

## BEFORE THE SURFACE TRANSPORTATION BOARD

---

FINANCE DOCKET NO. 36472

---

CSX CORPORATION AND CSX TRANSPORTATION, INC., ET AL. —CONTROL AND MERGER— PAN AM SYSTEMS, INC., PAN AM RAILWAYS, INC., BOSTON AND MAINE CORPORATION, MAINE CENTRAL RAILROAD COMPANY, NORTHERN RAILROAD, PAN AM SOUTHERN LLC, PORTLAND TERMINAL COMPANY, SPRINGFIELD TERMINAL RAILWAY COMPANY, STONY BROOK RAILROAD COMPANY, AND VERMONT & MASSACHUSETTS RAILROAD COMPANY

---

**ADDITIONAL COMMENTS OF  
THE UNITED STATES DEPARTMENT OF TRANSPORTATION**

---

The United States Department of Transportation (“DOT” or “the Department”) and the Federal Railroad Administration (“FRA”), an operating administration of the Department, appreciate the opportunity to submit additional comments in this proceeding involving the proposed merger of CSX and Pan Am Systems and related entities. The Department would like to take this opportunity to underscore its Opening Comments submitted on August 27, 2021, and to address certain issues raised by interested parties in this proceeding.<sup>1</sup> While neither the Department nor FRA take a position regarding the Board’s approval of the proposed transaction, we urge that the Board closely evaluate the potential implications of the proposal for present and future passenger rail operations. If the Board does decide to proceed with the transaction, DOT asks that it include specific and enforceable conditions to support present and future passenger rail operations.

---

<sup>1</sup>As with DOT’s Opening Comments, these comments apply to each of the various related and sub-dockets embraced in the Board’s proceeding, which are referred to here generally as “the proposal” or “the proposed transaction.”

As noted in DOT's Opening Comments, the Federal government and the States have invested heavily in the northeast railroad network over the past several years, including on the rail lines at issue here. The Federal investments have been, in large part, for the benefit of passenger rail operations. It is imperative that the benefits of these investments are not unduly compromised by any operational or other changes that may occur as a result of the proposed merger. To that end, DOT would like to reiterate its view that the Board should continue to closely scrutinize the proposed transaction to determine any potential impacts that may have a detrimental effect on current and future intercity passenger rail service. Such scrutiny should include a thorough evaluation of the applicant's "fulfillment of its responsibilities under 49 U.S.C. § 24308 (relating to Amtrak's statutory rights)," as required by Executive Order 14036. We ask that the Board carefully consider and address Amtrak's comments in opposition to the proposal regarding the applicants' commitments to fulfilling their statutory responsibilities, particularly regarding the development and expansion of intercity passenger rail service through the operation of additional trains.

As the Board is aware, the applicants have made certain representations regarding their commitments to "ensure the vitality of the passenger rail network." We encourage the Board to use its broad authority to impose conditions upon the approval of this transaction to ensure that the applicants carry out those commitments, including the commitments and representations made in the application to the Board; the applicants' subsequent submissions; and the agreements that the applicants have struck with other parties regarding the continuation and enhancement of passenger rail along the affected lines upon the Board's approval of the proposed transaction.

The Department appreciates the Board's consideration of these issues.<sup>2</sup> The expansion and improvement of intercity passenger rail 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. DOT looks forward to reviewing additional submissions from other parties and stands ready to work with the Board and other stakeholders as this proceeding continues.

Respectfully submitted,

October 18, 2021

/s/ John E. Putnam

John E. Putnam

*Deputy General Counsel*

Paul M. Geier

*Assistant General Counsel for Litigation and Enforcement*

Christopher S. Perry

*Senior Trial Attorney*

**United States Department of Transportation**

1200 New Jersey Avenue, S.E.

Washington, D.C. 20590

Tel. (202) 366-9282

E-mail: [christopher.perry@dot.gov](mailto:christopher.perry@dot.gov)

---

<sup>2</sup> DOT is also pleased to continue working with the Board and the applicants in the ongoing review of the Safety Integration Plan.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18th day of October, 2021, I caused the foregoing document to be filed electronically with the Board's e-filing system, and caused a copy of this document to be served by electronic mail upon all parties of record in this proceeding.

/s/ Christopher S. Perry  
Christopher S. Perry  
*United States Department of Transportation*