

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36496

APPLICATION OF THE NATIONAL RAILROAD PASSENGER CORPORATION UNDER  
49 U.S.C. § 24308(e)—CSX TRANSPORTATION, INC., AND NORFOLK SOUTHERN  
RAILWAY COMPANY

Digest:<sup>1</sup> This decision grants a joint motion filed by CSX Transportation, Inc., Norfolk Southern Railway Company, and the National Railroad Passenger Corporation to extend the procedural schedule.

Decided: October 14, 2021

On March 16, 2021, the National Railroad Passenger Corporation (Amtrak) filed an application with the Board, pursuant to 49 U.S.C. § 24308(e), seeking an order requiring CSX Transportation, Inc. (CSXT), and Norfolk Southern Railway Company (NSR)<sup>2</sup> to allow Amtrak to operate additional intercity passenger trains, consisting of two round-trips per day, over the rail lines of CSXT and NSR between New Orleans, La., and Mobile, Ala., beginning on or about January 1, 2022. By decision served August 6, 2021, the Board, among other things, denied CSXT and NSR's motion to dismiss the application, adopted a procedural schedule, and appointed Administrative Law Judge Thomas McCarthy to handle all discovery matters and resolve initially all discovery disputes.

On September 23, 2021, CSXT, NSR, and Amtrak filed a joint motion to extend the procedural schedule by two weeks, to correspond with a two-week extension of the discovery period ordered by Judge McCarthy. (Mot. to Extend Proc. Schedule 1.) The parties explain that, pursuant to the procedural schedule, discovery was to end on September 20, 2021, but on September 21, 2021, Judge McCarthy extended the discovery period until October 4, 2021, with the consent of all parties. (Id.)

The Board finds the parties' extension request to be reasonable, and the procedural schedule will be modified accordingly. However, the parties should be aware that any further requests to extend the procedural schedule, even when agreed to, will be scrutinized closely, and they should not assume that further extensions will be routinely granted.

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<sup>1</sup> The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol'y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

<sup>2</sup> Although Amtrak names Norfolk Southern Corporation in its application, it appears that NSR is the proper party. (See Mot. to Dismiss 1 n.1.)

It is ordered:

1. The motion to extend the procedural schedule is granted.

2. The procedural schedule is modified, as follows:

CSXT and NSR opening evidence	<b>November 3, 2021</b>
Amtrak reply evidence	<b>December 3, 2021</b>
CSXT and NSR rebuttal evidence	<b>December 23, 2021</b>
Proposal(s) on hearing format	<b>December 30, 2021</b>

3. This decision is effective on its service date.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.