

July 1, 2020

300827

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street S.W., Room 1034
Washington, DC 20423-0001

ENTERED
Office of Proceedings
July 1, 2020
Part of
Public Record

Re: **Docket No. FD 36332 National Railroad Passenger Corporation – Petition For Proceedings Under 49 U.S.C. § 24903(c)(2) – Amtrak’s Reply**

Dear Ms. Brown:

This public filing follows the filing under seal submitted in the above-captioned proceeding on June 24, 2020. Now attached for filing are the following documents:

1. Amtrak’s Reply Brief (WITH REDACTIONS)
 - a. Exhibit 1 to Reply Brief
2. Second Verified Statement of Nancy Miller (WITH REDACTIONS)
 - a. Exhibits 1–2 to Second Miller V.S. – CONFIDENTIAL AND FILED UNDER SEAL
3. Second Verified Statement of Deputy Chief Joseph Patterson (WITH REDACTIONS)
 - a. Exhibit 1 to Second Patterson V.S. – CONFIDENTIAL AND FILED UNDER SEAL
 - b. Exhibit 2 to Second Patterson V.S. – CONFIDENTIAL AND FILED UNDER SEAL
 - c. Exhibit 3 to Second Patterson V.S.

Ms. Cynthia T. Brown
July 1, 2020
Page 2

4. Second Verified Statement of Bethany Tiernan (WITH REDACTIONS)
5. Second Verified Statement of Christine Suchy (WITH REDACTIONS)
6. First Verified Statement of Paul O'Mara (WITH REDACTIONS)

Pursuant to the Parties' agreement, and as stated in the Certificate of Service for each document, Amtrak is serving Metra with email copies of all documents.

Should you have any questions or concerns regarding this filing, please do not hesitate to contact me.

Respectfully submitted,



Perie Reiko Koyama

Neil K. Gilman

HUNTON ANDREWS KURTH LLP
2200 Pennsylvania Avenue, N.W.
Washington, DC 20037
ngilman@HuntonAK.com
pkoyama@HuntonAK.com
(202) 955-1500

Counsel for Amtrak

cc: Thomas J. Litwiler
Bradon J. Smith
Robert A. Wimbish
Thomas J. Healey
Counsel for Metra

Parties of Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36332

**PETITION BY THE NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK) FOR PROCEEDINGS UNDER 49 U.S.C. § 24903(c)(2)**

AMTRAK'S REPLY

William H. Herrmann
Christine E. Lanson
National Railroad Passenger Corporation
(Amtrak)
60 Massachusetts Avenue, N.E.
Washington, DC 20002

Neil K. Gilman
Perie Reiko Koyama
Hunton Andrews Kurth LLP
2200 Pennsylvania Avenue, N.W.
Washington, DC 20037
ngilman@HuntonAK.com
pkoyama@HuntonAK.com
(202) 955-1500

Thomas R. Waskom
Hunton Andrews Kurth LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219
twaskom@HuntonAK.com
(804) 788-8200

*Counsel for the National Railroad Passenger
Corporation (Amtrak)*

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. ARGUMENT	2
A. Metra Advocates Incorrect Legal Standards.....	2
B. Metra’s Proposal for Policing Costs Is Contrary to Section 24903(c) and Public Safety.	8
1. Metra Benefits from All Aspects of APD’s Policing and Protection of Chicago Union Station and Metra Passengers.	10
2. Metra’s Assertion that It Lacks Sufficient Information About Amtrak’s Policing Expenses Is Baseless.	11
3. Metra Must Pay Its Proportionate Share of the Police Staffing Costs Incurred at Chicago Union Station, Because the Costs Benefit Metra.	13
4. Metra Must Pay Its Proportionate Share of the K9 Unit Costs Incurred at Chicago Union Station, Because the Costs Benefit Metra.	17
5. The Board Should Employ Amtrak’s Index to Adjust the Fiscal Year 2016 and 2017 Expenses.....	18
C. Metra’s Proposed Cost Allocation Methodology for Policing Costs is Untenable and Lacks Support.....	20
1. Metra’s Proposed Allocation Factor for Policing Costs Is Based on Irrelevant, Incomplete Data that Metra Misrepresents.	20
2. Metra Cannot Offset Its Own Share of Costs Based on Third-Party Grants to Amtrak Because That Is <i>Per Se</i> Cross-Subsidization.	26
3. Metra’s Other Arguments to Reduce Its Share of Costs Fail.....	26
4. Metra Should Pay Amtrak \$4,034,796.83 for Policing in Fiscal Year 2020.	28
D. Metra’s Proposal for Station Operations and Maintenance Costs Offers a Flawed Approach to Allocation While Conceding that Amtrak’s Accounting Is Correct.....	29
1. Metra Concedes that the Board Should Allocate All of the Station Operations and Maintenance Costs Amtrak Identified.....	30
2. Metra’s Criticisms of Amtrak’s Accounting Adjustments Are Misplaced.....	31
E. Metra Accepts Amtrak’s Basic Proposal for Allocating Station Operations and Maintenance Costs but Misapplies the Method.	34
1. The Board Should Not Allocate Square Footage Based on Arbitrary, Artificial Divisions of Common Spaces.	35
2. Metra’s Characterizations of Specific Areas of the Station Are Wrong.....	37
3. Metra’s Proposal to Include All Basement - Headhouse Square Footage in the Calculation Improperly Skews the Result.....	40

4.	Metra Should Pay Amtrak \$6,387,072.88 for Station Operations and Maintenance in Fiscal Year 2020.	42
F.	Metra’s Opposition to the Board’s Allocation of Capital Expenses Is Untenable.	43
G.	The Parties Have Stipulated to Mediation of the Terms and Form of Agreement with Three Exceptions	46
III.	CONCLUSION.....	49

I. INTRODUCTION

The Board must fully allocate to Metra the costs Amtrak incurs for Metra's sole benefit, or for Amtrak and Metra's common benefit. In its opening brief, Amtrak provided the information the Board needs to fulfill that statutory mandate. Amtrak submitted to the Board the same detailed financial data it produced to Metra in discovery, plus verified statements from five Amtrak employees explaining how Chicago Union Station operates, what benefits Metra receives, and why Amtrak's proposed allocation is correct.

Metra's opening brief is quite different. Metra provides two verified statements from paid witnesses and a short verified statement from a Metra employee. Metra's arguments are largely confined to attacking Amtrak's proposal rather than offering an affirmative position of Metra's own. As often as not, Metra attacks strawmen rather than Amtrak's actual position.

Metra's own position rests on two bedrock problems. First, Metra is asking the Board to adopt methodologies and legal rules that run directly contrary to the mandate Congress gave the Board in Section 24903(c). Under that law, Metra must pay its *fully allocated* costs, commensurate with the scale of its Chicago Union Station activity: 75% of the trains and 90% of the passengers are Metra's. But Metra's arguments repeatedly amount to a request that the Board require it to pay only those costs that Amtrak would not incur but for Metra's presence at the station—i.e., *incremental* costs.

Second, Metra does not want to pay the costs incurred at Chicago Union Station as it actually exists. Instead, Metra has constructed a hypothetical Chicago Union Station, where fewer police officers protect the public, the hallways are no greater than the width of two or three people walking abreast, and there are no information systems or emergency management. Metra offers to pay a share of the costs incurred only at that counterfactual Chicago Union Station.

For example, Metra cannot ask the Board to allocate to it only the costs associated with a limited number of police officers during a limited portion of the day—Metra benefits from all of the policing at Chicago Union Station, at all hours, so must pay its proportionate share. Indeed, the fundamental flaw in Metra’s argument is revealed by the fact that even though it admits that it operates 40% more trains than it did when the original contract was signed, it believes it should pay 30% **less** than it is currently paying to use Chicago Union Station. That simply cannot be right.

Metra must shoulder the cost of the benefits it receives from the station as it exists in reality. Metra’s self-serving assertion that given the chance, it would make do with a much smaller, shabbier, less safe station does not mean its bill should be calculated based on the expenses of that other station. Metra has the privilege to use one of the finest train stations in the world. It is the primary user of that station. It must pay its proportionate share to keep that station operating and in good repair.¹

II. ARGUMENT

A. Metra Advocates Incorrect Legal Standards.

Metra addresses three legal issues at the outset of its brief, but is wrong about all of them. Moreover, the three legal issues it addresses—burden of proof, the bar on cross-subsidization as an “additional check”, and whether costs must be “specific, verifiable and quantifiable”—are ultimately irrelevant to the Board’s decision in this case.

¹ Metra asserts in passing that Amtrak merged CUSCO into Amtrak to avoid the Board’s jurisdiction. (See Metra Br. at 5-6.) This is self-evidently false given Amtrak’s filing of the Petition and assertion that the Board has jurisdiction to address the disputed issues pursuant to Section 24903. Regardless, Metra’s assertion has no relevance to any of the issues before the Board, so Amtrak will not address it further.

First, Metra’s argument that because Amtrak filed the Petition it has the burden of proof misapprehends the nature and purpose of this proceeding. Congress has given the Board a mandate to assign to Metra “the costs Amtrak incurs only for the benefit of [Metra], plus a proportionate share of all other costs of providing transportation . . . incurred for the common benefit of Amtrak and [Metra].” 49 U.S.C. § 24903(c)(2). While the statute says nothing about a Petition, the filing of the Petition is what alerts the Board to the need for it to fulfill its statutory duty. Either Metra or Amtrak could have notified the Board by filing the Petition. In fact, Metra filed the initial petition, prematurely, before negotiations had concluded—this is a follow-on proceeding. *See* Metra Pet., No. FD 36171. The fact that Amtrak is nominally the petitioner in this proceeding (unlike the first action, in which Metra was the petitioner) does not mean that the burden rests solely on Amtrak. In a very real sense, the Board has the burden here, and the parties’ obligation is to provide the Board the information it needs to do its job.

Metra argues that “Amtrak is the proponent here,” so “it alone bears the burden of proof.” (Metra Br. at 14.) That line of thinking pervades Metra’s arguments, which Metra expands to argue that Amtrak must keep data and accounting records in a Metra-approved form. (*See, e.g., id.* at 26 (Metra’s analysis of Policing costs lacks a solid factual basis because of “Amtrak’s data failure”—i.e., not requiring officers to record every incident as relating to Amtrak, Metra, or neither); 28 (“Amtrak cannot muster proof that Metra’s use of Amtrak’s police services exceeds 4.28% of the total documented users”); 38 (Amtrak’s Station Operations and Maintenance costs are purportedly “opaque, subjective and unverifiable”).) But as Amtrak demonstrated in its Opening Statement, Amtrak’s accounting is perfectly appropriate for the full allocation of costs required by Section 24903 and for the Board to reach its decision. Metra’s faux confusion can

only be explained by Metra’s strategic decision not to depose any witnesses who could have clarified any questions Metra may have had.

Even if this were a proceeding in which the burden of proof were on one of the parties, Metra is simply wrong that the designation of Amtrak as the “petitioner” is dispositive of the burden issue. The Board has explained that in a proceeding to set terms for trackage rights, the burden of proof is on the party seeking a change to the status quo—so different parties can bear the burden on different issues within a single proceeding. *New England Cent. R.R., Inc. – Trackage Rights Order – Pan Am S. LLC*, No. FD 35842, 2017 WL 5639660, at *17 (Oct. 30, 2017) (“[T]he burden is on the party seeking [a] change. . . . *In most instances*, the party seeking a change is NECR.”) (emphasis added).²

Throughout this proceeding (and the negotiation that came first), Metra has been reluctant at best to put forth its own arguments and evidence. Instead, Metra apparently sees its best chance as lobbing criticisms at Amtrak’s evidence and proposals. That approach reaches its apex in Metra’s argument regarding the burden of proof. But this is not a proceeding in which Metra can sit back and file the equivalent of a no-evidence motion for summary judgment. (Nor would such a motion be successful given the voluminous evidence proffered by Amtrak.)

² This certainly makes more sense in the context of a Section 24903 proceeding. Indeed, Metra notes that although there has never been an adjudicated Section 24903 proceeding, SEPTA has filed such a proceeding. (See Metra Br. at 14 n.10.) Under Metra’s view, while Amtrak would have the burden of proof in this proceeding, SEPTA would have the burden of proof in its proceeding against Amtrak. This is not only unprincipled, but if adopted by the Board it would also discourage parties from filing Petitions, delaying in an attempt to force the other party to file. Regardless, and as noted throughout, the burden of proof is irrelevant here because Metra ultimately does not challenge the costs that Amtrak seeks to allocate. Rather, the disputes involve the methodologies by which those costs should be allocated, which, in turn, require the Board to determine certain non-factual issues—e.g., should the Board apply the allocation methodology adopted by the NECC for policing or Metra’s ad hoc incremental cost proposal.

There is a principle underlying the full-allocation policy in Section 24903(c), and that principle explains why Metra's view of the burden of proof must be wrong. The Board must fully allocate costs because Congress has prohibited the cross-subsidization of "intercity rail passenger, commuter rail passenger, and rail freight transportation." 49 U.S.C. § 24903(c)(1). The Board's order in this proceeding therefore must prevent any cross-subsidization between Amtrak and Metra. But under Metra's proposed burden of proof, if neither party proffered evidence, then the Board would assign no costs to Metra—even though that would result in cross-subsidization.³ The Board cannot do that, for the reasons just explained. Instead, the Board would still have to fulfill its obligation to fully allocate the costs at issue (likely by demanding that Amtrak and Metra provide the Board more information.) After all, Congress has given the Board a job. Metra's view of the burden therefore cannot be correct. And in the end, Metra recognizes this by proposing payments based on the exact costs proffered by Amtrak. Amtrak and Metra just disagree with the methodology for allocating these undisputed costs, making Metra's burden of proof argument irrelevant.

Second, Metra argues that Section 24903 prohibits allocation of any costs to Metra that would result in cross-subsidization. (Metra Br. at 10-11.) That is right. But Metra takes that prohibition to mean that after allocating to Metra its share of the costs Amtrak incurs for Metra's benefit, the Board should further reduce Metra's share of costs to avoid cross-subsidization. That is wrong. Section 24903(c) itself prescribes the method by which the Board avoids cross-subsidization: through full allocation of costs, including the proportionate share of costs incurred

³ Of course, if the Board had not determined that Metra's Petition was premature and adjudicated this matter under that Petition, then under Metra's view, if neither party offered evidence, all of the costs would be assigned to Metra. That cannot be right either, for the same reason.

for the common benefit of Amtrak and Metra “based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of” the station. 49 U.S.C. § 24903(c)(2). *That* is the check on cross-subsidization.

Moreover, the prohibition on cross-subsidization is not a thumb on the scale in favor of Metra. The principle works both ways. Section 24903 does not just prohibit Metra’s commuter rail service from cross-subsidizing Amtrak’s intercity rail service. The Board also must ensure that Amtrak does not cross-subsidize Metra. In practice, what that means is that the Board must meet its mandate and fully allocate costs in accordance with the statute.

Third, Metra argues that in this case the Board can only allocate costs that are “specific, verifiable, and quantifiable.” (Metra Br. at 9 (citing *Application of the Nat’l R.R. Passenger Corp. Under 49 U.S.C. § 24308(a)*—*Canadian Nat’l Ry. Co.*, at 23 & n.41, Docket No. FD 35743 (STB Aug. 8, 2019).) All of the costs Amtrak has identified in this proceeding easily meet that requirement. (See Amtrak0005283, attached as Ex. 3 to First Miller V.S.) Further, Metra’s argument is driven by its mistaken view that this case, like *CN*, requires an award of *incremental* costs. The Board’s articulation of principles for an incremental-cost analysis cannot be extended to this case, which requires a fully allocated costs analysis.⁴

In the *CN* case, the parties disagreed about what constitutes an incremental cost recoverable under 49 U.S.C. § 24308. The Board found that incremental costs “are those costs that CN has actually incurred, and that CN would not have incurred ‘but for’ the presence of Amtrak.”

⁴ As Amtrak explained in its opening brief, Section 24903 requires the allocation of fully allocated costs. The Board must assign to Metra the costs that Amtrak incurs only for the benefit of Metra (“sole benefit” costs), plus a proportionate share of all other costs of providing transportation incurred for the common benefit of Amtrak and Metra (“common benefit” costs). 49 U.S.C. § 24903(c)(2). The statute’s express ban on cross-subsidization necessarily requires full allocation of costs, because if Metra receives a benefit from Amtrak without paying for it, that is cross-subsidization.

Application of the Nat'l R.R. Passenger Corp. Under 49 U.S.C. 24308(a) - Canadian Nat'l Ry. Co., 2019 WL 3781073, at *18. As a result, the Board held that “as a practical matter, whether any proposed costs are included or excluded would depend on whether those costs are specific, verifiable, and quantifiable.” *Id.* at *19. In other words, the requirement that proposed costs be “specific, verifiable, and quantifiable” sprang directly from the fact that those costs were incremental (and therefore had to be expended by CN in order to be reimbursable.) The reasoning underlying that requirement does not apply here, where Metra must pay fully allocated costs.

Metra makes a more egregious error when it jumps to the conclusion that based on *CN*, “to the extent a cost is one that is ‘normalized,’ ‘projected’ or ‘budgeted’ ... it cannot be recovered” by Amtrak in this proceeding. (Metra. Br. at 9.) The purpose of this proceeding is to devise a forward-looking compensation framework that will remain in place for several years into the future, including an inflation index—in other words, future compensation for the costs Amtrak is *projected* to incur for Metra’s benefit in coming years. Section 24903(c) does not require Amtrak to submit to Metra bills for portions of past costs on an annual basis. That would destroy the efficiencies the statute is intended to create. And Metra obviously recognizes this, as its brief is at odds with Metra’s pronouncement that Section 24903 does not permit allocation of projected or budgeted costs. After all, even Metra’s proposal contemplates that the Board’s decision here would require Metra to pay costs Amtrak is projected to incur in coming years.

