



U.S. Department  
of Transportation  
Office of the Secretary  
of Transportation

General Counsel

1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

302296

May 10, 2021

**FILED ELECTRONICALLY**

Mr. Martin J. Oberman  
Chairman  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

ENTERED  
Office of Proceedings  
May 10, 2021  
Part of  
Public Record

**Re:   *Application of the National Railroad Passenger Corporation  
Under 49 U.S.C. § 24308(e) – CSX Transp., Inc. and Norfolk S. Ry. Co.  
Docket No FD 36496***

Dear Chairman Oberman:

I write on behalf of the United States Department of Transportation (DOT or the Department) and the Federal Railroad Administration (FRA), an operating administration of DOT, to express our interests in this proceeding and to highlight the importance of the passenger rail service at issue here. The Biden-Harris Administration believes that the expansion and improvement of intercity passenger rail service, through efforts such as the restoration of Gulf Coast service, plays an essential role in meeting the most important objectives of our transportation system, including combating climate change, ensuring equity in personal mobility, and driving economic growth and vitality. FRA has worked closely with Amtrak, CSX, Norfolk Southern, and other stakeholders for several years to make the restoration of Gulf Coast service a reality. Unfortunately, despite an extended period of examination and the investment of significant funds, Amtrak has been unable to obtain the agreement of the host freight railroads, and there is no clear or imminent path to the restoration of this service, absent the Board's intercession. We therefore urge the Board to act expeditiously on Amtrak's application in the above-referenced proceeding, relating to the restoration of passenger rail service between New Orleans, Louisiana and Mobile, Alabama.

The Department's mission is to foster "transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation" for the Nation. 49 U.S.C. § 101. A key part of this mission is the promotion of a safe and healthy railroad system. America's freight railroads not only carry goods between producers and consumers; they also host our passenger rail operations, benefiting travelers, the economy, and the environment. *See* 49 U.S.C. § 24101 (defining Amtrak's mission and goals). As you know, Amtrak owns just a very small portion of the tracks over which it operates. Across the Gulf Coast, and throughout most of the country, passengers depend upon a cooperative arrangement between Amtrak and the host freight railroads to ensure safe and efficient travel. Nearly fifty years ago, Congress affirmed the

importance of passenger rail in this arrangement, requiring freight railroads to give Amtrak trains access to host freight railroad lines and facilities at incremental cost and preference over freight service in the use of those host freight railroad assets. 49 U.S.C. § 24308.

Thus, the Department works closely with Amtrak and freight railroads to maintain and enhance the railroad system. FRA, which plays the lead role in implementing National rail policy, is committed to ensuring the vitality and quality of rail freight transportation, as well as passenger rail. Since the 1970s, this commitment has been reflected in FRA's policy that the intercity passenger rail projects it funds, or otherwise assists, are not pursued in a manner that would materially lessen, or unreasonably impair, the quality of rail freight service provided to shippers.

In keeping with this policy, FRA requires data-driven operations studies for projects it funds. These studies are used to identify what, if any, capital improvements would be required to support enhancement to existing, or new, intercity passenger rail services, and mitigate any potential negative effects on the operating performance of freight rail service. These operations studies should be transparent and collaborative efforts, involving the participation of all the potentially affected rail carriers. By emphasizing transparency and collaboration, these studies are intended to form the basis of a consensus agreement concerning what capital improvements would be required to implement the proposed change to intercity passenger rail service.

In furtherance of these goals, and relevant to this proceeding, FRA has been closely involved in the efforts to restore intercity passenger rail service on the Gulf Coast since 2015, when the Secretary of Transportation, under Congressional direction, convened the Gulf Coast Working Group (GCWG), charged with evaluating restoration of this service. Membership in the GCWG included representatives from FRA; Amtrak; State Departments of Transportation from Louisiana, Mississippi, Alabama, and Florida; municipalities and communities along the route; regional transportation planning organizations; metropolitan planning organizations; the Southern Rail Commission (an interstate rail compact consisting of Louisiana, Mississippi, and Alabama); and rail carriers whose facilities would be used for the service (CSX, Norfolk Southern, and Florida DOT/SunRail). The work of the GCWG was intended to include both an examination of potential options for service characteristics (*e.g.*, frequencies, trip times, end points, etc.) of the restored service, and the identification of what, if any, capital improvements would be required to support restoration of the service.

