National Railroad Passenger
Corporation



Certificate of Service

I, Edward J. Fishman, hereby certify that on September 11, 2017, a copy of the foregoing letter was served by e-mail or by first-class mail on all parties of record, as follows:

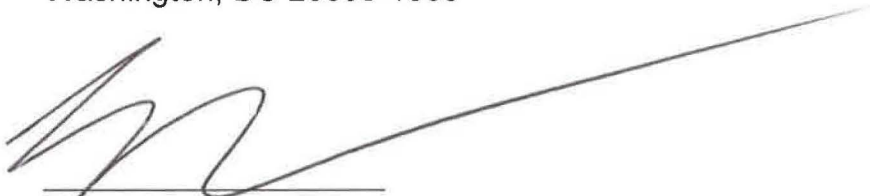
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