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FRA-1999-6135-6

October 15, 1999

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Mr. Grady Cothen
Chair, Railroad Safety Board
Federal Railroad Administration
1120 Vermont Avenue, N.W.
Washington, D.C. 20590

RE: FRA-1999-6135

Dear Mr. Cothen:

I am responding to the comments of the Brotherhood of Railway Carmen ("BRC") filed on October 7, 1999, in connection with the Petition of New Jersey Transit Corporation ("NJ Transit") for Approval of Shared Use and Waiver of Certain Regulations, FRA Docket No. FRA-1999-6135.

The BRC opposes the granting of the waivers requested by NJ Transit, particularly the waivers of certain Passenger Equipment Safety Standards contained in 49 CFR Part 238, based on its apparent conclusion that the justification for the waivers lies solely in the temporal separation agreement between NJ Transit and Conrail. Were this the case, NJ Transit could understand the BRC's concerns. However, the temporal separation agreement, is not, in fact, the sole basis upon which NJ Transit has predicated its Petition.

The safety justification for the requested waivers rests, as described in the Petition, upon several independent, yet interrelated, conditions. In addition to the temporal separation agreement, NJ Transit and Conrail will each have and enforce dispatching and operating rules designed to implement the temporal separation agreement. Moreover, there are important physical barriers in place to ensure the safety of the SNJLRT and Conrail operations over the Shared Trackage. These include switch point derails interlocked with the signal system and train control technology using trip-stop devices. Equivalent safety will also be achieved through the continuing oversight and regulation of the SNJLRT system by the New Jersey Department of Transportation through its State Safety Oversight Program, as authorized and required by Federal Transit Administration regulations at 49 CFR Part 659.

BRC's comments related to the Part 238 structural integrity standards seem to take issue less with the specifics of the NJ Transit Petition, than with FRA's judgment that temporal separation between light rail transit and conventional railroad operations can provide a basis for the safe shared use of track, as expressed in the FRA/FTA Proposed Joint Policy Statement. Similarly, the BRC comments regarding inspection requirements under Part 238 are not based on

any criticism of the specific safety justification offered by NJ Transit, but rather stem solely from the BRC's general opposition to waiver of the structural integrity requirements. Individual waiver requests should be considered, as FRA itself has noted, with regard to the specific facts and circumstances of the proposed shared use.

The BRC also opposes NJ Transit's request for a waiver of the glazing standards. In its comments on this issue, BRC has focused upon the fact that the SNJLRT vehicle side windows will meet motor vehicle window standards, which the BRC maintains is not sufficient. Once again, were the only transit experience with the ANSI standard glass that will be installed in the SNJLRT vehicles based on "normal highway traffic situation[s]", the BRC might raise legitimate questions. However, as we noted in the petition, the ANSI standard glass which will be installed in the SNJLRT vehicles is widely used throughout the light transit industry in rail operation situations, on both street running and ballasted track, without any record of safety deficiency. BRC expresses concerns about how the SSPP will contribute to safety with respect to glazing. By addressing methods to prevent potential vandalism in the SSPP, NJ Transit believes that the likelihood of vandalism incidents will be reduced. This will contribute to the safety of the vehicles and their operation.

Finally, BRC raises a question about the applicability of the Hours of Service Act requirements to SNJLRT employees. NJ Transit intends to fully comply with the Hours of Service Act requirements.

We appreciate FRA's ongoing efforts on our Petition and look forward to continuing to work with FRA on this important matter.

Sincerely

Dan Censullo
Senior Director
New Rail Construction