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INFRASTRUCTURE - FEDERAL

Alstom Transportation, Inc. v. Federal Railroad Administration

United States Court of Appeals, District of Columbia Circuit - September 25, 2026 - F.4th - 2026 WL 2881203

Domestic train manufacturer, whose bid to supply trains for high-speed passenger rail connection between California and Nevada was rejected by railroad company engaged by Nevada Department of Transportation to build the connection, in favor of trains manufactured abroad by the successful bidder, brought action under the Administrative Procedure Act (APA) against the Federal Railroad Administration (FRA), which had awarded company $3 billion to support the construction, FRA's Administrator, the United States Department of Transportation, and its Secretary, challenging the propriety of the agency's waiver of the "Buy America" requirement of the Infrastructure Investment and Jobs Act that company buy only goods produced in the United States.

Company and successful bidder intervened in support of the FRA. The United States District Court for the District of Columbia granted defendants' motion to dismiss for lack of subject matter jurisdiction. Manufacturer appealed.

The Court of Appeals held that:

- Domestic manufacturer's lost profits from the FRA's waiver was concrete injury-in-fact that supported manufacturer's Article III standing;
- Traceability requirement for Article III standing was satisfied;
- Setting aside the FRA's waiver would likely redress domestic manufacturer's concrete pocketbook injury;
- Although district court erred in dismissing the case for lack of Article III standing, Court of Appeals would resolve the merits rather than remand;
- FRA correctly waived Infrastructure Investment and Jobs Act's "Buy America" requirement based on uncontested finding that no domestic manufacturer was then producing trains capable of traveling at the 186 miles per hour demanded by company; and
- FRA's waiver of "Buy America" requirement was not arbitrary under the APA.

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