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**BEFORE THE
SURFACE TRANSPORTATION BOARD (STB)**

Finance Docket No. 36025

**TEXAS CENTRAL RAILROAD AND INFRASTRUCTURE, INC. &
TEXAS CENTRAL RAILROAD, LLC AUTHORITY
TO CONSTRUCT AND OPERATE PASSENGER
LINE BETWEEN DALLAS, TX AND HOUSTON, TX**

STB DENIED Jurisdiction in 2016- Because it was an intrastate project the STB had no oversight on the project.

What was Texas Central's reply to this? In a release from Texas Central setting the record straight in reply to TAHSR question "This Decision makes clear that Texas Central has no approval to construct its high-speed rail" Texas Central replied by stating **"False. STB's Decision makes clear (emphasis added) that the board's approval is not required. By removing regulatory uncertainty, the construction of high-speed rail in Texas is even closer"** ¹

Texas Central clearly stated they did not need STB approval for construction and since then Texas Central actions affirm, they were not needing STB approval. Contracts were negotiated and entered into for project management, construction and operations by others were all put in place. ^{2 3 4} Just a few months before all the contracts were announced Texas Central filed to reopen the STB case. Bulk of Options in the land purchase program were signed in 2016/2017. All indicating that the actions by Texas Central affirmed they did not need STB jurisdiction to start construction.

Lack of direct answers to STB questions that requested supplemental information

STB asked **"Please also include projections concerning the average and maximum (Emphasis added) wait time for passengers transferring between Texas Central and Amtrak rail service by using the proposed connecting transfer service and by other means, including walking."** ⁵

Texas Central fails to answer the portion on avg and maximum times wait times. It is common knowledge that Amtrak running on time lacks a lot to be desired so the delays are very well known. Simple search on Amtrak actual arrival times can be found on https://juckins.net/amtrak_status/archive/html/history.php

For 2019 1/01/2019 to 9/23/2019 (Train #1) it shows a total number of data points at 114. Out of those 114 data points 15 of those were canceled train stops for the Houston Amtrak station. Some are due to Service disruptions and some are canceled. That leaves 99 data points on arrival times with an avg delay of 2 hours and 8 minutes late with a median arrival delay of 1 hour and 42 minutes late. Knowing the last Texas Central Train leaves the Hou HSR terminal at 10 pm the likely hood that incoming Amtrak thru ticket purchases will not arrive in time to catch the shuttle to HSR

¹ <https://www.facebook.com/TexansAgainstHSR/photos/a.813295408744873/1144327162308361/?type=3&theater>

² <https://www.texascentral.com/posts/texas-central-names-global-railway-company-renfe-as-its-high-speed-train-operating-partner/>

³ <https://www.texascentral.com/posts/texas-central-reaches-another-milestone-with-addition-of-salini-impregilo/>

⁴ <https://www.texascentral.com/posts/texas-central-names-bechtel-project-manager-for-bullet-train/>

⁵ [https://www.stb.gov/Decisions/readingroom.nsf/UNID/4DC7AF731266EFD8525841F0069FF47/\\$file/46693.pdf](https://www.stb.gov/Decisions/readingroom.nsf/UNID/4DC7AF731266EFD8525841F0069FF47/$file/46693.pdf)

terminal in Houston. Matter of fact if we use a 30-minute transfer window that is laid out in the Texas Central schedule of shuttles that makes a 9:30 pm Amtrak arrival the latest that someone can catch the HSR to Dallas. Out of 99 arrival times in 2019 to date that would make 23% of passengers arriving stranded at the Houston Amtrak station that is closed at that time. Texas Central DID Not account for any of these passengers being stranded at the Amtrak station. Unacceptable by Texas Central and shows the thin agreement Texas Central is trying to make with Amtrak. To a lesser degree some late arriving HSR passengers to Houston will have to wait for hours to catch the late arriving Amtrak or god forbid the stop has been canceled.

So, Clearly Texas Central did not answer STB question **“concerning the average and maximum (Emphasis added) wait time for passengers”** This is a risk factor to those passengers that would be relying on Texas Central for the shuttle to take them somewhere. What does a passenger arriving in Houston via Amtrak at 12:02AM (4/08/2019) do for rental car? Hotel? Safety in that part of the town at midnight. Unacceptable that this was not even attempted to be answered by Texas Central.