Unfortunately, this effort stalled and was not brought to a successful resolution, despite FRA's expenditure of approximately \$700,000 in Federal funding, through both grant and contract awards (including a \$171,275 contract award directly to CSX for operations simulation work). FRA, Amtrak, and other working group members were not able to obtain all the railroad data and analysis necessary for a comprehensive examination of the issues involved in restoring service, consistent with the principles discussed above. Nor were the members of the working group able to reach consensus on the key issues. While efforts by FRA to resolve the disagreements that arose in this process achieved moderate success, the final report of the GCWG nonetheless reflected major disagreements among some members about the level of capital investment needed to restore the Gulf Coast service. FRA arrived at an estimated cost of \$118 million, while CSX estimated that \$2.3 billion in capital improvements would be required.

Given the lack of consensus resulting from the work of the GCWG, FRA was encouraged when Amtrak, CSX, and Norfolk Southern proposed in early 2020 to undertake a collaborative operations study (the “Gulf Coast Simulation Study”) intended to serve as the basis for an agreement on what, if any, capital investments would be needed to implement a first phase of the Gulf Coast Service Restoration, consisting of two daily round-trips between New Orleans, Louisiana and Mobile, Alabama. Through a grant to Amtrak, FRA funded this study, in the amount of \$250,852, and participated substantively throughout the study. Unfortunately, the Gulf Coast Simulation Study efforts failed to yield a consensus agreement on the sharing of relevant data inputs and model outputs, let alone the necessary scope of capital improvements. FRA and Amtrak have repeatedly attempted to address concerns with CSX and Norfolk Southern about the conduct and completion of the study, but were unable to do so by the study’s originally scheduled end date in January 2021. FRA remains concerned that it has been unable to obtain access to all the data and analysis necessary for a proper review of the issues involved in restoring service. Furthermore, at present, there does not appear to be any clear path forward for resolving these questions, absent the Board’s involvement.

In addition to its role in the operations studies intended to support the restoration of the Gulf Coast Service, FRA has also made several significant grant program selections, totaling \$47.6 million (together with \$52.3 million in non-Federal match) to support this effort. These have included a total of \$9.75 million in Federal funding (together with \$14.5 million in non-Federal match) for operating financial support under the Restoration and Enhancement Grant Program, \$32.9 million (together with \$32.9 million in non-Federal match) for capital improvements under the Consolidated Rail Infrastructure and Safety Improvements Program, and an additional \$1.2 million (together with \$1.2 million in non-Federal match) for capital improvements and project planning work under various miscellaneous appropriations. In addition to these, FRA has made further selections totaling \$3.7 million (together with a \$3.7 million in non-Federal match) for capital improvements that, while not directed specifically to the Gulf Coast Service restoration, would nonetheless benefit it.

The Department stands ready to work with Amtrak, CSX, Norfolk Southern, and other stakeholders to perform the work necessary to restore Gulf Coast service, which is long overdue. We ask the Board to give careful and prompt consideration to Amtrak’s petition, and we will be glad to provide any additional information or resources that would aid in the Board’s decisionmaking process. FRA looks forward to the opportunity to participate in any proceeding that the Board initiates, to ensure that passenger rail service may expand consistent with the law, while robust freight rail service, essential to the Nation’s economy, is preserved.

Sincerely,

A handwritten signature in blue ink, appearing to read "John E. Putnam", is written over a faint, stylized outline of the FRA seal.

John E. Putnam  
Acting General Counsel

cc: Service List for FD 36496 (via e-mail)