Finally, Metra argues that the “specific, verifiable, and quantifiable” language bars recovery of a cost that is “subsidized by a third party such that it no longer exists as a cost.” (Metra Br. at 9.) This is difficult to parse. The question before the Board is whether Metra realized a benefit from a cost Amtrak incurred. Metra has to pay its share of that cost. Amtrak’s funding sources have no bearing on that analysis. Whether Amtrak pays a cost with a dollar received from

ticket revenue, a grant program, or a Congressional appropriation has no bearing on the amount of benefit Metra receives. In any event, dollars are fungible, so it is not possible to cordon off some costs as “subsidized” and others as paid for with only, for example, ticket revenue. The source of funding used to pay a cost does not affect whether the cost was incurred, and it certainly does not mean the cost was not “specific, verifiable, and quantifiable.”

B. Metra’s Proposal for Policing Costs Is Contrary to Section 24903(c) and Public Safety.

The flaws in Metra’s analysis are crystallized in its position on Policing. The goal of the Amtrak Police Department (“APD”) at Chicago Union Station is to provide a safe, secure, and habitable station for all who use it. Accordingly, virtually everything APD does at Chicago Union Station benefits Metra and its passengers, as well as Amtrak and its passengers. Under the statute, the Board must assign to Metra “a proportionate share” of the “costs of providing transportation” incurred for Metra’s sole or common benefit based on a factor that “reasonably reflect[s] the relative use” of the Station. 49 U.S.C. § 24903(c)(2).

Passenger and train count reasonably reflect the relative benefit derived from the Station. Metra agrees that at least 90% of the passengers boarding or alighting trains at Chicago Union Station are Metra passengers. (See Metra’s Verified Answers to Amtrak’s First Interrogatories (No. 1) (attached as Ex. 3 to Opening Statement); Amtrak’s Responses to Metra’s First Interrogatories (No. 13) (attached as Ex. 6 to Opening Statement).) And Metra acknowledges that it has more than 75% of the train movements. (Metra Br. at 36; Peabody V.S. at 17.) The benefit of APD’s policing services at Chicago Union Station to Metra is significantly greater than the benefit to Amtrak because Metra has nine times the passengers and three out of four trains using Chicago Union Station. It is reasonable and appropriate for Metra to pay a proportionate share of policing costs based upon passenger and train count, which is the methodology agreed to and used

by Amtrak and every commuter rail authority on the Northeast Corridor pursuant to the Northeast Corridor Commission (“NECC”) Section 212 Policy.⁵

Metra, on the other hand, asks the Board to use incomplete incident reporting that does not and cannot reflect relative use of the station. Metra grasps at straws in trying to identify an alternative metric for allocation—by wrongly claiming either that Metra passengers are somehow not the victims of crime, or that Amtrak passengers are the victims of more crimes. There is no valid basis for that conclusion, as Amtrak’s verified statements explain.

Metra’s argument is not only unsupported by the record, but also irrelevant. If areas of the station more often used by Metra passengers than Amtrak passengers have fewer incidents reported to the APD, that does not mean the APD is not providing a benefit to Metra. If anything, it means that Metra is receiving a *greater* benefit than Amtrak from the APD, as those areas see comparatively less crime. Metra also oddly claims that “[t]rains do not commit crimes, and trains do not need medical assistance.” (Metra Br. at 23.) But as explained below, Metra’s conception

⁵ See Northeast Corridor Commission, *Northeast Corridor Commuter and Intercity Rail Cost Allocation Policy* (originally approved Sept. 17, 2015, as amended through June 19, 2019), available at https://nec-commission.com/app/uploads/2018/04/2019-06-19_Cost-Allocation-Policy_v09.00_Cmsn-Amended-2019-June-19-Clean.pdf (last visited May 14, 2020).

Metra asserts that the Board should not be persuaded by the NECC’s deliberation and adoption of the Section 212 Policy because Chicago Union Station is somehow fundamentally different from train stations along the Northeast Corridor. According to Metra, prior funding arrangements on the Northeast Corridor had created a “tragedy of the commons” problem, which Congress addressed through the NECC. (Metra Br. at 8 n.9.) Whatever public-choice problems the pre-2008 Northeast Corridor funding arrangements might have illustrated, the tragedy of the commons was not one of them. Regardless, the relevant lesson to draw from the Section 212 Policy is how best to fully allocate costs incurred through operation and upkeep of train stations servicing both intercity and commuter rail passengers. Metra has not explained why the allocation methods the NECC devised for stations do not apply with equal force to stations in the Midwest—and indeed, Metra has stipulated to use those allocation methods for nearly every issue in this case. Accordingly, the Section 212 Policy provides significant guidance, proposes a reasonable and appropriate allocation methodology, and should be utilized by the Board with respect to the allocation of costs at Chicago Union Station.

of policing and the ways in which it benefits from such policing at Chicago Union Station is far too constrained. The Board should reject Metra's unprincipled approach as inconsistent with the statutory requirement that the methodology reasonably reflect the parties' relative use of the station.

1. Metra Benefits from All Aspects of APD's Policing and Protection of Chicago Union Station and Metra Passengers.

Metra benefits from having APD at Chicago Union Station in myriad and often immeasurable ways. At any time, Metra passengers can call APD officers to respond to emergencies, medical issues, requests for assistance, suspicious packages, thefts and pickpocketing, assaults, lost property or persons, and any other multitude of reasons warranting police assistance or intervention. APD officers assist Metra passengers, protect them from harm, investigate their reports, provide them with medical attention, assist them with their belongings, answer their questions, and give them directions. APD officers stand watch over Metra trains and property, maintain crowd control, work with local law enforcement agencies to keep Chicago Union Station safe, and provide support and security during special events. APD officers protect the Station (including all the facilities and areas used by Metra) at all hours from being damaged, looted, or destroyed. APD officers act as first responders to medical emergencies, and provide first aid, CPR, and other necessary medical treatment before paramedics can arrive on the scene. APD prevents and investigates theft and other crime at the Station through its use and monitoring of more than 250 cameras in Chicago Union Station. The physical presence of APD officers deters crime and harmful behavior at the station—an undeniable benefit to Metra passengers and trains. Metra's argument that it benefits from the APD's work at Chicago Union Station in only discrete and limited ways cannot be taken seriously.

2. Metra's Assertion that It Lacks Sufficient Information About Amtrak's Policing Expenses Is Baseless.

Metra claims that the “documents produced by Amtrak do not lend much insight into how” Amtrak calculated “the \$4.1 million dollar suggestion” for the Policing expenses allocated to Metra. (Metra Br. at 18.) The Board can see that is not true. Amtrak has provided Metra and the Board detailed explanations of what Policing costs Amtrak incurs, and why.

Amtrak used standard accounting practices—including use of its SAP financial accounting system and cost center hierarchy to accurately identify the applicable cost center, cost elements, internal orders, and work breakdown structure (WBS) elements. (See First Miller V.S. ¶ 9.) The formulas and summary breakdown in Amtrak0005283, Tab Police Cost Summary, provide clear indication of what these costs were allocated and how. [REDACTED]

[REDACTED], reflecting the level of care and attention to detail used in this process. [REDACTED]

[REDACTED] (See Amtrak0008166 (attached as Ex. 7 to First Miller V.S.).)

[REDACTED].⁶ (First Miller V.S. ¶ 29(b), (f).) Direct costs constitute nearly [REDACTED] of the total costs allocated. [REDACTED]

⁶ [REDACTED]

[REDACTED] (See Amtrak0005283 at Tab Police Cost Summary, Cells B16:17, C16:17; First Miller V.S. ¶ 29(b)-(c).) [REDACTED]
[REDACTED]. (See *id.* ¶ 29(c); Amtrak0008166.) Applying these costs is reasonable and follows the statute’s mandate to allocate all costs of providing transportation incurred for Metra’s benefit. These calculations are represented in detail at Amtrak0005283, Tab Police Cost Summary.

Miller explains her process for allocating police costs in extensive detail in her Verified Statement. (See First Miller V.S. ¶¶ 27-32.) After determining the Policing costs for Fiscal Years 2016 and 2017, she added [REDACTED] additional police positions for 2018 based on projected staffing. (*Id.* ¶¶ 27(a)-(b), 29.) She then reduced the amount by [REDACTED] position, which reflected the approximate expense of officers riding Amtrak trains or patrolling the Amtrak rail yard. (*Id.* ¶ 27(c).) She added direct costs associated with the K9 unit and related overhead to the total. (*Id.* ¶ 27(d).) She applied the applicable General and Administrative (“G&A”) rate and inflation factor, and averaged 2016 and 2017 costs.⁷ (*Id.* ¶ 27(e).) This resulted in average costs for 2016 and 2017 of [REDACTED] (*Id.* ¶ 30.)

⁷ As discussed further below, a G&A adjustment or G&A additive is a common financial tool used to account for indirect costs that are not tied to a specific cost objective but rather benefit several functions at once. See Second Miller V.S. ¶ 32. For instance, if a business has a phone line, the cost of that phone line cannot be tied to any specific business function, but the cost indirectly supports the business as a whole. The cost is thus split between all of the functions it supports for accounting purposes. Here, a G&A additive is necessary to capture the costs incurred by Amtrak that support both Chicago Union Station and several other aspects of Amtrak’s business. See *id.* Because the costs indirectly benefit Metra, Metra must pay a proportionate share. Calculation of indirect costs is typically achieved through use of a G&A additive.

3. Metra Must Pay Its Proportionate Share of the Police Staffing Costs Incurred at Chicago Union Station, Because the Costs Benefit Metra.

Metra's argument against the total Policing expense the Board must allocate boils down to the proposition that Metra believes Amtrak over-polices Chicago Union Station, and Metra does not want to pay for the level of safety APD provides. Metra's argument is badly misguided and does a disservice to its passengers and employees.

The majority of Policing expenses included in Amtrak's proposal cover basic salaries, overtime, and employee benefits for the police officers of Chicago Union Station. (Notably it does not include the costs of equipment, training programs, and other various expenses that Amtrak could easily seek to allocate to Metra.) It takes approximately [REDACTED] officers to staff the schedule at Chicago Union Station [REDACTED] [REDACTED] (See First Patterson V.S. ¶ 64; Amtrak0006421 (attached as Ex. 2 to First Patterson V.S.).)

Staffing needs are driven in large part by the number of Metra passengers and trains at Chicago Union Station. See Second Patterson V.S. ¶ 9. Metra cannot deny that APD would require fewer officers at Chicago Union Station if the Station had only 10,000 passengers come through it each day instead of 110,000. *Id.* The 2017 per position cost of an APD officer was [REDACTED] (See Amtrak0005283 at Tab Police Cost Summary.) An officer's salary by itself was between [REDACTED] in 2017 (and between [REDACTED] in 2019.) (See Amtrak0006416 (attached as Ex. 3 to First Patterson V.S.).) Accordingly, the cost of these [REDACTED] officers *alone* is [REDACTED].

Metra takes issue with the fact that Amtrak's proposal included [REDACTED] police positions that were, as of Fiscal Year 2017, budgeted. Based on a review of authorized staffing reports, between December 30, 2016 and March 29, 2019, there was in fact a net gain of [REDACTED] positions—and [REDACTED]

of those positions can be attributed to [REDACTED] which comprises the bulk of the allocated costs in this matter. *See* Figure 1, *infra*; Second Patterson V.S. ¶ 14. Like any other work place, APD’s staffing numbers are constantly evolving, as officers are promoted to different positions, new officers are hired, and other officers leave the force. [REDACTED]

[REDACTED] *Id.* ¶ 11. Today, there are [REDACTED] sworn officers in Chicago—including management ([REDACTED]), [REDACTED] detectives ([REDACTED])

These numbers continue to shift as staffing needs change and officers receive promotions or leave the force. Figure 1, *infra*, provides staffing information for APD in Chicago at four points in time from December 30, 2016 to March 29, 2019.

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

⁸ *See* CUS_Police_Roster_2016_2017_2018_2019 (attached as Ex. 1 to Second Patterson V.S.); *see also* Amtrak0006416 (attached as Ex. 3 to First Patterson V.S.). [REDACTED]

⁹ [REDACTED]

¹⁰ [REDACTED] as reflected in Amtrak0006416 and Amtrak0006412 (attached as Ex. 2 to Second Patterson V.S.).

[REDACTED]

Budgeting for the [REDACTED] additional positions was based on information received from the APD about staffing for the upcoming fiscal year. *See* Second Miller V.S. ¶ 8. At that time, APD indicated that the Department would be hiring [REDACTED] additional positions. *Id.* This projection was based on the best information available at the time. *See* Second Patterson V.S. ¶ 12. Because the goal of the cost allocation process was to make a reasonable and appropriate determination of the costs Amtrak was likely to incur throughout the life of the future contract based on past costs, Amtrak included these additional positions in its calculations. Second Miller V.S. ¶ 9. Failure to include these additional positions would have understated Amtrak’s anticipated policing costs given the decision to make these additional hires. *Id.* Metra has no basis to “subtract” what they call “phantom positions” from their properly allocated costs.

As explained above, direct costs associated with [REDACTED] were not allocated to Metra. Accordingly, direct costs associated with the position [REDACTED] [REDACTED] were not included as part of the calculation. (*See* First Miller V.S. ¶ 29(b);

¹¹ The Secretary and Emergency Manager are civilian positions and therefore are not counted in the total.

Amtrak0005283, Tab Police Cost Summary); CUS_Police_Roster_2016_2017_2018_2019 (attached as Ex. 1 to Second Patterson V.S.) Nevertheless, that APD's drug interdiction and anti-terrorism efforts provide a common benefit to Metra at Chicago Union Station is self-evident. Metra benefits from a Station in which law enforcement is actively working to combat narcotics trafficking. Metra also benefits from a Station in which law enforcement is actively working to combat terrorist activity and violence, as explained in more detail below.

Metra's opening statement and the Verified Statement of Robert Byrd on these points are filled with speculation and unsupported statements. Metra states, without further explanation, that the DEA position "targets larger-scale, intercity and interstate narcotics trafficking, consistent with the scope and baggage-oriented manner of Amtrak travel." (Metra Br. at 20.) Metra further argues—incredibly—that Metra's share of costs related to the DEA detective have already been "reimbursed" because "Amtrak receives a 10% 'bounty' from DEA for the value of the drugs it seizes at [Chicago Union Station]." (*Id.* at 21.) This makes little sense and Metra does not expand on its argument. Whether APD receives a share of seized assets (a contingent event) is wholly irrelevant to the fact that the labor costs of its DEA detective are "incurred costs of providing transportation" under the statute. Moreover, the DEA detective plainly benefits Metra by working to prevent the trafficking of narcotics and other illicit drugs through Chicago Union Station. *See* Second Patterson V.S. ¶ 16. With the trafficking of drugs through a large train station in Chicago comes potential violence and other threats to the Station and its passengers. *Id.* ¶ 17. Metra passengers undeniably benefit from this added security. Metra states, again without support, that

“the DEA targets Amtrak users, not Metra passengers.” (Metra Br. at 21.) But the Amtrak detective protects everyone at the Station. Metra cannot pick and choose which costs to pay.¹²

4. Metra Must Pay Its Proportionate Share of the K9 Unit Costs Incurred at Chicago Union Station, Because the Costs Benefit Metra.

APD’s K9 teams are another critical part of keeping Chicago Union Station safe, which benefits Metra and its passengers. *See* Second Patterson V.S. ¶¶ 21-27. The K9 teams include pairings of experienced officers and canines trained to detect explosives and narcotics at the Station. Currently, Chicago Union Station has [REDACTED] and [REDACTED]. *Id.* ¶ 23. In its Proposed Agreement, Amtrak seeks to allocate less than [REDACTED] for K9 expenses—a fraction of the total policing expenses. The costs associated with the K9 teams at Chicago Union Station are common benefit costs within the meaning of the statute, because Metra benefits from these services. That is, Metra benefits from the prevention of explosives and illicit drugs at the Station. *Id.* ¶¶ 26-27.

Metra’s claim that it does not use the K9 teams is simply wrong. The K9 teams patrol and monitor the Station as a whole. *Id.* ¶ 24. These K9 teams prevent bombs from detonating and destroying the Station, which would obviously have a greater impact on Metra given its 30 million annual passengers to Amtrak’s three million. *Id.* ¶ 25. Chicago Union Station is a famous

¹² The same is true for the [REDACTED], despite the fact that direct costs associated with this position were not included in the allocation. [REDACTED]

[REDACTED]. This detective communicates regularly with officers at Chicago Union Station as trains arrive and depart. *See* Second Patterson V.S. ¶ 19. This detective can pass along key information from the FBI about potential terrorist threats affecting Chicago Union Station. *Id.* Certainly, if the Station were to be the subject of a terrorist attack, Metra passengers and trains would be put at risk. Metra benefits from the security and peace of mind of traveling safely through Chicago Union Station. The avoidance of property damage, injury, and loss of life—while hard to quantify—is a benefit in and of itself.

architectural landmark and one of the busiest train stations in the country, which could be a target for attack. *Id.* The K9 teams also prevent narcotics and other illicit drugs from being trafficked through Chicago Union Station. *Id.* ¶ 26. APD and its K9 teams are stationed at Chicago Union Station to protect the passengers and the Station. Metra should share this goal, but even if it does not, it benefits from Amtrak's K-9 unit. These units, which represent only about [REDACTED] of the total Policing costs Amtrak seeks to allocate, provide significant protection to Metra passengers, and are crucial to APD's efforts to provide a safe, secure and habitable station.