RIDERSHIP

Another Question that Texas Central avoided to answer was STB #1 question that asked in part “the number and percentage of Amtrak passengers on the relevant Amtrak services who would transfer to the Texas Central service and **the number and percentage of Texas Central passengers who would transfer to the relevant Amtrak services”**

The last part was **not answered**. Texas Central only used the Amtrak number of passengers to come up with Percentage of Texas Central ridership **FROM** Amtrak. Question was and should have been answered that “How many Texas Central riders would choose to use Amtrak.” Amtrak did not answer that either but was not specifically asked for from STB but it was specifically asked from Texas Central. Even Texas central stated that the number of passengers is not important to make the connection for STB jurisdiction. They used “less” than 1% of HSR ridership would come from Amtrak passengers. In reality if you use published ridership from Texas Central is much less than 1% and more in the 0.1-0.2% range. Other phrases that Texas Central used to avoid answering the STB are

Section D “physical connection is not required to create jurisdiction. What matters, as explained above, is a practical continuity of interstate movement.” And on Pg 34 **“There are also strong policy reasons to reject a physical connection Requirement”** Practical continuity of interstate movement you must look at the above on the maximum wait times and the lack of Texas Central even attempting to address that detail.

Since cost is a major contributor to ridership. No where in the Amtrak study details that the cost for the HSR leg was factored in. Then the arrival of late Amtrak trains outside of HSR window in Houston was not addressed.

Schedule

Another Huge flaw is the schedule of HSR and Amtrak along with shuttle times. The Schedule of HSR trains is incomplete and does not match ridership projections of HSR.

It has been stated that Texas Central would be running approx. 68 trains a day total Per DEIS page 3.2-13 stated **“However, the number of trains was projected, which was used along with the train passenger capacity, and the average occupancy rate derived from the future service level ridership, to estimate an initial service level passenger ridership. With 68 trains”**⁶

⁶ <https://www.fra.dot.gov/Elib/Details/L19196>

By the published schedule (reply to STB) and times listed Texas Central is only running 34 (max) trains a day with 17 each direction. No 30-minute headway in the AM due to the fact the 4th train leaving Houston is 9 am (HSR 10008) And the 8th train leaving Houston is at 1pm (HSR 10016). So only 3 trains leaving (Houston) in the 3 hours between 9 am and 1 pm (10 am HSR10010, 11am HSR10012 and 12 noon HSR10014) STB knows the ridership in secret reports that the public is not privy too so the public must trust STB to verify data. You have only 13,600 seats avail if only running 34 trains a day total. Some simple math has ridership well below 3 mil. So, did Texas Central throw together a schedule to appease the STB? That alone should be offensive and not tolerated by STB.

So, with the information that Texas Central provided on schedule/lack of HSR customers using Amtrak/ Lower number of trains and the fact the agreement with Amtrak has a 90-day termination clause. Is all this information being provided by Texas Central just checking a box to get to STB jurisdiction after Texas Central stated it was NOT NEEDED to start construction? Then what if, even before day one of operations, Texas Central terminates the contract? This link is extraordinarily weak and is the main thrust of Texas Central seeking STB jurisdiction after they stated they did not need it. Without concrete effort by Texas Central to answer this agreement terms it should carry no weight in any decision using Amtrak Thru ticket agreement as reason for STB jurisdiction.

Texas Central will have more convenient schedule so if a Thru ticket purchase has to be delayed based on Amtrak delays what will Texas Central do if a seat is not avail on next HSR? During games or other large events that will create the possibility of a full HSR train. Will an existing paid ticket holder be bumped to allow an Amtrak thru ticket holder a seat to get catch the Amtrak train? Who will take priority the HSR only ticket sold by Texas Central or the Thru ticket sold thru Amtrak? This is not addressed in the Texas Central reply and again showing the priority that Texas Central is placing on the Thru ticket process. I would not want my family member to get in Houston via Amtrak late and have no way to get to Dallas via HSR until the next morning? Unacceptable and should have been addressed if Texas Central was serious on providing this service and answering a simple question from STB.

