

SURFACE TRANSPORTATION BOARD

ORDER OF PRESIDING ADMINISTRATIVE LAW JUDGE SCHEDULING DISCOVERY  
CONFERENCE

Docket No. FD 35743

APPLICATION OF THE NATIONAL RAILROAD PASSENGER CORPORATION UNDER  
49 U.S.C. § 24308(a) – CANADIAN NATIONAL RAILWAY COMPANY

Decided: May 20, 2015

On July 30, 2013, the National Railroad Passenger Corporation (Amtrak) filed an application under 49 U.S.C. § 24308(a)(2), seeking the institution of a proceeding and a procedural schedule to determine reasonable terms and compensation for Amtrak's use of Grand Trunk Railway Company and Illinois Central Railway Company (together, the Canadian National Railway Company or CN) facilities (including rail lines) and services, making those new terms and compensation retroactively effective as of August 12, 2013; and, an interim service order, effective August 12, 2013, requiring CN to continue to make available to Amtrak the facilities and services necessary for Amtrak to continue to operate on CN rail lines under the same terms and compensation of the current Amtrak-CN contract.

On August 9, 2013, the Board instituted the instant proceeding to establish reasonable terms and compensation for use by the Amtrak of CN facilities and services. The Board also required CN to continue to provide Amtrak facilities and services on an interim basis under the terms of their existing contract.

Discovery disputes have arisen among the parties. To wit, CN has filed four motions to compel Amtrak to respond to discovery requests.<sup>1</sup> The Board has ruled only on the First Motion to Compel and the Second Motion to Compel. The Board has not ruled on the Third Motion to Compel or the Fourth Motion to Compel.

By a decision served on April 30, 2015, the Board assigned and authorized Administrative Law Judge John P. Dring of the Federal Energy Regulatory Commission (FERC) to entertain and rule upon discovery matters and to resolve all disputes concerning discovery in

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<sup>1</sup> CN Motion to Compel Responses to Requests for Production of Documents (Feb. 12, 2014) (granted in part and denied in part, Decision served Apr. 15, 2014, appeal granted in Decision served Sept. 23, 2014) (First Motion to Compel); CN Second Motion to Compel Responses to Discovery Requests (May 2, 2014) (granted in part and denied in part, Decision served Sept. 23, 2014) (Second Motion to Compel); CN Third Motion to Compel Responses to Discovery Requests (Dec. 2, 2014) (Third Motion to Compel); CN Fourth Motion to Compel Responses to Discovery Requests (Mar. 16, 2015) (Fourth Motion to Compel).

this proceeding. Copies of Amtrak and CN's documents concerning the discovery disputes have been received by Judge Dring.

Notwithstanding the scheduling of the discovery conference ordered below, the parties are strongly encouraged to make intensive, good faith efforts to resolve outstanding discovery disputes without the need for judicial intervention, both prior to the conference and thereafter. Any questions pertaining to this discovery proceeding should be direct to Judge Dring's law clerk, Thomas Kirby, who may be contacted at (202) 502-8104 or thomas.kirby@ferc.gov.

It is ordered:

1. A discovery conference on all outstanding discovery matters is scheduled for June 1, 2015, at 10:00 a.m. in a hearing room to be designated at the Federal Energy Regulatory Commission. This conference will be held on the record. All parties to the discovery disputes are directed to attend.

By the Board, John P. Dring, Administrative Law Judge.