5. The Board Should Employ Amtrak's Index to Adjust the Fiscal Year 2016 and 2017 Expenses.

The parties have based their respective proposals on expense data from Fiscal Years 2016 and 2017, which was subsequently adjusted to Fiscal Year 2018 dollars (so that the FY 2016 and FY 2017 dollars can be properly averaged), and ultimately must be expressed in Fiscal Year 2020 dollars.¹³ For this adjustment, Amtrak relied on a Composite Index calculated for forecasting prices and costs on PRIIA Section 209 state routes. *See* Second Miller V.S. ¶ 12. The Composite Index blends inflation rates for several different types of expenses, including wages, benefits, and goods. That is critical, because Amtrak's expenses comprise each of those categories, and several others (e.g., fuel, insurance, etc.). And the inflation rates for those different categories of expenses vary significantly, as seen in this chart of forecasted rates of inflation from Fiscal Year 2016 dollars:

¹³ While the Parties are requesting the Board's award to be made in FY 2020 dollars, as noted in the Petition, in the Fourth Amendment to the 1984 Agreement the Parties have contractually agreed that any amounts imposed by the Board would apply retroactively to May 1, 2019.

[REDACTED]

Methodology for Determining Inflation Rates for Amtrak’s Route Forecast Model & State Pricing Forecasts from FY2016 Base Actual Costs (“Amtrak Section 209 Inflation Model”), dated January 10, 2017, at 2, attached as Ex. 1 to Second Miller V.S (and previously included as part of Amtrak00005283). Within six years, wages increase [REDACTED] but cost indexed to Core PCE—which is based only on consumer goods prices—increased only [REDACTED] *Id.*

Metra argues that the Board should use the Core PCE index for all costs Amtrak incurs—whether they are wages, benefits, or anything else. (Metra Br. at 31.) Metra’s argument is based on its experts’ fundamental misunderstanding of how Amtrak calculates its Composite Index. Metra relies on the statement of Thomas Crowley and Robert Mulholland of L.E. Peabody & Associates, Inc. [REDACTED]

[REDACTED]. (Peabody V.S. at 24.)

That is simply wrong, as Nancy Miller explains in her Second Verified Statement. *See* Second Miller V.S., ¶¶ 22-30. For instance, the Policing expenses include a significant wages component. [REDACTED]
See id. ¶ 26. [REDACTED]

[REDACTED] But they appear to have relied on an automated “look-up” function in Excel, and misunderstood the data Amtrak exported from SAP, [REDACTED]
[REDACTED]. *See* Second Miller V.S. ¶ 24. Crowley and

Mulholland's mistake is not limited to one line-item of expenses, but is endemic to their entire discussion of inflation indices. *See id.* ¶ 28.

Crowley and Mulholland's mistake is understandable, given Metra's decision not to depose any Amtrak witnesses regarding the data exported from SAP (or anything else). But understandable or not, their mistake renders their conclusions unreliable. Metra has offered the Board no reliable basis for using anything other than the Section 209 Composite Index for inflating past costs to Fiscal Year 2020 dollars.

C. Metra's Proposed Cost Allocation Methodology for Policing Costs is Untenable and Lacks Support.

Metra asks the Board to allocate Policing costs using statistics that are not reflective of Metra's proportionate use of Chicago Union Station. Using those statistics would result in Amtrak's cross-subsidization of Metra. Instead, the Board should allocate the costs using Amtrak's—and the NECC Policy's—proposed factor: a 50/50 mix of the parties' relative ridership and train movements. Since filing their opening briefs, the parties have agreed that the 50/50 ridership/train movements mix results in an 83% allocation of costs to Metra. (*See* 6/19/2020 Stipulation.) Metra disputes this is the appropriate methodology for allocating Policing costs, but Metra is unable to propose any other methodology that meets the statutory requirement that it reflect the parties' relative use of the Station.

1. Metra's Proposed Allocation Factor for Policing Costs Is Based on Irrelevant, Incomplete Data that Metra Misrepresents.

Metra argues that its 90% share of passengers and 75% share of trains should still enable it to pay significantly less than 50% of Policing costs at Chicago Union Station. Metra suggests that the Board should employ an ill-defined allocation factor based on the fraction of incident calls at Chicago Union Station that are clearly recorded as relating to Amtrak or Metra passengers. That argument is based on bad evidence and bad reasoning.

First, like its arguments on cost inputs, Metra bases its cost allocation argument almost entirely on the many unsupported assertions of its “expert,” Robert K. Byrd. Mr. Byrd is not qualified to offer the opinions he proffers.

Mr. Byrd is a retired police chief from suburban Indiana with no apparent experience regarding Amtrak, Chicago Union Station, or even a comparable large urban train station. Mr. Byrd claims that he formed the police department for the Northern Indiana Commuter Transportation District (NICTD)—the operator of the South Shore Line Commuter Rail Service. (Byrd V.S. at 1.) He further explains that the NICTD “carries between 3.5 and 4 million passengers annually between the South Bend Indiana Airport and downtown Chicago.” (*Id.*) The South Shore Line is hardly analogous to Chicago Union Station, Metra’s busiest hub, the nation’s third busiest train station, and an architectural landmark.

Byrd appears to have no experience qualifying him to broadly opine on the policing practices of Chicago Union Station, and certainly none that would allow him to make conclusions without any empirical data—which he does gratuitously in his verified statement. For instance, Byrd claims that “[c]ommuters generally have a set path through a station, and they rarely vary from that path, preferring the shortest route from their arriving train to their ultimate destination,” and “[t]he diversions they encounter through the station seem rarely noticed by commuters, for whom the station’s sole purpose is to serve as a conduit between where they were and where they are going.” (Byrd V.S. at 3-4.) Byrd also makes unsupported claims about Amtrak passengers, such as that “intercity rail travel on Amtrak is far more similar to air travel, an infrequent event for almost all persons, and one that generally involves getting to the rail station far in advance of the scheduled departure of the Amtrak train.” (*Id.* at 4-5.) Byrd presents no data to back up these assertions. *See generally Gen. Elec. Co. v. Joiner*, 522 U.S. 136, 146 (1997) (expert opinion

evidence is not entitled to weight when it is “connected to existing data only by the *ipse dixit*” of the expert).

In its opening statement, Metra parrots Byrd’s conjecture, stating that its passengers are “less of a target for criminals because of their brisk pace and familiarity with surroundings.” (Metra Br. at 24.) Such opinions and theories cannot form the basis for facts, and they should be given no weight by the Board. To the contrary, APD’s Office of Intelligence and Analysis (“OIA”) reports from anecdotal evidence of reviewing thousands of calls for service (“CFS”) and incident reports that Metra passengers are victims of crimes. *See* Second Tiernan V.S. ¶ 13. For example, Metra passengers have been the target of pickpocketing as they move throughout the crowded Station. *Id.*

Second, Metra cites Amtrak0006422, a report entitled “APD CFS and Incidents involving or associated with Metra in Chicago Union Station, January 1, 2016 – March 31, 2019” (the “Report”), a document which Amtrak discusses at length in its opening statement and the Verified Statement of Bethany Tiernan, Criminal Intelligence Analyst at OIA and creator of the Report. This Report [REDACTED]

[REDACTED]. The Report disclaims as much, explaining that the “[REDACTED]” [REDACTED] [REDACTED] [REDACTED].” Amtrak0006422 at 1 (emphasis added). That is for several reasons:

[REDACTED]

Id. It is not APD’s regular practice to assign or otherwise denote in its reporting whether CFS or incidents are associated with Amtrak or another entity, nor is it something done at other Amtrak stations. (See First Tiernan V.S. ¶ 11.) Only when passengers or others members of the public volunteer such information, or if geolocation can be used to trace the CFS or incident to an Amtrak or Metra area can attribution be possible. (*Id.* ¶ 16; see also First Patterson V.S. ¶ 41.) What Metra misunderstands as a “data failure” (Metra Br. at 26), is the reality of appropriate and constitutional police activity. Without a lawful basis to interrogate members of the public as to where they are going or which rail entity they are affiliated with, APD officers rarely have a way of knowing if someone is an Amtrak passenger, a Metra passenger, or neither. APD is simply under no obligation to determine who is a Metra passenger or an Amtrak passenger in order for the Board to determine Metra’s fully-allocated share of policing costs based on its relative use of Chicago Union Station. Regardless, Amtrak explained the flaws in this data in detail in its Opening Statement (at pages 35-37) and First Tiernan V.S. and does not need to repeat them here.

Third, similar flaws are evident with Metra’s reasoning regarding the “heat maps.” Little to nothing can be reliably extrapolated about the frequency of incidents or CFS affecting Metra passengers versus Amtrak passengers from these maps. First, Metra’s claim that the maps “consistently show red spots” in “areas that are less likely to be frequented by Metra passengers” is factually untrue. As Ms. Tiernan attests in her Second Verified Statement, the maps reflect a limited subset of data and do not represent all activity in Chicago Union Station. Second Tiernan V.S. ¶ 7. Many of these maps reflect only officer-initiated CFS (rather than dispatched CFS) and do not include all types of CFS—for example, larcenies and drug-related incidents are not among the CFS included on these maps. *Id.*

Even the maps themselves present a mixed picture. [REDACTED]

[REDACTED] (See Amtrak0006581 (attached as Ex. 9 to Byrd V.S. at 1/19).)

Anyone can come in and use the Food Court in Chicago Union Station. See Second Tiernan V.S. ¶ 10. Metra passengers patronize, walk through, and congregate in the Food Court. *Id.* ¶ 11. Metra passengers may enjoy a drink at the Junction Bar or grab a snack at the Corner Bakery. *Id.* [REDACTED]

[REDACTED] CFS or incidents in the

Great Hall cannot be assumed to be Amtrak-related. See Second Tiernan V.S. ¶ 9. Metra passengers walk through the Great Hall to get to their trains. *Id.* ¶ 11. [REDACTED]

[REDACTED]. (*Id.*)

More importantly, even if Metra's arguments were factually accurate, they are wholly illogical and therefore do not support Metra's allocation proposal. While APD arrests criminals, it also seeks to prevent crimes from even happening. Accordingly, the fact that some areas have fewer incidents would show that policing is *working* in those areas, not that there is no need for police and Metra therefore does not benefit from their presence. And it certainly does not mean that APD should stop monitoring and patrolling those areas.¹⁴

¹⁴ Metra cannot be suggesting that APD stop patrolling areas Metra believes its passengers frequent most often.

Metra’s argument is premised on textbook “survivorship bias,” the basic logical error of drawing conclusions based on events that occurred, instead of also accounting for what did *not* happen. One of the most famous examples of survivorship bias is closely analogous to Metra’s error here. During World War II, U.S. statistician Abraham Wald examined the damage done to aircrafts returning from missions.¹⁵ Some engineers recommended adding more armor where the returning aircraft had the most damage. Wald disagreed, recommending more armor to the areas with the *least* damage—based on the reasoning that only the aircrafts surviving the missions had returned, while the aircrafts that had suffered fatal damage did not. Therefore, it made sense to strengthen the areas on the plane with the least damage, because aircrafts could survive being hit in the areas with more damage (as evidenced by the aircrafts that returned). The principle holds true here. By focusing on the areas that purportedly have more CFS or incidents, Metra ignores what is occurring in the areas with less CFS or incidents. It is not as though policing is not needed in those areas; rather, it is likely that Metra and its passengers are benefitting from effective policing.

Metra’s argument is not only inconsistent with the facts and logic, but it is also contrary to Section 24903. As explained, the statute requires the Board to allocate police costs (and all other costs) based on a factor that reasonably reflects the parties’ use of the **station**, not the use of the police, even if the latter could somehow be properly measured. Metra’s proposal therefore does not even try to comply with this statutory mandate, and its proposed methodology must be rejected by the Board.

¹⁵ See Abraham Wald, *A Method of Estimating Plane Vulnerability Based on Damage of Survivors*, (1943), Statistical Research Group, Columbia University, *CRC 432 — reprint from July 1980*. Center for Naval Analyses.

2. Metra Cannot Offset Its Own Share of Costs Based on Third-Party Grants to Amtrak Because That Is *Per Se* Cross-Subsidization.

Metra points to a \$10 million dollar grant from the Department of Homeland Security Intercity Passenger Rail (IPR) program as one more reason it should not pay its share of fully-allocated costs. This argument, like the others, must fail.

First, as Christine Suchy, Director of Business Development and former Director of Grants Administration, attests in her second Verified Statement, the IPR grant program is not intended to “defray” operating expenses, including the Policing costs at issue here, nor would it be possible to deduct “police budget line items” as Metra suggests. Second Suchy V.S. ¶ 9. IPR funds are tied to specific grant requirements, and are awarded to support the creation of sustainable, risk-based efforts to protect critical surface transportation infrastructure and the traveling public from acts of terrorism, major disasters, and other emergencies. *Id.* ¶ 7. This grant cannot be and is not used to fund the Chicago Union Station officers’ regular wages and salaries, and these funds should not be construed as offsetting the Policing costs allocated in this matter. *Id.* ¶ 9.

Second, even if these grant funds *were* used for officers’ salaries and direct labor costs, it makes these costs no less “incurred” costs. Whether Amtrak has other sources of funding in any respect is irrelevant to the question of what costs are incurred and has no bearing on what Metra is obligated to pay under the statute. In effect, Metra is attempting to take for itself a portion of the federal government’s IPR grant to Amtrak. That would allow Metra to set off its own expenses against that grant—in other words, transferring a share of the grant to Metra. But Section 24903(c) requires Metra to pay its fair share of the costs, regardless of how Amtrak pays its fair share.

3. Metra’s Other Arguments to Reduce Its Share of Costs Fail.

Metra makes a handful of other arguments in an attempt to avoid paying its fair share. First, Metra cites APD’s deployment of officers on trains. The Washington Post article Metra cites

refers to a strategy for all of APD, but not Chicago specifically. *See* Second Patterson V.S. ¶ 29. For APD's Chicago Field Office, because most of the crime and other activity occurs within Chicago Union Station, APD officers do not ride trains as frequently as other areas of Amtrak's national network. *Id.* ¶ 28. In addition, most of the Amtrak trains from Chicago Union Station travel long distances, making it infeasible to regularly have APD officers riding trains. Sometimes, APD may send an officer on the train to Milwaukee, but this is a two-hour journey, so it is not a daily occurrence. *Id.* ¶ 30. As Deputy Chief Patterson attests, APD officers at Chicago Union Station do not ride trains every day, and they do so only when staffing and circumstances allow. *Id.*

More importantly, Metra's argument ignores the fact that Amtrak's proposal addresses this very issue. As explained above, the cost allocation in Amtrak0005283 and proposed here by Amtrak specifically accounts for APD officers who ride trains [REDACTED]
[REDACTED] *See* Amtrak0005283, Tab Police Cost Summary (attached as Ex. 3 to First Miller V.S.). Metra's argument demonstrates the fairness and appropriateness of Amtrak's proposal.

Second, Metra argues that it should not pay for overnight policing. This argument is replete with errors. As an initial matter, Mr. Byrd erroneously states that Metra's last train arrives around 10:00pm. (Byrd V.S. at 26.) Metra's last weekday train at Chicago Union Station arrives at 12:29am, and its last weekday train leaves the Station at 12:45am. *See* Second Patterson V.S. ¶ 32; Metra BNSF Line Aurora to Chicago Schedule (effective Sept. 3, 2019) (attached as Ex. 3 to Second Patterson V.S.). As to the time between 1:00 a.m. and 5:00 a.m. when the Station is closed, policing is still necessary to protect the Station. Metra has areas and facilities at the Station that benefit from overnight protection, such as its locker room and ticket counter. *See* Second Patterson

V.S. ¶ 34. Metra often has employees present at the Station late into the night. *Id.* ¶ 35. And having APD on site at all times prevents criminal actors from trespassing, stealing, damaging property, or even planting something dangerous in Station. *Id.* ¶ 36. APD's around-the-clock security is part of its efforts to ensure a safe, secure and habitable Station for all passengers, the vast majority of whom are Metra passengers. For Metra to claim that overnight policing provides it no benefit demonstrates Metra's lack of understanding of what APD does and how it benefits Metra.

Third, Metra claims that it pays BNSF for security services, but never really explains how that affects its share of fully allocated costs. What Metra pays BNSF for separate security services is completely irrelevant to cost allocation in this matter, and is only another example of Metra's attempts to distract from the issue at hand. The policing costs described in Amtrak's opening statement, spreadsheets, documents, and this reply brief are valid, reasonable, and incurred by Amtrak in providing policing services at Chicago Union Station. Costs of policing and security at the Station are costs of providing transportation. Under Section 24903(c)(2), the Board must assign to Metra "a proportionate share" of the "costs of providing transportation" incurred for Metra's sole or common benefit using a factor that reasonably reflects the parties' relative use of the Station. This language does not account for what Metra may or may not pay to other parties for other services. Amtrak's Policing proposal appropriately allocates a proportionate share of its policing costs to Metra. The Board should adopt Amtrak's proposal in full.