Environment

In a letter from STB to Rep Joe Barton dated May 19th 2016 STB stated

"In the event that the Board finds that it has jurisdiction over the project - a threshold issue raised in Applicants' petitions - our Office of Environmental Analysis would then participate formally as a cooperating agency in the environmental review process with FRA."⁷

So, If STB takes jurisdiction, I expect the STB to participate in the "review" process which means before (not after) the FEIS or ROD is released.

STB should look at some of the flaws in the environmental items that the DEIS has overlooked or input erroneous data.

Time line-Went from 4 years to 5-6 years- 25-50% increase in time thus construction emissions increased.

Using data to shift the numbers in direction of least impact- Doubling of VMT. Stating that cars removed from the one-way ticket sales removed 478 miles each for emissions calculations-False

Using 2014 Café standards for 2040 mpg to calculate gallons saved- Not only made the error of doubling of VMT removed but they used a lower MPG that was avail to calculate the 2040 MPG and gallons saved. Increasing the gallons saved by 200-300%

⁷ [https://www.stb.gov/FILINGS/all.nsf/c72552abc289f85285257515007219bd/5b62f8c27b9f968c85257fbf00674ffd/\\$FILE/240778.pdf](https://www.stb.gov/FILINGS/all.nsf/c72552abc289f85285257515007219bd/5b62f8c27b9f968c85257fbf00674ffd/$FILE/240778.pdf)

Energy used during construction based on flawed gal per hour use of construction equipment. Using the wrong BTU or fuel type on construction equipment. Used 0.2 gal per hour (EXTREMELY LOW RATE) and gasoline BTU content vs Diesel BTU content. Again, lowering the BTU during construction to make the project more environmental positive. I won't even go into the BTU used in operations of the HSR using MWH BTU content conversions vs using Fuel Used BTU content to generate the MWH. They use the BTU content of the fuel on cars and such and therefore eliminating the efficiency factor. Again, tipping the scale to make the project more environmental positive than what it is actually.

Since the emissions from cars and cars removed is based on ridership a hard look needs to be placed on HSR ridership numbers. DEIS claimed as a working number that a loading factor of 62% of all available seats available on HSR. This alone is huge overstatement. Virgin Brightline is not even reaching 50% Loading factor

The De minimis level for NOx is 100 tons per year. DEIS (Dallas to Houston HSR EIS – Chapter 3.0 Section 3.2 – Air Quality) has Dallas NAA at 99.13 tons and HGB NAA at 95.76 tons so any information as stated above makes those numbers extremely susceptible.

Again, to emphasize is the 25-50% increase in construction time. So not only using bad inputs they also shorten the time of those input to make the HSR appear better. When in fact when you calculate the correct VMT/VMT removed from NAA/Correct gallons based on better CAFÉ/ Use the correct mileage from city center you actually get a positive increase in NOx if HSR is actually built. Which more NOx leads to more Ozone pollution in areas that can least afford it.

STB JURISDICTION

Seeing how Texas Central is trying to gain access for construction (after saying they did not need STB approval) through STB jurisdiction any financial information on projects success should be front and center. From original petition Texas Central stated 4 million riders and 20% market share in early years. That calculates to about 20 mil journeys. Then they publish ridership at 35% of market share and 13 mil tickets in 2050. Even ALL ABORD FLORIDA was at 10.2% long distance and 1.2% of short distance market share per page ES-5.⁸ Making the claim of 20% market share claimed by Texas Central, in original petition, look optimistic at best.

Benefits- Any financial benefits that has been claimed by the Insight research report should be discarded for more than one reason. Based on old ridership and cost estimates. The huge one is the \$2.5 billion in tax revenue include sales tax on ticket sales. First Texas Central would only collect those sales taxes on tickets. Second there is ZERO SALES tax on transportation tickets. So, the economic promises made was based on false collection of sales tax on tickets. If Insight Research did not know this and Texas Central promoted sales tax on tickets then what else did the promoter of the HSR miss or mislead agencies in order to get project started? If Texas Central was a passenger Rail service they would have caught and corrected the mistake on the sales tax on tickets. But yet again it makes the project more saleable so they ignored what every transportation company knows. That NO SALES Tax on tickets are collected in the State of Texas.

