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September 30, 2019

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VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street S.W., Room 1034
Washington, DC 20423-0001

248529

ENTERED
Office of Proceedings
September 30, 2019
Part of
Public Record

Re: **Docket No. FD 36332**
National Railroad Passenger Corporation -- Petition
For Proceedings Under 49 U.S.C. § 24903(c)(2)
Expedited Consideration Requested

Dear Ms. Brown:

For the reasons set forth below, the National Railroad Passenger Corporation (“Amtrak”), jointly¹ with the Commuter Rail Division of the Regional Transportation Authority and the Northeast Illinois Regional Commuter Railroad Corporation (the latter two entities collectively “Metra”), hereby request modification of the procedural schedule to govern the above-captioned proceeding.

Prior to the Board’s decision served on September 27, 2019 (the “September 27th Decision”), the parties understood that a case initiated under 49 U.S.C. § 24903(c)(2) would need to be completed, including Board issuance of a final decision, within 120 days of the formal commencement of a proceeding. The respective Amtrak and Metra filings addressing a procedural schedule reflected the Parties’ shared understanding of Section 24903(c)(2), and included a very aggressive procedural schedule to conduct discovery, identify issues, and fully brief the Board within 120 days. The Board has now explained in the September 27th Decision that the subject 120-day statutory time frame does not include development of the record, but instead simply mandates that the Board render a decision within 120 days from the close of the record. With this interpretation of Section 24903(c)(2), the parties would have proposed a procedural schedule that provided additional time to develop the record.

In view of the September 27th Decision’s clarification of the 120-day deadline, the

¹ Counsel for Amtrak has consented to Metra’s representation that the relief herein is requested “jointly.” Metra is making this filing on behalf of both parties in the interest of expediency and in light of the request the Board grant relief on an expedited basis.

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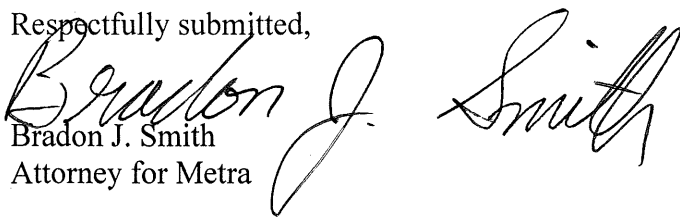
Parties have conferred and hereby request expedited consideration and acceptance of the following modified procedural schedule:

Day 0 ("M")	Board Order modifying procedural schedule
M + 15 days	Parties exchange preliminary, non-prejudicial list of issues for further negotiation to narrow issues for Board
M + 22 days	Parties submit any disputes over time and manner of discovery to Board.
M + 30 days	Discovery commences.
M + 90 days	Close discovery; joint submission to the Board of issues for determination.
M + 150 days	Parties file simultaneous opening statements with evidentiary submissions.
M + 195 days	Parties file simultaneous replies with evidentiary submissions.

The above revised procedural schedule will permit measured consideration and narrowing of the disputed issues, and would facilitate a more refined record and ultimately aid the Board in meeting the time limit that Section 24903(c)(2) imposes on a decision. The Board consistently has accepted revisions to procedural schedules where the parties jointly agree that further time is warranted to conduct discovery and file submissions. *See, e.g., Application of the National Railroad Passenger Corporation under 49 U.S.C. § 24308(a) — Canadian National Railway Company*, Docket No. FD 35743 (STB served Dec. 9, 2015); *Capitol Corridor Joint Powers Authority and National Railroad Passenger Corporation — Petitions for Declaratory Order — PRIIA Section 209 Cost Allocation Methodology Implementation*, Docket No. FD 35790 (STB served Jul. 18, 2014).

The parties seek expedited Board action given the otherwise impending October 1, 2019 deadline for the presentation of discovery disputes. For the reasons set forth above, good cause exists for expeditious modification of the procedural schedule in this matter.

Respectfully submitted,


Bradon J. Smith
Attorney for Metra

cc: Neil K. Gilman, Esq.; Parties of Record