4. Metra Should Pay Amtrak \$4,034,796.83 for Policing in Fiscal Year 2020.

The allocation methodology for policing costs proposed by Amtrak is the methodology adopted by the NECC in its Section 212 Policy, *see supra*, n.5. The Section 212 Policy provides a clear and appropriate roadmap for allocation of policing costs that can and should be replicated here. This Policy represents the product of thousands of work hours and collaboration across many

railroad stakeholders. Specifically, the Section 212 Policy categorizes station policing costs (i.e. the “costs of patrolling and protecting stations, platforms, and station facilities”) as “common benefit” costs because security and policing are “activities that are used by more than one operator.” See Section 212 Policy, § 5.4.1, Table 5 at p. 41. The Policy further provides that common benefit costs should be assigned based on an equal weighting of train stops and passenger on/off's. See *id.*, § 5.3.3 at p. 39, n.27, § 5.4.1(5). This approach is objective, consistent, and straightforward to apply. It is also consistent with the statute’s focus on allocating costs based on a reasonable approximation of the parties’ relative use of the Station.

Based on the NECC’s methodology, it is reasonable and appropriate for Metra to pay a proportionate share of policing costs based upon passenger and train count. Metra and Amtrak have stipulated that where the Board applies the ridership / train movements factor, the Board should allocate 83% of costs to Metra. Accordingly, Metra should pay **\$4,034,796.83** for Fiscal Year 2020, representing 83% of the total policing costs.¹⁶ See Second Miller V.S. ¶ 40.

D. Metra’s Proposal for Station Operations and Maintenance Costs Offers a Flawed Approach to Allocation While Conceding that Amtrak’s Accounting Is Correct.

As with Policing, the Station Operations and Maintenance category presents two questions to the Board: the *amount* of costs to be allocated, and the *method* for the costs to be allocated. The parties agree that the Board must use the following steps to answer the first question: (i) determine the amount of direct costs Amtrak incurred for Station Operations and Maintenance in Fiscal Years 2016 and 2017; (ii) determine an appropriate G&A additive for each year, and apply it; (iii) determine an appropriate inflation adjustment for each year, and apply it; and (iv) average

¹⁶ This is slightly lower than requested in Opening Statement because Amtrak advocated for an allocation factor of 84.2% to Metra. Metra advocated for an allocation of 82.15% to Metra, and the parties reached a compromise of 83%. (See 6/19/2020 Stipulation.)

those two figures. The first step—determination of the direct costs—has the largest effect on the end result by far, and Metra does not disagree with Amtrak about what those costs are. As a result, the parties are actually quite close to agreement on the amount of Station Operations and Maintenance costs the Board must allocate.

1. Metra Concedes that the Board Should Allocate All of the Station Operations and Maintenance Costs Amtrak Identified.

Amtrak demonstrated in its opening brief that it closely tracks the Station Operations and Maintenance costs the Board must allocate here. Amtrak has provided the Board—and Metra—those costs in exhaustive detail, line item by line item. Metra expresses dissatisfaction with some aspects of Amtrak’s recordkeeping, but concedes that the Board should rely on Amtrak’s data for Fiscal Years 2016 and 2017 as the baseline for the allocation of the Station Operations and Maintenance costs.¹⁷ (Metra Br. at 39.)

Of the more than 12,000 spreadsheet rows documenting Station Operations and Maintenance costs, [REDACTED] [REDACTED].” (Peabody V.S. at 8.) Metra is arguing that it gets no benefit from Chicago Union Station staff wearing uniforms that allow Metra’s passengers to identify the staff—and that even if Metra should have to contribute to the cost of the uniforms, it should not have to contribute to the cost of keeping the staff uniforms clean. The easiest way to confirm that Metra receives a benefit from Chicago Union Station staff wearing

¹⁷ For example, Metra asserts that “[a]s best [it] can tell, there is no systematic manner in which Amtrak accounted for the SOM costs it seeks to allocate to Metra.” (Metra Br. at 38.) That statement is impossible to reconcile with the exacting accounting detail provided through Nancy Miller’s verified statement. Similarly, Metra characterizes Amtrak’s “purported costs and cost classifications ... as opaque, subjective and unverifiable.” (*Id.*) If Metra was so confused by Amtrak’s accounting, it could have deposed Ms. Miller—or at least *one* Amtrak witness—to obtain an explanation of the financial data, which is maintained in SAP in an utterly transparent and standardized manner.

uniforms is to consider a counterfactual: what if most Chicago Union Station staff did not wear uniforms, or wore quite dirty uniforms. That would have a negative impact on Metra and its more than 30 million annual passengers. So providing the staff uniforms—and clean ones at that—must confer a benefit on Metra.

This was not just the *best* example Metra could offer of a cost Amtrak supposedly should not have included. It was the *only* example Metra offered. That speaks volumes about Metra's inability to substantively critique Amtrak's detailed accounting of the Station Operations and Maintenance costs the Board must allocate.

Thus, Metra does not dispute, and the Board must find, that the direct Station Operations and Maintenance costs at issue for Fiscal Year 2016 were \$12,519,304 and for Fiscal Year 2017 were \$10,711,907.¹⁸

2. Metra's Criticisms of Amtrak's Accounting Adjustments Are Misplaced.

Metra does not dispute Amtrak's 2016 and 2017 costs, but does dispute the manner in which Amtrak made two standard adjustments to those costs: the inclusion of a G&A additive, and the use of an inflation index to bring the dollar figures up to present value. Metra does not even dispute that both of these adjustments were appropriate, but only disagrees with details of Amtrak's calculations.

Amtrak included in its proposal a G&A additive tied to each year's indirect costs. See Second Miller V.S. ¶¶ 32-33. The G&A additive for Fiscal Year 2016 was [REDACTED], and for Fiscal Year 2017 was [REDACTED]. *Id.* ¶ 33. Metra argues that "Amtrak's proffered G&A adjustment is little

¹⁸ These amounts do not include the operations and maintenance costs attributable to the Dispatching function, which Amtrak has subtracted from the Station Operations and Maintenance Costs it asks the Board to allocate, as those costs are already allocated elsewhere. (Amtrak Br. at 24.)

more than an attempt by Amtrak to pad its income, despite the fact that Metra's use of CUS consumes very little, if any, Amtrak overhead." (Metra Br. at 43.) Metra has packed two large errors into that one sentence. First, Metra's argument that it should only pay for "overhead" that it "consumes" frames the question, again, in terms of incremental costs. The Board's task is not to determine how much of anything Metra "consumes." The Board's task is to determine Metra's share of those expenses from which Metra receives a benefit.

Second, use of a G&A additive to allocate indirect costs—i.e., "overhead"—does not turn on whether a particular party "consumes" the overhead. Indirect costs "are those [costs] remaining to be allocated to intermediate or two or more final cost objectives." 48 CFR § 31.203(b). In other words, indirect costs are not directly tied to any single activity, but must be allocated nonetheless. That is what Amtrak did here.

Metra asserts that "a G&A additive is unwarranted as a general matter," but offers to pay one anyway in the "spirit of compromise." (Metra Br. at 42.) Metra is right not to defend its assertion that basic accounting methods do not require use of a G&A additive here. Metra fares little better with its "compromise" position regarding the appropriate components of the G&A charge.

Metra argues that the Fiscal Year 2016 G&A additive should be 3.73%, and the Fiscal Year 2017 G&A Additive should be 3.03%. (Metra Br. at 43.) For those figures, Metra relies again on Crowley and Mulholland, who reached those lower numbers by excluding some expenses from G&A on the basis that the expenses were "unrelated" to Chicago Union Station Operations and Maintenance. (Peabody V.S. at 10-12.)

Their decisions about what to include and what to exclude are unexplained, and appear totally arbitrary. Their own table makes this clear:



(*Id.* at 11.) So according to Crowley and Mulholland, Safety expenses are “potentially related” to Chicago Union Station Operations and Maintenance, but Emergency Management expenses—which cover the cycle of planning, training, equipping, and responding before, during, and after an emergency, *see* Second Miller V.S. ¶ 34—are not. Legal expenses are related to Chicago Union Station Operations and Maintenance, but Labor Relations are not.

Most bizarrely, according to Crowley and Mulholland, Information Systems expenses are not potentially related to Chicago Union Station Operations and Maintenance. The Information Systems category includes the expenses associated with all of Amtrak’s major IT systems, including SAP – Business Suite. *See id.* ¶ 36. Thus, those expenses pay for the very data used in this case, in addition to supporting Human Resources, Payroll, Inventory Management, and Work Management Systems. *See id.* Chicago Union Station could not operate at all without Amtrak’s Information Systems expenses. *Id.*

The real reason Metra’s experts have excluded the Information Systems category is that Amtrak incurs over \$100 million dollars a year in Information Systems expenses that must be

included in the G&A allocation.¹⁹ (See Peabody V.S. at 11 n.26; document cited as Amtrak0008318 flagged.xlsx.) Metra's experts' working papers reveal that they have picked and chosen the indirect cost categories to include in their G&A additive in a seemingly arbitrary or result-driven manner.

Finally, Metra argues that the Board should adjust the Station Operations and Maintenance costs from Fiscal Years 2016 and 2017 to 2020 using nothing more than a consumer price index, Core PCE. (Metra Br. at 44.) Metra is wrong for the same reasons that it is wrong about applying a consumer price index to Policing costs. See *supra* at 17-19; Second Miller V.S., ¶¶ 22-30. The Board should use the Composite Index proposed for this purpose by Amtrak.

E. Metra Accepts Amtrak's Basic Proposal for Allocating Station Operations and Maintenance Costs but Misapplies the Method.

The parties agree on the formula the Board should use to allocate the Station Operations and Maintenance costs. (See Metra Br. at 35; Amtrak Br. at 26.) The parties agree the Board should use station square footage as a proxy for the benefit provided by the costs. Under the agreed approach, the areas in the station fall into three categories: Amtrak sole use, Metra sole use, and the remainder, which is common use. The parties also agree that the Board should allocate the common square footage using the same train movements / ridership factor the parties have agreed on: 83%. But the parties disagree about the definition of "common area" and the specific square footage allocation.

¹⁹

(See Amtrak0008318 flagged.xlsx.)

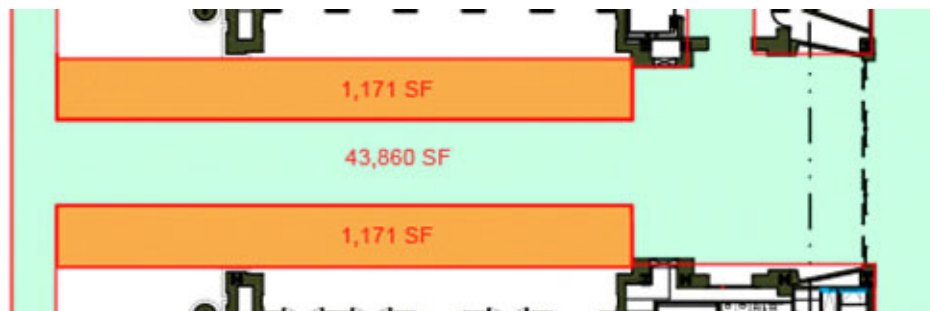
1. The Board Should Not Allocate Square Footage Based on Arbitrary, Artificial Divisions of Common Spaces.

Amtrak's proposal is simple and straightforward: consider each area in the three floors at issue, and (1) assign it to Amtrak if only Amtrak or Amtrak passengers can use it; (2) assign it to Metra if only Metra or Metra passengers can use it; and (3) assign everything else to the common-area category. The Board or anyone else can look at a plan created by an architect or building manager, understand what the areas are—because they are divided by walls, stairs, or similar physical barriers—and assign each area's square footage accordingly. Unless a space can only be used by only one party or the other, it is a common area.

Metra, on the other hand, proposes a Byzantine, artificial, and arbitrary analysis to depress its square footage allocation. First, Metra argues that if it and its passengers use an area, but use it less than Amtrak or Amtrak passengers, then it is not a common benefit area—i.e., it is an Amtrak sole-benefit area. Second, rather than take the areas of the station as they exist in real life, Metra has drawn its own lines on station plans, purporting to delineate places where Metra passengers go more often and less often. So, for instance, Metra asserts that its passengers walk down the center of hallways more often than they stand or walk near the walls lining those hallways, so only the center of the hallway is “common” space, and the margins of the hallway are Amtrak sole-use areas. Using this approach, Metra carves paths across rooms and down hallways. Here is a depiction of the Headhouse East Corridor, on the west side of the Great Hall on the plans prepared outside of litigation (on the left) and Amtrak's proposal (on the right):



(First Miller V.S. Ex. 15, Ex. 16 (common areas in yellow, Amtrak-only areas in blue).) Now here is Metra's proposal for that same space:



(Terry V.S., Ex. 2 (common areas in green, “disputed” areas in orange).) Metra proposes to chop the sides off of a hallway's common area, based on the supposition that Metra passengers tend to use the middle of the hallway.

In support of its argument, Metra relies on a verified statement from Alvin Terry, a Metra employee involved in the parties' settlement negotiations. Terry's verified statement comprises roughly half his own observations, and half statements Amtrak employees purportedly made in the context of settlement negotiations. Even if the Board considers settlement discussions admissible evidence, none of the information Terry provides supports Metra's general approach or specific allocation.

As a preliminary matter, Terry repeatedly refers to a purported “Consensus Floor Plan,” which he characterizes as an “agreement” between the parties about square footage allocation.

(*E.g.*, Terry V.S. at 2.) It is not true that the parties reached an agreement about square footage allocation, or that there was any “consensus” about how square footage should be allocated. *See* Second Suchy V.S. ¶ 17. Indeed, had there been such an agreement, the parties would have submitted a stipulation, as they have done for the numerous other areas on which they were able to reach agreement. Rather, there was a consensus about the *minimum* amount of square footage Metra should be allocated—i.e., there was a floor, but the parties never agreed on a ceiling. *See id.* That *minimum* amount is reflected in both parties’ submissions here. Metra’s suggestion that the parties have reached an agreement on this issue, or that the “Consensus Floor Plan” reflects an actual consensus, is misleading at best.

2. Metra’s Characterizations of Specific Areas of the Station Are Wrong.

Metra’s space-by-space argument turns on the idea that even if Metra uses an area, the Board should still classify it as Amtrak sole-use, unless Metra uses it a *lot*. So, for instance, Metra argues that the trash receptacle dock in the Basement – Concourse area is an Amtrak sole-use area. (Terry V.S. at 5-6.) Terry bases this conclusion on his experience at *other* Metra stations. (*Id.* at 5.) But Metra disposes of trash in this area from at least one train, and possibly more. Second Suchy V.S. ¶ 14. And when Metra’s crew quarters, ticket office, and other sole-use areas are cleaned, the trash goes here. *Id.* There is no serious argument that this is an Amtrak-only space. Thus, it is a common space.

Similarly, Metra argues that a parking garage tunnel on the Concourse level is Amtrak sole-use space because it leads to a parking garage, and most Metra riders do not park at Chicago Union Station and take a train elsewhere. (Terry V.S. at 8.) Even taking that argument at face value, it fails: Metra admits that its passengers use the space, so it cannot be Amtrak-only square footage. But in any event, Metra is wrong that its passengers are not regular users of this space. Closed-circuit television footage of morning commuters shows 46 people—without luggage—using the

tunnel over 15 minutes, at a time when there are no Amtrak trains. Second Suchy V.S. ¶ 24. It is reasonable to infer that at least a substantial portion of those were Metra passengers. Moreover, the tunnel also provides access to the CTA terminal across Jackson Boulevard for transfer passengers. *Id.* ¶ 25. Even if Metra is correct that most Metra passengers do not use the station parking garage, that is not a basis for arguing that Metra and its passengers do not use the tunnel at all.

Metra also argues that a public restroom on the Concourse level is an Amtrak-only space, because “Amtrak’s use of this restroom has been exclusive.” (Terry V.S. at 8.) That is simply not true. Metra employees and passengers use this restroom. Second Suchy V.S. ¶ 26.

Perhaps the best example is the Great Hall. Metra freely admits that its passengers use the Great Hall. (Terry V.S. at 7 (“the wider pathway that Amtrak may advocate for here is inconsistent with the Consensus Floor Plan-captured Metra pedestrian flows through the Great Hall”).) Metra just argues that its passengers do not use the Great Hall all that much.²⁰ But that is far different from making a case that it is a sole-use Amtrak space. Because Metra *cannot* make that argument, Metra must pay costs associated with the Great Hall.

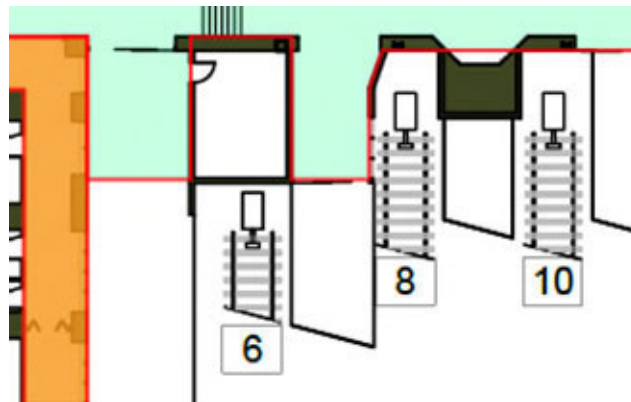
Metra’s argument about the waiting area around the tracks reveals Metra’s true approach to the square footage allocation. Rather than assign all space to one of three categories (Amtrak sole-use areas, Metra sole-use areas, and the remaining areas, which are by definition common-use), Metra wants to add a fourth category: areas that used by and benefit both Metra and Amtrak

20



(and their passengers) but for which Metra should pay nothing because Metra believes it does not use those spaces “enough” (with “enough” undefined). Metra wants to designate those areas Amtrak sole-use and pay zero for the costs Amtrak incurs with respects to those areas. But that defeats the purpose of the square-footage allocation. If the Board has to start analyzing the relative use of each area, then the efficiencies created by the square-footage approach are lost.