Cost went from just above 10 bil to now 20 bil reported recently. STB has to make sure that the project is financially viable included all construction cost! Hard look at the numbers they submitted in 2016 should be looked at using current data. If ever started who is the source of the deep pockets for overruns? Unlike the CAHSR project Texas Central claims no public money is needed. With past deadlines missed and cost overruns to date who will step up to complete the project if Texas Central bows out due to lack of funding? Early routes we eliminated due to increase cost.

⁸ <https://www.gobrightline.com/Terms-of-Service>

BNSF#1 was the second lowest cost factor of all the routes and was eliminated in part to the increase ridership did not offset the increase construction cost. Remember we have doubled the original construction cost but this route, second lowest, was not in play due to cost.

Ridership- What are the details of the ridership? Were folks asked if they smoked? Since HSR will be smoke free that would influence folks to continue to drive. Reports show that 2017 adult smoking/tobacco free and e cigs was 24.7%.⁹

What about the right to carry a firearm on board? Virgin Brightline recently changed Terms of Service forbidding ALL FIREARMS¹⁰. Was the ability to carry firearms considered in the ridership studies? Will a person give up the right to carry with LTC permit just to ride HSR and conduct business at the other end without their firearm? Only STB can know these answers and if they are not addressed in the “secret” ridership reports then any number they give to is inflated.

Texas Central claims Bluetooth data was used to determine journeys. With out vetting can we trust Texas Central on providing an accurate representation of that data? How many people carry more than one cell phone? How as that factored was that used to increase the number of journeys in Texas Centrals Favor?

Following Texas Central history of “selective” information in the past its up to STB to make sure any data provided is vetted for its validity.

Texas Central Issues

Why is Texas Central in front of the STB asking for jurisdiction on the project? I think a hard look has to be considered on the timing. Texas Central stated they did **not** need STB to start construction but since that time Texas Central has lost every summary judgement, that was contested, that declared them not a Railroad in the State of Texas. Texas Central told the Leon county district Judge Evans that STB would be ruling any day and she did not need to proceed with the summary judgement. In the Leon County case Monte James, Lawyer for Texas Central, stated on more than one occasion that it had been 90 plus days since petition to reopen was filed with STB. He stated avg time for STB to decide was approx. 100 days and there was no need for her to waste any time on the Lawsuit as STB was just about to decide the case. This was in Summer of 2018.

Prayer

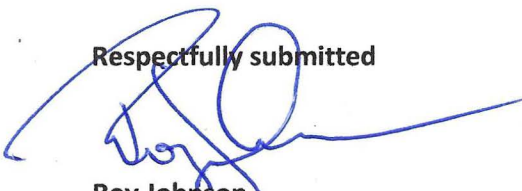
That no material actions have been performed by Texas Central since the denial of jurisdiction, to cause STB restate that this is an intrastate project and left up to the state. STB has answered the petition, Texas Central has stated did not need STB so there are no compelling reasons for STB to change the previous decision to call this system an Intrastate project. Even the Texas Rail Advocate President stated in Austin in 2019 that it’s an INTRAstate project and was questioned to verify and he affirmed it was an INTRA state project.¹¹ I agree with the STB original decision and with Texas Rail advocates President Peter LaCody that this is an INTRA state project and should remain that way.

⁹ <https://truthinitiative.org/research-resources/smoking-region/tobacco-use-texas-2019>

¹⁰ <https://www.gobrightline.com/Terms-of-Service>

¹¹ http://tlchouse.granicus.com/MediaPlayer.php?view_id=44&clip_id=17136 35 minute mark

Respectfully submitted



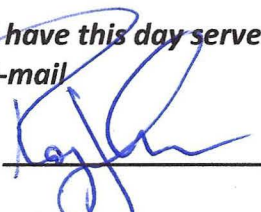
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I certify that I have this day served copies of the document upon the Parties of Record in this proceeding, by U.S. Mail or E-mail

Signature



Date

10/7/19

CC: All Parties of Record