

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35215

NATIONAL RAILROAD PASSENGER CORPORATION – APPLICATION UNDER  
49 U.S.C. 24311(c) TO CONDEMN CERTAIN RAIL CARRIER PROPERTY IN  
ATLANTA, FULTON COUNTY, GA – NORFOLK SOUTHERN RAILWAY  
COMPANY

Decided: April 10, 2009

On January 21, 2009, the National Railroad Passenger Corporation (Amtrak) filed a notice of intent to file an application under 49 U.S.C. 24311(c) to condemn rail carrier property. By its petition, Amtrak requested that the Board order Norfolk Southern Railway Company (NSR) to convey its rail passenger service easement over a 4.30-mile line of railroad between mileposts DF 633.10 and Atlanta, Fulton County, Georgia, to Amtrak.<sup>1</sup>

This line is also the subject of an abandonment proceeding, see Norfolk Southern Railway Company – Abandonment Exemption – In Fulton County, GA, STB Docket No. AB-290 (Sub-No. 210X) (STB served Dec. 23, 2008), in which NSR filed a notice of exemption to abandon its interest in the line. NSR holds passenger and freight easements over the line, and the Atlanta Development Authority (Authority) is the record owner of the property underlying the right-of-way.<sup>2</sup> The exemption was scheduled to take effect on January 22, 2009, but the Georgia Department of Transportation (GDOT), supported by Amtrak, petitioned for stay, citing the interests of GDOT and Amtrak in using the line for passenger rail service and high-speed rail service in the future. A stay was issued on

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<sup>1</sup> Neither Amtrak nor NSR currently operates over the line; indeed, no traffic has moved over the line for 9 years. Amtrak stated, however, that the line is part of the routing Amtrak would use in the future for its regular intercity passenger trains and for possible high-speed rail passenger trains to reach the proposed Multimodal Passenger Terminal in Atlanta, once that facility is constructed.

<sup>2</sup> The Authority is also the redevelopment agent for the BeltLine Tax Allocation District of the City of Atlanta, which is the primary local funding source for the BeltLine project. The BeltLine project is a proposed comprehensive economic development project that combines transit, green space, trails, and new commercial, residential, and public facility development along a 22-mile ring of former and current rail lines that encircle Atlanta's core. The Authority created Atlanta BeltLine, Inc. (ABI) to implement the BeltLine project.

January 21, 2009, to allow for more time for the parties to supplement the record in that proceeding. See Norfolk Southern Railway Company – Abandonment Exemption – In Fulton County, GA, STB Docket No. AB-290 (Sub-No. 210X) (STB served Jan. 21, 2009).

On February 3, 2009, the Authority, ABI, NSR, GDOT, and Amtrak jointly filed a motion to hold in abeyance the section 24311 proceeding and the abandonment proceeding, due to ongoing discussions toward a common solution that would accommodate the BeltLine project, intercity passenger rail, and high-speed rail in the region. By decision served on February 5, 2009, the Board held these proceedings in abeyance until March 6, 2009. A second joint motion to hold both proceedings in abeyance was filed on March 6, 2009. By decision served on March 13, 2009, the Board held the proceedings in abeyance until March 23, 2009.

On March 23, 2009, the parties jointly filed a status report stating that they had negotiated and prepared a Framework Agreement that resolved their respective concerns with regard to the line. Subsequently, on March 25, 2009, Amtrak filed a request to withdraw its notice of intent to file an application under 49 U.S.C. 24311(c), noting that the Framework Agreement was entered into and satisfactorily resolved the matters related to the notice of intent.

The Board has a longstanding policy favoring the private resolution of matters such as these. Accordingly, the Board will grant Amtrak's withdrawal of its notice of intent in this matter.<sup>3</sup>

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Amtrak's withdrawal of the notice of intent to file an application under 49 U.S.C. 24311 (c) is granted, and STB Finance Docket No. 35215 is dismissed.
2. This decision is effect on its date of service.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan  
Acting Secretary

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<sup>3</sup> By order served today, the stay imposed in Norfolk Southern Railway Company—Abandonment Exemption—In Fulton County, GA, STB Docket No. AB-290 (Sub-No. 210X) on January 21, 2009, is vacated.