Moreover, Metra wants that analysis to work only for its benefit, which is fundamentally unfair. The Board would also have to designate as Metra sole-use those areas that Amtrak uses, but not as often as Metra, such as the areas directly in front of the platforms Metra monopolizes, where Metra passengers queue. For instance, Metra is the sole user of 13 tracks: Tracks 1 through 11, 13, and 15. (First Miller V.S., ¶ 77(a).) Yet Metra designated as common an area squarely between Tracks 6 and 8, that would see no pass-through traffic from Amtrak passengers:



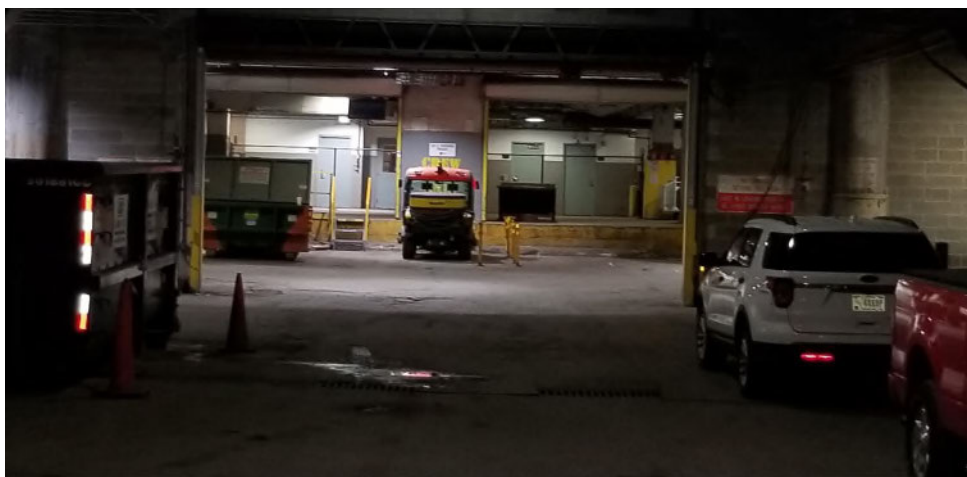
(Terry V.S., Ex. 2.) Metra has not provided to the Board any information about Amtrak “low-use” areas, so the Board could apply Metra’s proposed method in an even-handed manner. Metra’s selective use of its area-specific usage analysis reveals that Metra is not trying to provide the Board with an objective method for allocating square footage, and thus Station Operations and Maintenance costs. Metra is trying to co-opt Amtrak’s objective method, but make some one-sided deductions to reduce its fair share of the costs.

In short, Metra's proposed methodology takes spaces that Metra clearly, and many times admittedly, uses, but then assigns to Metra no costs associated with those spaces. That is by definition not an appropriate methodology. Moreover, any methodology that seeks to apply differing use percentages to different areas of the Station is bound to fail, as it would require detailed and expensive studies, which Metra has not performed. Amtrak's proposed methodology – spaces are either Amtrak-only, Metra-only or common benefit – is objective, easy to apply and consistent with the statutory mandate the Board must follow as it reasonably reflects the parties' relative use of the Station.

3. Metra's Proposal to Include All Basement - Headhouse Square Footage in the Calculation Improperly Skews the Result.

Amtrak agreed to include the Basement – Headhouse in the Station Operations and Maintenance cost calculation, but has proposed that the Board adjust the square footage of that area downward significantly. (Amtrak Br. at 27-28.) That area is different in nature from the other station areas being allocated.

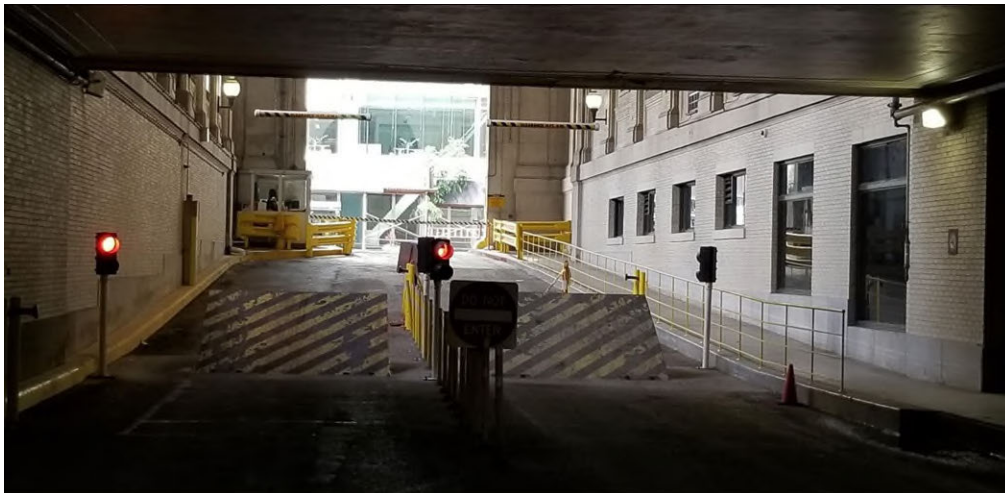
These are current photographs of the Basement – Headhouse. The first photograph faces east towards the loading dock:



Second Suchy V.S. ¶ 19. The foreground, up to the dock door, is part of the Basement – Headhouse. The second photograph faces west towards the ramp to the loading dock:



Id. ¶ 20. Everything in that photograph is part of the Basement – Headhouse. The third photograph shows drive aisles connected to the parking spaces in the Basement – Headhouse:



Id. ¶ 21. Under Metra’s proposal, all of the Basement – Headhouse area depicted in these photographs would be given equal weight in the Station Operations and Maintenance cost allocation as square footage in all areas on the Concourse level. But the purpose of the square footage allocation is to take a rough measure of how operations and maintenance costs benefit the

two parties. Thus, the square footage of the Headhouse – Basement should not be given equal weight to, say, the area next to the platforms where passengers congregate before boarding trains.

Terry offers two responses on behalf of Metra. First, he asserts that “[w]ith regard to the accounting of Headhouse Basement costs, Amtrak indicated that it is space required [REDACTED] [REDACTED] (Terry V.S. at 4.) Amtrak does not understand this statement because it makes no sense and therefore cannot respond to it. Second, Terry asserts that “exclusion of the entire Headhouse Basement was not contemplated in the Consensus Floor Plans.” (*Id.*) That is a non sequitur. Amtrak is not proposing “exclusion of the entire Headhouse Basement” here, either—Amtrak is just proposing that the Board adjust the area’s square footage to take into account the realities of that space. Moreover, Metra has long been aware of [REDACTED] [REDACTED] (See Amtrak00005283, Tab Spatial Analysis - Summary) (attached as Ex. 3 to First Miller V.S.).

Metra does not offer any affirmative explanation of why, on the merits, the Board should give the square footage of a parking lot and loading ramp weight equal to areas traversed by thousands of passengers and employees daily, when allocating operations and maintenance costs. Accordingly, the Board should adopt Amtrak’s proposal that only [REDACTED] of the square footage of the Basement-Headhouse be included in the square footage calculation.

4. Metra Should Pay Amtrak \$6,387,072.88 for Station Operations and Maintenance in Fiscal Year 2020.

The Board should reject Metra’s approach to the square footage allocation. Anyone who visits Chicago Union Station could look around and see exactly what areas Amtrak proposed to assign to each of the categories—Amtrak, Metra, and common—and understand immediately the basis for those assignments. The areas proposed by Amtrak are delineated by walls and stairs and other physical barriers. Metra’s proposal, on the other hand, is based on artificial lines drawn on

a map, and subjective, self-serving estimates about how much Metra and its passengers use each of those arbitrarily drawn spaces.

As Amtrak explained in its opening brief, the total allocable square footage is 360,932 square feet, including [REDACTED] Metra sole-benefit square feet and [REDACTED] common-benefit square feet. (Amtrak Br. at 32.) Using the stipulated train movements / ridership factor, the Board should assign to Metra 83% of the common-benefit square feet—i.e., [REDACTED] square feet. In total, then, the Board should assign Metra [REDACTED] of the 360,932 allocable square feet, or [REDACTED]. *See* Second Miller V.S. ¶ 41. Because the Board should determine that Metra is responsible for [REDACTED] of the Station Operations and Maintenance cost, the Board should determine that Metra owes Amtrak **\$6,387,072.88** for Fiscal Year 2020. *See id.* ¶ 42.

F. Metra’s Opposition to the Board’s Allocation of Capital Expenses Is Untenable.

Metra asks the Board to ignore the dispute regarding capital expenses, because it likes the status quo. But Metra’s argument in favor of the status quo is at turns unsupported by evidence and simply disingenuous.

First, Metra says that the current arrangement between the parties is working well, as evidenced by the fact that “Metra has not rejected any Amtrak-demanded for [sic] project-specific capital contribution.” (Metra Br. at 51.) The implication is that every time Amtrak asks Metra to contribute to a capital project, Metra provides the requested amount, in an amount proportionate to Metra’s benefit from the project. That is misleading in the extreme.

Metra is only willing to contribute money to a fraction of the capital projects at Chicago Union Station, even though most if not all of the capital projects benefit Metra. Each year, Amtrak engineers meet with Metra representatives to discuss the projects needed for the coming year. *See* O’Mara V.S. ¶ 5. Metra then tells Amtrak how much Metra is willing to contribute to capital projects that year. *Id.* That amount is allocated to specific projects, which Amtrak also funds. *Id.*

The parties then memorialize that agreement in an amendment to the 1985 Fixed Facilities Agreement (“FFA”). *Id.* ¶ 6. According to Metra, that process means the status quo works.

But that process is only half the story—actually, less than half. Metra’s decision about how much it is willing to contribute does not in any way reflect the amount of capital investment needed at Chicago Union Station each year. *Id.* ¶ 7. There is no relationship between the two. So while Metra contributes “its share” to some projects, Amtrak is left funding the entirety of other necessary projects *that benefit Metra*. *Id.*

For example, last year Amtrak upgraded the Chicago Union Station Northside signal system to LED lights to improve visibility and reduce electricity costs. *Id.* ¶ 8. That is a Chicago Union Station capital project that clearly benefits both Amtrak and Metra—Metra operates over █████ of the trains on the Northside. (See Amtrak0005283, Tab TrainMoves, Cell D55) (attached as Ex. 3 to Miller V.S.) Amtrak spent █████ on the project in Fiscal Year 2020; Metra spent nothing, because the funds it was willing to provide for Fiscal Year 2020 would not stretch that far. O’Mara V.S. ¶ 8. So Metra will enjoy the benefits of the costs Amtrak incurred for that project, while contributing nothing.

The reason “Metra has not rejected” any request for funding is because the process runs backwards: it starts with Metra saying how much it will pay, regardless of the amount of capital investment actually needed. As a result, Metra has been contributing less than █████ of capital while contributing 75% of trains and 90% of passengers. Amtrak has consistently paid far more than its proportionate share of capital expenditures, while Metra freerides. This is, by definition, cross-subsidization. While it is obvious why Metra wants to retain the status quo, the Board should not allow it to continue.

Second, Metra asserts that allocation of capital expenses at Chicago Union Station is going fine, because Metra has supposedly offered significant support to capital projects. Metra claims that its “annual share of case-by-case CUS capital expenses has averaged over \$4,000,000.” (Metra Br. at 50.) For that proposition, Metra now “generally” cites its Exhibit E.²¹ (See Metra Errata Sheet dated June 22, 2020.) Exhibit E is the 38th amendment to the FFA. It is 49 pages long. If there is any support for Metra’s assertion in that document, Amtrak has not found it—nor could anyone be expected to find it, relying on Metra’s “general[]” citation. Metra does not explain who calculated that number, where the support for that number can be found, whether that number is in real or nominal dollars for any particular year—or really anything else the Board and Amtrak might find useful in testing Metra’s bald claim. The Board should not give Metra’s assertion any weight.

In truth, Metra’s recent capital contributions have come nowhere close to \$4 million in any year. In Fiscal Years 2016 through 2018, Metra contributed an average of [REDACTED] per year. (See First Suchy V.S. ¶ 29) Metra’s contribution in Fiscal Year 2019 actually *dropped* precipitously, to less than [REDACTED]. See Second Suchy V.S. ¶ 27. Metra suggests that its past capital contributions show the status quo is working. But Metra’s payment history shows just the opposite—that it is drastically undercontributing. In the absence of a proposal by Metra, Amtrak’s two tier capital proposal is the only realistic option on the table. The Board should adopt it.

²¹ Metra only disclosed on June 22, 2020, two days before the deadline for replies, that it is relying on Exhibit E for its proposition that Metra has, on average, contributed \$4,000,000 to capital expenditures at Chicago Union Station. In its original brief, Metra cited Exhibit F, a compilation of five Amtrak interrogatory answers (to Interrogatories 94, 95, 117, 118 and 119). Amtrak relied on Metra’s citation in its opening brief while drafting its response. Obviously, that document did not support Metra’s position (any more than the newly cited exhibit does).

G. The Parties Have Stipulated to Mediation of the Terms and Form of Agreement with Three Exceptions

In its opening brief, Amtrak asked the Board to impose all the terms in its June 2019 Proposal. Metra, on the other hand, asked the Board to allow the parties to negotiate. Although Amtrak’s proposed terms have been known to Metra for more than a year and could have and should have been negotiated already, Amtrak agreed to negotiate the terms through a Board-sponsored mediation. (*See* 6/19/20 Stipulation.) The parties have agreed, however, to ask the Board to resolve in the first instance their dispute regarding three contract terms: the ground power charge, the inflation index, and risk of liability and indemnity. Amtrak will address each in turn.

Ground Power. Metra acknowledge that “Amtrak supplies ‘stand-by’ ground power at CUS—480 volt electrical power—to avoid diesel exhaust emissions that would otherwise issue from idling locomotives at CUS platforms.” (Metra Br. at 46.) This should be a simple issue—Amtrak has calculated the actual cost of the ground power Metra uses for its idling locomotives (a number Metra has never disputed), and Metra should pay that cost under Section 24903(c). But Metra argues that it should not have to pay for electrical power because if given the choice, it would power its idling trains using diesel fuel—but that it must use ground power because of the overbuild at Chicago Union Station. (*Id.*) Metra asserts that because Amtrak receives rent from air-rights tenants, Metra should get the ground power for free. (*Id.*)

That is incorrect for three reasons. First, Chicago Union Station has overbuild, and Metra chooses to use Chicago Union Station. [REDACTED]

[REDACTED]

[REDACTED] Metra must take the station as Metra finds it—not invent a hypothetical, preferred station without overbuild, and claim to owe only the costs Amtrak would incur operating *that* station.

Second, outside of this proceeding Metra has professed a strong interest in limiting its environmental impact and reducing its employees' and passengers' exposure to diesel exhaust.²² Metra's concerns about diesel emissions were not limited to Chicago Union Station; Metra also planned to reduce diesel emissions at its other stations.²³ Metra's use of ground power while idling locomotives at Chicago Union Station supports Metra's claimed goal of limiting its diesel emissions. Metra now wants to claim that limiting those emissions, and reducing its employees' and passengers' exposure to diesel fumes and particulate matter, provide Metra *no* benefit. That cannot be squared with Metra's past statements to the public.

Third, even if Metra would, in fact, prefer to use diesel fuel at the Station, that does not mean that it gets no benefit from the ground power. At a minimum, Metra avoids the cost it would incur idling the train by other means. So it is just not true for Metra to claim that it receives no benefit from its use of ground power.

Metra argues that because Amtrak receives rent from its tenants, Metra should not have to pay for the electricity it uses at Chicago Union Station. Again, Metra makes the mistake of

²² See, e.g., "Metra seeks ways to cut diesel pollution at stations," Nov. 19, 2010, WBEZ, <https://www.wbez.org/stories/metra-seeks-ways-to-cut-diesel-pollution-at-stations/fefe01ae-69c1-4749-be24-c4f68ed808a8> (last visited June 13, 2020) ("Metra says it's now testing the air inside train cars and at several stations, and has formed a task force to look at long-term fixes to its pollution problem."); "Update on Emissions Task Force," Dec. 17, 2010, Metra press release, <https://metrarail.com/about-metra/newsroom/update-emissions-task-force> (last visited June 13, 2020) ("Metra's Emissions Task Force, formed by the rail agency to investigate the level of diesel emissions on trains and downtown platforms and to identify ways to improve air quality, has taken several steps since it was formed last month in response to a Chicago Tribune story.").

²³ See "Metra riders subjected to high amounts of diesel soot," Nov. 5, 2010, Chicago Tribune, <https://www.chicagotribune.com/lifestyles/health/ct-met-dirty-diesel-20101105-story.html> (last visited June 13, 2020) (noting problems at Metra's Ogilvie Transportation Center, and stating "Metra officials told the Tribune they are doing their best on a limited budget ... they said, and technology soon will allow some locomotives to shut down engines automatically after a certain period to reduce idling and save fuel.)

focusing on Amtrak's sources of funding, rather than on the benefit Metra receives. Amtrak is just asking the Board to order Metra to pay its power bill.

Operations Costs Index. In its opening brief, Amtrak explained why the Board should adopt the AAR Quarterly Index of Chargeout Prices and Wage Rates (Table C), East, "material prices, wage rates and supplements combined (excluding fuel). (Amtrak Br. at 49-50.) In response, Metra argues that the Board should instead use Core PCE, a consumer price index, to adjust all costs on an annual basis. (Metra Br. at 48-49.)

Metra's argument is again based on the incorrect premise that Amtrak uses Core PCE for internal purposes to adjust nearly all of the expenses here. (*Id.* at 48.) That is simply wrong. *See supra* at 17-19. Metra's proposal would have the Board require the parties to use a consumer price index to adjust expenses like wages and benefits, when those sorts of costs behave quite differently than consumer prices. Based on Amtrak's internal forecasting model, between Fiscal Year 2016 and Fiscal Year 2020, Core PCE rose 7.93% on a compounded basis, while wages rose 16.82%. Using Core PCE to adjust expenses that include wages would result in Amtrak paying an increasing share of all costs over time, contrary to the Board's prescribed allocation at the time it rules.

That is why the Board should adopt the AAR Index, which Amtrak and the NEC states use for agreements governed by PRIIA Section 212. The AAR Index includes not only the types of goods that might be indexed to Core PCE, but also salaries, wages and benefits.

Risk of Liability and Indemnity. In its opening brief, Amtrak explained why the Board should adopt a "no fault" approach to liability allocation. (Amtrak Br. at 47-48.) In contrast, Metra was silent as to the appropriate liability and indemnity terms and, as with all other terms, asked that the Board order negotiations on this topic. Amtrak agreed that Metra could seek an

order from the Board as to liability without negotiations, but Amtrak did not agree this was a fair procedure.

Amtrak's position on liability has been known since at least the June 2019 Proposal. Amtrak then included argument and the Verified Statement of Phillip A. Balderston in support of its proposal. Metra, on the other hand, has given Amtrak nothing. It refused to provide a liability proposal in response to discovery requests, claiming it still did not know what it would propose. See Metra's Answers to Amtrak's First Interrogatories (No. 27) (attached as Ex. 1). And it did not include a proposal in its Opening Statement. Remarkably, the first time Amtrak will see Metra's proposal on liability will be in a reply brief for which no response is included in the schedule. The Board should not countenance this.²⁴

Amtrak explained in its Opening Statement and the Balderston Statement why its liability proposal is appropriate. Without any critique of that approach or any alternative approach, Amtrak has nothing further to add. Amtrak again asks the Board to adopt its liability approach.

III. CONCLUSION

For the foregoing reasons, Amtrak respectfully requests that the Board order Metra to pay Amtrak the following amounts in 2020 dollars and adopt Amtrak's inflation and liability proposals.

Dispatching: \$1,800,000.00 (per the parties' stipulation).

Maintenance of Way: \$2,950,000.00 (per the parties' stipulation).

Station Operations and Maintenance: \$6,387,072.88.

Policing: \$4,034,796.83.

²⁴ Given Metra's attempt to insulate its proposal from a response, Amtrak reserves the right to seek further briefing on the liability issue.

Ground Power: \$10,500.00 per month.

Dated: June 24, 2020

William H. Herrmann
Christine E. Lanzon
National Railroad Passenger Corporation
(Amtrak)
60 Massachusetts Avenue, N.E.
Washington, DC 20002

Respectfully submitted,



Neil K. Gilman
Perie Reiko Koyama
HUNTON ANDREWS KURTH LLP
2200 Pennsylvania Avenue, N.W.
Washington, DC 20037
ngilman@HuntonAK.com
pkoyama@HuntonAK.com
(202) 955-1500

Thomas R. Waskom
HUNTON ANDREWS KURTH LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219
twaskom@HuntonAK.com
(804) 788-8200

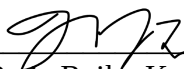
*Counsel for the National Railroad Passenger
Corporation (Amtrak)*

CERTIFICATE OF SERVICE

I hereby certify that I have this day, July 1, 2020, caused a copy of the foregoing to be served by electronic mail on:

Thomas J. Litwiler
Robert A. Wimbish
Thomas J. Healey
Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
tlitwiler@fletcher-sippel.com
rwimbish@fletcher-sippel.com
thealey@fletcher-sippel.com
bsmith@fletcher-sippel.com

Counsel for Metra



Perie Reiko Koyama

Amtrak's Reply

Ex. 1

(Excerpted from Metra's Answers to Amtrak's
First Set of Interrogatories)

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36332

**PETITION BY THE NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK) FOR PROCEEDINGS UNDER 49 U.S.C. § 24903(c)(2)**

METRA'S ANSWER TO AMTRAK'S FIRST INTERROGATORIES

Respondents Commuter Rail Division of the Regional Transportation Authority and Northeast Illinois Regional Commuter Railroad (collectively "Metra") hereby answers Petitioner National Railroad Passenger Corporation's (collectively "Amtrak") Interrogatories as follows:

GENERAL OBJECTIONS

Metra incorporates the following objections into each discovery request:

1. Metra objects to Petitioner's interrogatories to the extent that they call for the production of information that is protected from disclosure by the attorney-client privilege.
2. Metra objects to Petitioner's interrogatories to the extent that call for the production of information that is protected from disclosure by the attorney work-product privilege.
3. Metra objects to Petitioner's interrogatories to the extent that they seek to impose any obligations on Metra beyond those permitted under the Board's Rules of Practice of 49 C.F.R. Part 1114, Subpart B.

information with regard to the residual elements of this interrogatory.

26. Please identify the person(s) affiliated with Metra most knowledgeable with respect to Liability at Chicago Union Station.

ANSWER: Sue-Ann Rosen, General Counsel.

27. Please state your position with respect to Liability between the Parties, including an explanation of all facts and identification of all documents in support of your position.

ANSWER: Metra objects to this Interrogatory as “Liability” is vague insofar as it does not identify by whom such loss, injury, death, or damage is incurred—whether an Amtrak employee, a Metra employee, an Amtrak passenger, a Metra passenger, or a member of the general public making use of Chicago Union Station for a lawful purpose. Metra further objects on the basis that Metra has inadequate information to state its position. Nevertheless, notwithstanding these objections, any indemnity obligation or other allocation of Liability to Amtrak or Metra beyond the respective fault of each in a comparative negligence regime results in the cross-subsidization of either intercity or commuter service. Such cross-subsidization is avoided solely by each Party bearing its own costs.

28. If you contend that Metra is entitled to efficiency credits, please state all facts and identify all documents supporting or relating to your contention.

ANSWER: Metra objects to this Interrogatory as “efficiency credits” is vague. Notwithstanding this objection, to the extent the costs of transportation incurred by Amtrak are reduced by a Capital Project or other undertaking by Amtrak or Metra, Metra is entitled to a corresponding deduction in the allocated cost incurred by Amtrak.

29. If you contend that Metra is entitled to increased capacity deductions, please state all facts and identify all documents supporting or relating to your contention.

ANSWER: Metra objects to this Interrogatory as “increased capacity

deductions” is vague and has inadequate information to state the basis for its contention.

30. For any Requests for Admission that you did not admit in full, explain the basis for the non-admission, stating all facts and identifying all documents supporting or relating to your non-admission.

ANSWER: Metra objects to this Interrogatory as duplicative of its obligations pursuant to 49 C.F.R. § 1114.27 to “set forth in detail why the answering party cannot truthfully admit or deny the matter.”

Dated: November 20, 2019

Verified by:

Charles J. Harrison

Name:

Charles J. Harrison

Title:

Director of Railroads & Real Estate
Contracts

Commuter Rail Division of the Regional
Transportation Authority

Northeast Illinois Regional Commuter Railroad
Corporation

State of

Illinois,

County of

Cook,

SS:

Charles J. Harrison being duly sworn, deposes and says that he has read the foregoing statement, knows the facts asserted there are true, and that the same are true as stated.

Subscribed and sworn to before me this 20th day of November.

Signed:

[Signature]

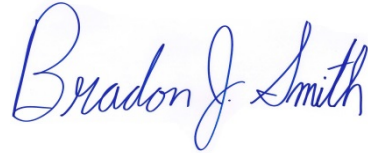
My Commission expires:

12/07/2019



Respectfully Submitted,

By:



Bradon J. Smith
One of the Attorneys for Metra

Thomas J. Litwiler
Robert A. Wimbish
Thomas J. Healey
Bradon J. Smith

FLETCHER & SIPPEL LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606
(312) 252-1500
TLitwiler@fletcher-sippel.com
RWimbish@fletcher-sippel.com
BSmith@fletcher-sippel.com
THealey@fletcher-sippel.com

CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2019, a copy of the foregoing **Verified Answer of the Commuter Rail Division of the Regional Transportation Authority and Northeast Illinois Regional Commuter Railroad Corporation to Amtrak's First Interrogatories** was served by electronic mail on:

Neil K. Gilman
Perie Reiko Koyama
Hunton Andrews Kurth LLP
2200 Pennsylvania Avenue, N.W.
Washington, DC 20037
ngilman@HuntonAK.com
pkoyama@HuntonAK.com

Thomas R. Waskom
Hunton Andrews Kurth LLP
Riverfront Plaza, East Tower
951 East Bryd Street
Richmond, VA 23219
twaskom@HuntonAK.com



Bradon J. Smith

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36332

**PETITION BY THE NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK) FOR PROCEEDINGS UNDER 49 U.S.C. § 24903(c)(2)**

SECOND VERIFIED STATEMENT OF NANCY J. MILLER, CPA, CFF

Date: June 24, 2020

Nancy J. Miller
Director of Financial Planning and Analysis
National Railroad Passenger Corporation (Amtrak)
30th and Market Streets, 5NW, Box 61
Philadelphia, PA 19104

SECOND VERIFIED STATEMENT OF NANCY J. MILLER, CPA, CFF

I, Nancy J. Miller, hereby declare under penalty of perjury that the foregoing is true and correct.

1. I am a resident of the Commonwealth of Pennsylvania, over the age of 18, and competent to make this verified statement.

2. I incorporate by reference my first Verified Statement in this matter, submitted with Amtrak's opening statement on May 20, 2020.

3. I am an employee of the National Railroad Passenger Corporation ("Amtrak"). I have been an employee of Amtrak since April 1996. My current job title is Director of Financial Planning & Analysis.

4. I am familiar with the facts and circumstances set forth herein, based upon my own personal knowledge and experience, and from records and documents of Amtrak with which I am familiar.

5. The purpose of this declaration is to provide facts and analysis in support of Amtrak's reply brief.

I. Policing

6. I prepared the calculations for the allocation of policing costs, shown at Amtrak0005283, Tab Police Cost Summary, (attached as Ex. 3 to First Miller V.S.). These calculations are fully described in my First Verified Statement at ¶¶ 27-32.

7. Once I determined the average of Amtrak's actual FY2016 and FY2017 applicable allocated costs, I added the expense associated with [REDACTED] additional officers who were anticipated to be added in 2018. This task was completed by dividing the total policing costs for each year by [REDACTED] the number of officers authorized at Chicago Union Station in Fiscal years 2016 and 2017, in

order to calculate a cost per position. The cost per position was then multiplied by [REDACTED] representing the expense for the additional [REDACTED] officers anticipated to be added in 2018.

8. Budgeting for the [REDACTED] additional positions was based on information I received from the APD about staffing for the upcoming fiscal year. At that time, APD indicated that the Department would be hiring [REDACTED] additional positions that would be assigned to Chicago Union Station.

9. In order to make a reasonable and appropriate determination of the costs Amtrak was likely to incur throughout the life of the future contract based on past costs, I included these additional positions in my calculations. Failure to include these additional positions would understate Amtrak's anticipated policing costs given the decision to make these additional hires.

II. Inflation Index

10. I have reviewed the Verified Statement of Thomas Crowley and Robert Mulholland of L.E. Peabody & Associates, Inc. ("Peabody V.S."). Peabody addresses, among other things, (i) the appropriate index for adjusting Fiscal Year 2016 and 2017 expenses to Fiscal Year 2018 dollars, and (ii) the appropriate index for annual future adjustments of the amounts the Board determines Metra should pay.

11. In forming its opinions regarding these two issues, Peabody makes an incorrect assumption regarding Amtrak's internal processes. That error renders Peabody's conclusions unreliable.

12. Peabody reviewed Amtrak's calculation of the "Composite Index" that Amtrak uses for purposes of forecasting expenses allocated under PRIIA Section 209 agreements. For this purpose, Peabody relies on a document entitled "Methodology for Determining Inflation Rates for

Amtrak's Route Forecast Model and State Pricing Forecasts From FY2016 Base Actual Costs," dated January 10, 2017 (a true and correct copy attached as Ex. 1).

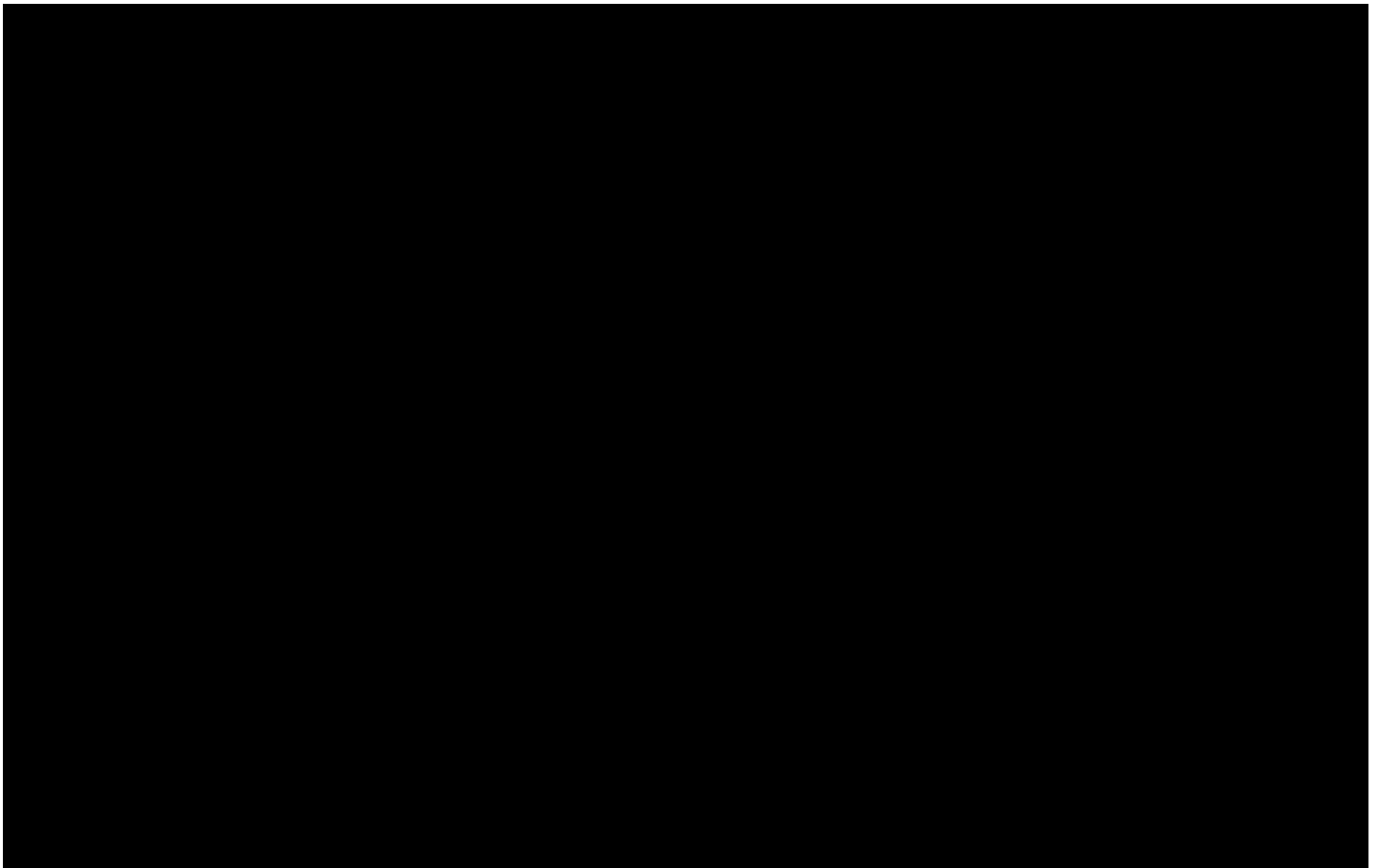
13. That document explains that the Model "[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]"

14. The document provides a table identifying the inflators assigned for the 25 accounts that had the highest expenses in Fiscal Year 2016:



15. Several accounts are adjusted using Core PCE, a consumer price index. Several other accounts, however, are not, including [REDACTED]

See Amtrak0008603 (a true and correct copy attached as Ex. 2). Peabody used Amtrak0000234 to identify the Cost Elements for the expenses the Board must allocate. That document is attached as Ex. 2 to First Miller V.S.

21. Peabody then used the Excel LOOKUP function to insert the purported inflator from Amtrak0008603 into a new row on Amtrak0000234, which Peabody renamed “Amtrak0000234-CUS FY18 &FY19 Actual Expense – Distro-c-c – working file.” That document is attached to Metra’s Opening Statement in FD36332_LEPW_2 (“Amtrak0000234-CUS FY18 & FY19 Actual Expense - Distro-c-c - working file”). Peabody then reviewed the resulting document and concluded that [REDACTED]. (Peabody V.S. at 24.)

22. Peabody’s conclusion is incorrect, because it is based on a misunderstanding of the Cost Elements, a misunderstanding of how the Cost Elements are used in in SAP for WBS project reporting, and a misunderstanding of the representation of those Cost Elements in the calculation of the Section 209 Composite Index. Cross-referencing the Cost Element for an expense identified in Amtrak0000234 with the Accounts identified in Amtrak0008603 does not accurately reflect the inflator Amtrak uses for a particular expense when calculating [REDACTED].

23. For example, [REDACTED] on the Expense Tab of Peabody’s spreadsheet called “Amtrak0000234-CUS FY18 &FY19 Actual Expense – Distro-c-c – working file” shows [REDACTED]

24. Peabody's LOOKUP function pulled data for that [REDACTED]
[REDACTED] on Amtrak0008603. That row does relate to [REDACTED]
[REDACTED]. However, that row is not comparable to
the [REDACTED]

25. In fact, [REDACTED]
[REDACTED]. That should have alerted Peabody to the fact that this row
did not represent the actual use of Core PCE to adjust that expense.

26. Instead, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] That expense is [REDACTED] and it is adjusted using the Agreement Labor
inflator.

27. This is consistent with the statement made in Exhibit 1 ("Methodology for
Determining Inflation Rates for Amtrak's Route Forecast Model and State Pricing Forecasts From
FY2016 Base Actual Costs") that for purposes of Section 209, [REDACTED]
[REDACTED]

28. Peabody should have recognized that there was a flaw in its work based on the fact
that it had concluded that Amtrak was using Core PCE, a consumer price index, to adjust nearly
all of the expenses associated with [REDACTED] Exhibit 1 itself,
the description of the Section 209 Inflation model, on which Peabody relies, [REDACTED]
[REDACTED]

29. Peabody's conclusions regarding Amtrak's purported use of Core PCE for internal purposes are incorrect.

30. Because the expenses at issue in this proceeding include significant labor expenses, use of Core PCE to adjust expenses for future years would result in annual adjustments less than the annual increase in actual wage and salary expenses.

III. General and Administrative Expense Additive

31. Peabody also addresses the General and Administrative ("G&A") additive Amtrak used to calculate its Policing and Station Operations and Maintenance expenses relating to Chicago Union Station.

32. A G&A additive is a common financial ratio used to account for indirect costs that support the efforts of the direct labor workforce and are not necessarily related to a specific function or department but are nevertheless incurred in the day-to-day operations of a business. General expenses pertain to operational overhead expenses that impact the entire business. Administrative expenses are expenses that cannot be directly tied to a specific function within the company such as Maintenance of Way, Transportation or Mechanical operations. G&A expenses include Safety, Information Technology, Human Resources, Payroll and Accounts Payable. For example, if a business has a phone line, the cost of that phone line cannot be tied to any specific business function, but the cost indirectly supports the business as a whole. Through the application of the G&A rate, the indirect cost is allocated to all of the functions it supports in order to account for the total cost of the project or activity. In this instance, Amtrak's G&A additive was applied to direct costs in order to capture the costs incurred by Amtrak that support Chicago Union Station as well as other aspects of Amtrak's business.

33. Amtrak included in its proposal a G&A additive that was, based on the Company's accounting policies and procedures, applicable to each year's direct costs. Amtrak's G&A additive

is recalculated and updated each year. The G&A rate for Fiscal Year 2016 was [REDACTED] and for Fiscal Year 2017 was [REDACTED].

34. To calculate the G&A additive for each year, Amtrak included the expenses associated with the following functions, each of which indirectly supports Chicago Union Station, among other Amtrak operations: Administrative Services, Automotive, Business Development, Business/ Employee Diversity, Chief Executive Officer, Contract Administration, Corporate Research & Strategy, Emergency Management and Corporate Security, Facilities Planning, Finance, Government Affairs, Human Capital, Information Systems, Labor Relations, Legal, Police and System Security, Safety, and Taxes. These costs were divided by all of Amtrak's expenses, resulting in a ratio of the Corporate support expenses to Amtrak's business as a whole.

35. The expenses associated with each of these functions indirectly support Chicago Union Station. For example, Emergency Management and Corporate Security (EMCS) department prepares Amtrak's rail system for emergencies and disasters, mitigates them when they occur, and provides efficient response and recovery efforts to ensure the safety and security of both customers and employees.

36. The Information Systems category includes the expenses associated with all of Amtrak's major IT systems, including SAP – Business Suite. Those expenses pay for the very data used in this case, in addition to supporting Human Resources, Payroll, Inventory Management, and Work Management Systems. Chicago Union Station could not operate without the indirect support of Amtrak's Information Systems department.

37. Peabody asserts that Amtrak was incorrect to include the following functions in its calculation of the G&A additive for Policing and Station Operations and Maintenance expenses at Chicago Union Station: Administrative Services, Automotive, Chief Executive Officer,

Emergency Management and Corporate Security, Government Affairs, Information Systems, and Labor Relations.

38. Peabody does not explain why any of these functions do not support Chicago Union Station. In fact, each of these functions indirectly support Chicago Union Station, as demonstrated through the examples provided above.

IV. Recalculation of Metra's Share of Costs Using Stipulated Allocation Factor

39. I understand that Amtrak and Metra have stipulated to the fact that the average of (1) Metra's share of train movements at Chicago Union Station and (2) Metra's share of passenger boardings and alightings at Chicago Union Station is 83%.

40. I have recalculated Metra's share of the Police costs Amtrak incurs at Chicago Union Station. Using the stipulated 83%, Metra should pay \$4,034,796.83 for Fiscal Year 2020, representing 83% of the total Police costs.

41. I have also recalculated Metra's share of the Station Operations and Maintenance costs Amtrak incurs at Chicago Union Station. As I explained in my first Verified Statement, the total allocable square footage is 360,932 square feet, including [REDACTED] Metra sole-benefit square feet and [REDACTED] common-benefit square feet. Using the stipulated train movements / ridership factor, the Board should assign to Metra 83% of the common-benefit square feet—i.e., [REDACTED] square feet. In total, then, the Board should assign Metra [REDACTED] of the 360,932 allocable square feet, or [REDACTED].

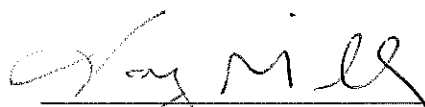
42. Because the Board should determine that Metra is responsible for [REDACTED] of the Station Operations and Maintenance cost, the Board should determine that Metra owes Amtrak \$6,387,072.88 for Fiscal Year 2020.

VERIFICATION

I, Nancy J. Miller, verify under penalty of perjury that the foregoing is true and correct.

Further, I certify that I am qualified and authorized to file this verified statement.

Executed on June 23, 2020 in Philadelphia, Pennsylvania.

A handwritten signature in cursive script, appearing to read "Nancy Miller", written over a horizontal line.

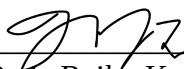
Nancy J. Miller

CERTIFICATE OF SERVICE

I hereby certify that I have this day, July 1, 2020, caused a copy of the foregoing to be served by electronic mail on:

Thomas J. Litwiler
Robert A. Wimbish
Thomas J. Healey
Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
tlitwiler@fletcher-sippel.com
rwimbish@fletcher-sippel.com
thealey@fletcher-sippel.com
bsmith@fletcher-sippel.com

Counsel for Metra



Perie Reiko Koyama

Second Miller V.S.
Ex. 1

CONFIDENTIAL

(Filed Under Seal)

Second Miller V.S.
Ex. 2

CONFIDENTIAL

(Filed Under Seal)

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36332

**PETITION BY THE NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK) FOR PROCEEDINGS UNDER 49 U.S.C. § 24903(c)(2)**

SECOND VERIFIED STATEMENT OF DEPUTY CHIEF JOSEPH PATTERSON

Date: June 24, 2020

Deputy Chief Joseph Patterson
Amtrak Police Department
210 S. Canal Street
Chicago, IL 60606

SECOND VERIFIED STATEMENT OF DEPUTY CHIEF JOSEPH PATTERSON

I, Joseph Patterson, hereby declare under penalty of perjury that the foregoing is true and correct.

1. I am a resident of the State of Illinois, over the age of 18, and competent to make this verified statement.

2. I incorporate by reference my first Verified Statement in this matter, submitted with Amtrak's opening statement on May 20, 2020.

3. I am an employee of the National Railroad Passenger Corporation ("Amtrak"). I have been an employee of Amtrak since May 1, 2013. My current position is Deputy Chief of the Central and Western Divisions of the Amtrak Police Department ("APD").

4. I am fully familiar with the facts and circumstances set forth herein, based upon my own personal knowledge, and from records and documents of Amtrak with which I am familiar.

5. The purpose of this verified statement is to respond to factual assertions made by Metra's witness, Mr. Byrd, and to provide additional facts and analysis in support of Amtrak's reply brief.

A. Policing and Staffing at Chicago Union Station

6. As I explained fully in my first Verified Statement, Metra and its passengers benefit from all aspects of APD's policing and protection of Chicago Union Station.

7. APD monitors the entirety of Chicago Union Station, not merely certain parts of the Station, because APD's goal is to prevent crime as much as it is to address crimes that have already happened.

8. As one example of how Metra benefits from APD policing at Chicago Union Station, APD prevents and investigates theft and other crime at the Station through its use and monitoring of more than [REDACTED] in Chicago Union Station. Metra and its police department regularly use these cameras to investigate incidents on behalf of their own passengers.

9. The staffing needs of APD at Chicago Union Station are driven in large part by the volume of Metra passengers and trains. APD would require fewer officers to adequately staff Chicago Union Station if the Station had only 10,000 passengers boarding and alighting trains each day instead of 110,000 passengers.

10. APD's staffing numbers at Chicago Union Station are constantly evolving, as officers are promoted to different positions, new officers are hired, and other officers leave the force.

11. [REDACTED]
[REDACTED]

12. At the end of 2017, APD anticipated and budgeted for [REDACTED] additional positions to be added in 2018. This projection was based on the best information available at the time.

13. Between December 30, 2016 and March 29, 2019, there was a net gain of [REDACTED] officers, as shown in the chart below.

14. The following chart represents the number of positions at Chicago Union Station at four points in time from December 30, 2016 to March 29, 2019:

B. DEA and JTTF Positions

15. I understand that Mr. Byrd and Metra assert that Metra receives no benefit from Amtrak's DEA and JTTF detectives. While I have been informed that Amtrak does not seek to allocate to Metra the costs associated with the DEA detective, both the DEA and JTTF detectives provide benefits to Metra given Metra's significant presence at Chicago Union Station.

16. [REDACTED]

[REDACTED] The DEA detective works to prevent the trafficking of narcotics and other illicit drugs through Chicago Union Station.

17. Trafficking narcotics and other illicit drugs through a large train station in a major metropolitan area like Chicago brings potential violence and other threats to Chicago Union Station and its passengers. Metra passengers benefit from the anti-drug-trafficking efforts and added security offered by APD's DEA detective.

18. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

19. The JTTF detective regularly communicates with officers at Chicago Union Station as trains arrive and depart from the Station. This detective can pass along key intelligence from the FBI about potential terrorist threats affecting Chicago Union Station.

20. If Chicago Union Station were to be the subject of a terrorist attack, Metra passengers and trains would be put at risk. Metra passengers, and therefore Metra, benefit from the security and peace of mind of traveling safely through Chicago Union Station, an objective that the JTTF detective helps advance every day.

C. K9 Units

21. I understand that Mr. Byrd and Metra assert that Metra receives no benefit from Amtrak's K9 units. This is incorrect.

22. APD's K9 teams are also a critical part of keeping Chicago Union Station safe.

23. The K9 teams include pairings of experienced officers and canines trained to detect explosives and narcotics at the Station. Currently, Chicago Union Station has [REDACTED]
[REDACTED]

24. APD and its K9 teams are stationed at Chicago Union Station to protect the passengers and the Station. The K9 teams patrol and monitor the Station as a whole, and do not exclusively serve Amtrak passengers.

25. The K9 teams prevent bombs from detonating and destroying the Station, which would obviously have a greater impact on Metra given its 30 million annual passengers to Amtrak's three million passengers. Chicago Union Station is a famous architectural landmark and one of the busiest train stations in the country, which could be a target for attack.

26. The K9 teams also prevent narcotics and other illicit drugs from being trafficked through Chicago Union Station.

27. Metra and its passengers benefit from the prevention of explosives and illicit drugs being present at the Station.

D. Train Riding

28. APD periodically will send its officers on Amtrak trains for increased security during train rides. However, for APD's Chicago Field Office, because most of the crime and other activity occurs within Chicago Union Station, APD officers do not ride trains as frequently as in other areas of Amtrak's national network. In addition, most of the Amtrak trains from

Chicago Union Station travel long distances, making it infeasible to have APD officers riding trains on a regular basis.

29. The Washington Post article Metra cites in its opening statement refers to a strategy for APD nationally, but not for Chicago specifically.

30. Sometimes, an APD officer will ride on the Amtrak train to Milwaukee, but this is a two-hour journey, so it is not a daily occurrence. APD officers at Chicago Union Station do not ride trains every day, and they do so only when staffing allows for it and nothing serious is occurring at the Station.

E. Overnight Policing

31. APD polices and protects Chicago Union Station twenty-four hours a day, seven days a week. APD protects not only the passengers of Chicago Union Station, but the facilities and infrastructure used by those passengers as well.

32. I understand that Mr. Byrd opines that Metra's last train at Chicago Union Station is at 10:00 p.m. This is incorrect. Metra's last weekday train at Chicago Union Station arrives at 12:29am, and its last weekday train leaves the Station at 12:45am. *See Metra BNSF Line Aurora to Chicago Schedule (effective Sept. 3, 2019) (a true and correct copy attached as Ex. 3).*

33. As to the time between 1:00 a.m. and 5:00 a.m. when the Station is closed, I understand Mr. Byrd and Metra assert that Metra receives no benefit from APD's efforts during this time. This is not accurate.

34. Metra has areas and facilities at the Station that benefit from overnight protection, such as its locker room and ticket counter. If APD abandoned the Station overnight and these areas were vandalized, for example, this would affect Metra's ability to serve its passengers.

35. In addition, Metra often has employees present at the Station late into the night. APD protects these Metra employees from harm and remain available to assist them at any hour.

36. Having APD on-site at all times prevents criminal actors from trespassing, stealing, damaging property, or even planting something dangerous in Station. Should any of those things occur, Metra and its passengers would be negatively affected in their use of the Station.

37. APD's around-the-clock security is part of its efforts to ensure a safe, secure and habitable Station for all passengers, the vast majority of whom are Metra passengers.

VERIFICATION

I, Joseph Patterson, verify under penalty of perjury under the laws of the State of Illinois that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement.

Executed on June 23, 2020 in Los Angeles, CA.

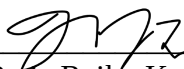

Deputy Chief Joseph Patterson

CERTIFICATE OF SERVICE

I hereby certify that I have this day, July 1, 2020, caused a copy of the foregoing to be served by electronic mail on:

Thomas J. Litwiler
Robert A. Wimbish
Thomas J. Healey
Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
tlitwiler@fletcher-sippel.com
rwimbish@fletcher-sippel.com
thealey@fletcher-sippel.com
bsmith@fletcher-sippel.com

Counsel for Metra



Perie Reiko Koyama

Second Patterson V.S.
Ex. 1

CONFIDENTIAL

(Filed Under Seal)

Second Patterson V.S.
Ex. 2

CONFIDENTIAL

(Filed Under Seal)

Second Patterson V.S.

Ex. 3

Aurora to Chicago – Saturday

🚿	Zone	Station	Train #	2000 AM	2002 AM	2004 AM	2006 AM	2008 AM	2010 AM	2012 AM	2014 AM	2016 PM	2018 PM	2020 PM	2022 PM	2024 PM	2026 PM	2028 PM
●	H	Aurora	LV:	5:10	6:20	7:20	8:20	9:10	9:20	10:20	11:20	12:20	2:20	3:20	4:20	6:20	8:20	11:20
●	G	Route 59		5:18	6:28	7:28	8:28	9:20	9:28	10:28	11:28	12:28	2:28	3:30	4:28	6:28	8:28	11:28
●	F	Naperville		5:23	6:33	7:33	8:33	9:25	9:33	10:33	11:33	12:33	2:33	3:35	4:33	6:33	8:33	11:33
●	E	Lisle		5:28	6:38	7:38	8:38	9:31	9:38	10:38	11:38	12:38	2:38	3:41	4:38	6:38	8:38	11:38
●	E	Belmont		5:32	6:42	7:42	8:42	9:35	9:42	10:42	11:42	12:42	2:42	3:45	4:42	6:42	8:42	11:42
●	E	Downers Grv./Main St.		5:35	6:45	7:45	8:45	9:40	9:45	10:45	11:45	12:45	2:45	3:50	4:45	6:45	8:45	11:45
●	E	Fairview Ave.		---	6:47	7:47	8:47	---	9:47	10:47	11:47	12:47	2:47	---	4:47	6:47	8:47	11:47
●	D	Westmont		5:38	6:49	7:49	8:49	---	9:49	10:49	11:49	12:49	2:49	---	4:49	6:49	8:49	11:49
○	D	Clarendon Hills		5:41	6:52	7:52	8:52	---	9:52	10:52	11:52	12:52	2:52	---	4:52	6:52	8:52	11:51
○	D	West Hinsdale		---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
●	D	Hinsdale		5:44	6:55	7:55	8:55	---	9:55	10:55	11:55	12:55	2:55	---	4:55	6:55	8:55	11:54
	D	Highlands		---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
●	D	Western Springs		5:47	6:58	7:58	8:58	---	9:58	10:58	11:58	12:58	2:58	---	4:58	6:58	8:58	11:57
○	C	LaGrange, Stone Ave.		---	7:01	8:01	9:01	---	10:01	11:01	12:01	1:01	3:01	---	5:01	7:01	9:01	---
●	C	LaGrange Rd.		5:51	7:03	8:03	9:03	---	10:03	11:03	12:03	1:03	3:03	---	5:03	7:03	9:03	12:01
	C	Congress Park		---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
○	C	Brookfield		5:54	7:06	8:06	9:06	---	10:06	11:06	12:06	1:06	3:06	---	5:06	7:06	9:06	12:03
●	C	Hollywood (Zoo Stop)		---	---	---	9:08	---	10:08	11:08	12:08	1:08	3:08	---	5:08	7:08	---	---
○	C	Riverside		5:57	7:09	8:09	9:10	---	10:10	11:10	12:10	1:10	3:10	---	5:10	7:10	9:09	12:05
●	B	Harlem Ave.		---	7:11	8:11	9:12	---	10:12	11:12	12:12	1:12	3:12	---	5:12	7:12	9:11	---
●	B	Berwyn		6:00	7:13	8:13	9:14	---	10:14	11:14	12:14	1:14	3:14	---	5:14	7:14	9:13	12:08
●	B	LaVergne		---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
	B	Cicero		6:05	7:18	8:18	9:19	---	10:19	11:19	12:19	1:19	3:19	---	5:19	7:19	9:18	12:11
	A	Western Ave.		---	7:23	8:23	9:24	---	10:24	11:24	12:24	1:24	3:24	---	5:24	7:24	9:23	---
	A	Halsted St.		---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
●	A	Chicago CUS	AR:	6:21	7:40	8:40	9:47	10:13	10:47	11:47	12:47	1:47	3:47	4:23	5:47	7:47	9:40	12:29
🚲	# of bikes allowed per train			10	10	10	10	10	10	10	10	10	10	10	10	10	10	10

– Sunday/Holiday*

2002 AM	2006 AM	2010 AM	2012 AM	2016 PM	2018 PM	2022 PM	2024 PM	2026 PM	2028 PM
6:20	8:20	9:20	10:20	12:20	2:20	4:20	6:20	8:20	11:20
6:28	8:28	9:28	10:28	12:28	2:28	4:28	6:28	8:28	11:28
6:33	8:33	9:33	10:33	12:33	2:33	4:33	6:33	8:33	11:33
6:38	8:38	9:38	10:38	12:38	2:38	4:38	6:38	8:38	11:38
6:42	8:42	9:42	10:42	12:42	2:42	4:42	6:42	8:42	11:42
6:45	8:45	9:45	10:45	12:45	2:45	4:45	6:45	8:45	11:45
6:47	8:47	9:47	10:47	12:47	2:47	4:47	6:47	8:47	11:47
6:49	8:49	9:49	10:49	12:49	2:49	4:49	6:49	8:49	11:49
6:52	8:52	9:52	10:52	12:52	2:52	4:52	6:52	8:52	11:51
---	---	---	---	---	---	---	---	---	---
6:55	8:55	9:55	10:55	12:55	2:55	4:55	6:55	8:55	11:54
---	---	---	---	---	---	---	---	---	---
6:58	8:58	9:58	10:58	12:58	2:58	4:58	6:58	8:58	11:57
7:01	9:01	10:01	11:01	1:01	3:01	5:01	7:01	9:01	---
7:03	9:03	10:03	11:03	1:03	3:03	5:03	7:03	9:03	12:01
---	---	---	---	---	---	---	---	---	---
7:06	9:06	10:06	11:06	1:06	3:06	5:06	7:06	9:06	12:03
---	9:08	10:08	11:08	1:08	3:08	5:08	7:08	---	---
7:09	9:10	10:10	11:10	1:10	3:10	5:10	7:10	9:09	12:05
7:11	9:12	10:12	11:12	1:12	3:12	5:12	7:12	9:11	---
7:13	9:14	10:14	11:14	1:14	3:14	5:14	7:14	9:13	12:08
---	---	---	---	---	---	---	---	---	---
7:18	9:19	10:19	11:19	1:19	3:19	5:19	7:19	9:18	12:11
7:23	9:24	10:24	11:24	1:24	3:24	5:24	7:24	9:23	---
---	---	---	---	---	---	---	---	---	---
7:40	9:47	10:47	11:47	1:47	3:47	5:47	7:47	9:40	12:29
10	10	10	10	10	10	10	10	10	10

Chicago to Aurora – Saturday

🚿	Zone	Station	Train #	2001 AM	2003 AM	2005 AM	2007 AM	2009 PM	2011 PM	2013 PM	2015 PM	2017 PM	2019 PM	2021 PM	2023 PM	2025 PM	2027 PM	2029 AM
●	A	Chicago CUS	LV:	6:30	8:40	10:40	11:40	12:40	1:40	2:40	3:40	4:40	5:35	5:40	6:40	8:40	10:40	12:40
	A	Halsted St.		---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
	A	Western Ave.		6:36	8:46	10:46	11:46	12:46	1:46	2:46	3:46	4:46	---	---	6:46	8:46	---	---
	B	Cicero		6:41	8:51	10:51	11:51	12:51	1:51	2:51	3:51	4:51	---	5:51	6:51	8:51	10:51	12:51
●	B	LaVergne		---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
●	B	Berwyn		6:45	8:55	10:55	11:55	12:55	1:55	2:55	3:55	4:55	---	5:55	6:55	8:55	10:55	12:55
●	B	Harlem Ave.		6:47	8:57	10:57	11:57	12:57	1:57	2:57	3:57	4:57	---	5:57	6:57	8:57	10:57	12:57
○	C	Riverside		6:49	8:59	10:59	11:59	12:59	1:59	2:59	3:59	4:59	---	5:59	6:59	8:59	10:59	12:59
●	C	Hollywood (Zoo Stop)		---	9:01	11:01	12:01	1:01	2:01	3:01	4:01	5:01	---	6:01	7:01	---	---	---
○	C	Brookfield		6:52	9:03	11:03	12:03	1:03	2:03	3:03	4:03	5:03	---	6:03	7:03	9:02	11:02	1:02
	C	Congress Park		---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
●	C	LaGrange Rd.		6:55	9:06	11:06	12:06	1:06	2:06	3:06	4:06	5:06	---	6:06	7:06	9:06	11:06	1:06
○	C	LaGrange, Stone Ave.		6:57	9:08	11:08	12:08	1:08	2:08	3:08	4:08	5:08	---	6:08	7:08	9:08	11:08	1:08
●	D	Western Springs		7:00	9:11	11:11	12:11	1:11	2:11	3:11	4:11	5:11	---	6:11	7:11	9:11	11:11	1:11
	D	Highlands		---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
●	D	Hinsdale		7:03	9:14	11:14	12:14	1:14	2:14	3:14	4:14	5:14	---	6:14	7:14	9:14	11:14	1:14
○	D	West Hinsdale		---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
○	D	Clarendon Hills		7:06	9:17	11:17	12:17	1:17	2:17	3:17	4:17	5:17	---	6:17	7:17	9:17	11:17	1:17
●	D	Westmont		7:09	9:20	11:20	12:20	1:20	2:20	3:20	4:20	5:20	---	6:20	7:20	9:20	11:20	1:20
●	E	Fairview Ave.		7:12	9:23	11:23	12:23	1:23	2:23	3:23	4:23	5:23	---	6:23	7:23	9:23	11:23	1:23
●	E	Downers Grv./Main St		7:14	9:25	11:25	12:25	1:25	2:25	3:25	4:25	5:25	5:59	6:25	7:25	9:25	11:25	1:25
●	E	Belmont		7:17	9:28	11:28	12:28	1:28	2:28	3:28	4:28	5:28	6:03	6:28	7:28	9:28	11:28	1:28
●	E	Lisle		7:20	9:31	11:31	12:31	1:31	2:31	3:31	4:31	5:31	6:07	6:31	7:31	9:31	11:31	1:31
●	F	Naperville		7:26	9:37	11:37	12:37	1:37	2:37	3:37	4:37	5:37	6:13	6:37	7:37	9:37	11:37	1:37
●	G	Route 59		7:31	9:42	11:42	12:42	1:42	2:42	3:42	4:42	5:42	6:18	6:42	7:42	9:42	11:42	1:42
●	H	Aurora	AR:	7:45	10:01	12:01	1:01	2:01	3:01	4:01	5:01	6:01	6:31	7:01	8:01	10:00	12:00	1:56
🚲	# of bikes allowed per train			10	10	10	10	10	10	10	10	10	10	10	10	10	10	10

– Sunday/Holiday*

2003 AM	2005 AM	2009 PM	2013 PM	2017 PM	2021 PM	2023 PM	2025 PM	2027 PM	2029 AM
8:40	10:40	12:40	2:40	4:40	5:40	6:40	8:40	10:40	12:40
---	---	---	---	---	---	---	---	---	---
8:46	10:46	12:46	2:46	4:46	---	6:46	8:46	---	---
8:51	10:51	12:51	2:51	4:51	5:51	6:51	8:51	10:51	12:51
---	---	---	---	---	---	---	---	---	---
8:55	10:55	12:55	2:55	4:55	5:55	6:55	8:55	10:55	12:55
8:57	10:57	12:57	2:57	4:57	5:57	6:57	8:57	10:57	12:57
8:59	10:59	12:59	2:59	4:59	5:59	6:59	8:59	10:59	12:59
9:01	11:01	1:01	3:01	5:01	6:01	7:01	---	---	---
9:03	11:03	1:03	3:03	5:03	6:03	7:03	9:02	11:02	1:02
---	---	---	---	---	---	---	---	---	---
9:06	11:06	1:06	3:06	5:06	6:06	7:06	9:06	11:06	1:06
9:08	11:08	1:08	3:08	5:08	6:08	7:08	9:08	11:08	1:08
9:11	11:11	1:11	3:11	5:11	6:11	7:11	9:11	11:11	1:11
---	---	---	---	---	---	---	---	---	---
9:14	11:14	1:14	3:14	5:14	6:14	7:14	9:14	11:14	1:14
---	---	---	---	---	---	---	---	---	---
9:17	11:17	1:17	3:17	5:17	6:17	7:17	9:17	11:17	1:17
9:20	11:20	1:20	3:20	5:20	6:20	7:20	9:20	11:20	1:20
9:23	11:23	1:23	3:23	5:23	6:23	7:23	9:23	11:23	1:23
9:25	11:25	1:25	3:25	5:25	6:25	7:25	9:25	11:25	1:25
9:28	11:28	1:28	3:28	5:28	6:28	7:28	9:28	11:28	1:28
9:31	11:31	1:31	3:31	5:31	6:31	7:31	9:31	11:31	1:31
9:37	11:37	1:37	3:37	5:37	6:37	7:37	9:37	11:37	1:37
9:42	11:42	1:42	3:42	5:42	6:42	7:42	9:42	11:42	1:42
10:01	12:01	2:01	4:01	6:01	7:01	8:01	10:00	12:00	1:56
10	10	10	10	10	10	10	10	10	10

Aurora to Chicago – Monday through Friday														EFFECTIVE: September 3, 2019																																									
	Zone	Train #	1200 AM	1202 AM	1204 AM	1206 AM	1208 AM	1210 AM	1212 AM	1214 AM	1216 AM	1218 AM	1220 AM	1222 AM	1224 AM	1226 AM	1228 AM	1230 AM	1374 AM	1232 AM	1234 AM	1236 AM	1238 AM	1240 AM	1242 AM	1244 AM	1246 AM	1248 AM	1250 AM	1252 AM	1254 AM	1256 AM	1258 AM	1370 AM	1260 AM	1262 AM	1264 AM	1266 PM	1268 PM	1270 PM	1272 PM	1274 PM	1276 PM	1278 PM	1280 PM	1288 PM	1292 PM	1294 PM	1296 PM	1298 PM	1324 PM				
●	H	Aurora LV:	4:09	4:38	5:11		5:45	5:30	5:57					6:24	6:11			6:49		7:01			7:17				7:34	7:11		7:52				8:14	8:30	9:30	10:20	12:20	2:20	3:20	3:41	4:12	4:25		4:51	5:27	6:21		8:21	10:15	11:13				
●	G	Route 59	4:18	4:46	5:21		5:57	---	6:09					6:37	6:20			7:01		7:13			7:29				7:46	7:21		8:04				8:26	8:40	9:40	10:29	12:29	2:29	3:29	3:50	---	4:35		5:00	5:37	6:30		8:30	10:24	11:22				
●	F	Naperville	4:24	4:51	5:28		6:04	---	6:16					6:44	6:25			7:10		7:21			7:37				7:54	7:26		8:12				8:34	8:45	9:46	10:35	12:34	2:34	3:34	3:55	---	4:40		5:06	5:42	6:35		8:35	10:29	11:27				
●	E	Lisle	4:30	4:57	5:36		---	---	---	6:19			6:37	---	6:31		7:03	---		---	7:24		---			7:49	---	7:32		---			8:19	---	8:51	9:52	10:41	12:40	2:40	3:40	4:01	---	4:46		5:12	5:48	6:41		8:41	10:35	11:33				
●	E	Belmont	4:33	5:00	5:40		---	---	---	6:24			6:42	---	---		7:07	---		---	7:28		---			7:53	---	7:35		---			8:23	---	8:54	9:56	10:44	12:44	2:44	3:44	4:05	---	4:50		5:16	5:52	6:45		8:45	10:38	11:37				
●	E	Downers Grv./Main St.	4:37	5:04	5:45		---	5:49	---	6:29			6:48	---	6:38		7:13	---		---	7:34		---			7:58	---	7:39		---			8:28	---	8:58	9:59	10:48	12:48	2:48	3:48	4:09	4:31	4:53		5:20	5:55	6:49	8:16	8:49	10:42	11:41				
●	E	Fairview Ave.	4:40	5:06	---	5:38	---	5:52	---	---		6:32	---	---	6:40	6:50	---	---	---	---	7:18	---	7:36		---	---	---	7:41	8:02	---		8:17	---	---	9:01	10:02	10:50	12:51	2:50	3:50	4:12	---	---		5:58	6:51	8:19	8:51	10:45	11:44					
●	D	Westmont	4:42	5:09	---	5:41	---	5:55	---	---		6:35	---	---	6:43	6:53	---	---	---	---	7:22	---	7:40		---	---	---	7:47	8:06	---		---	8:33	---	9:04	10:05	10:53	12:53	2:53	3:53	4:14	4:35	4:57		6:01	6:54	8:22	8:54	10:47	11:46					
○	D	Clarendon Hills	4:45	5:12	---	5:44	---	5:58	---	---		6:39	---	---	6:47	6:57	---	---	---	---	7:26	---	7:44		---	---	---	7:54	8:09	---		---	8:37	---	9:07	10:08	10:56	12:56	2:56	3:56	4:17	4:38	5:00		6:04	6:57	8:25	8:57	10:51	11:50					
○	D	West Hinsdale	---	5:14	---	5:46	---	---	---	---		6:41	---	---	---	6:59	---	---	---	---	---	---	7:47		---	---	---	7:56	8:12	---		8:22	---	---	9:09	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---				
●	D	Hinsdale	4:49	5:16	---	5:49	---	6:01	---	---		6:45	---	---	6:50	7:02	---	---	---	---	7:29	---	7:51		---	---	---	7:58	8:16	---		---	8:41	---	9:12	10:12	11:00	1:00	3:00	3:59	4:21	4:41	5:04		6:08	7:01	8:28	9:00	10:54	11:53					
●	D	Highlands	---	5:18	---	5:51	---	---	---	---	6:24	---	---	---	---	7:04	---	---	---	7:14	---	---	7:32	---	---	---	---	8:01	---	---		---	8:26	---	---	---	---	---	4:02	4:23	---	---	---	---	---	---	---	---	---	---	---				
●	D	Western Springs	4:52	5:21	---	5:55	---	6:04	---	---		6:27	---	---	6:53	7:08	---	---	---	---	7:17	---	---	7:35	---	7:55		8:04	---	---		8:30	---	---	9:15	10:15	11:03	1:03	3:03	4:04	4:26	4:45	5:07		6:11	7:04	8:31	9:04	10:57	11:57					
○	C	LaGrange, Stone Ave.	---	5:24	---	5:59	---	---	---	---		6:32	---	---	---	7:12	---	---	---	---	7:21	---	---	7:40	---	---		8:09	---	---		8:34	---	---	9:18	10:19	11:06	1:07	3:07	4:08	4:29	---	---		6:14	7:07	---	9:07	---	---					
●	C	LaGrange Rd.	4:56	5:26	---	6:01	---	6:08	---	---		6:34	---	---	6:56	7:15	---	---	---	---	7:23	---	---	7:43	---	---		8:12	8:21	---		8:37	---	---	9:20	10:21	11:08	1:08	3:09	4:10	4:31	4:48	---	5:19	---	6:16	7:09	8:35	9:09	11:01	12:01				
●	C	Congress Park	---	5:28	---	---	---	6:11	---	---		6:37	---	---	---	7:18	---	---	---	---	7:26	---	---	7:46	---	---		8:15	---	---		8:41	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---			
○	C	Brookfield	---	5:30	---	6:05	---	6:13	---	---		6:39	---	---	7:00	---	---	---	---	---	7:28	---	---		7:50	---	---		8:19	---	---		8:41	---	---	9:24	10:24	11:12	1:12	3:12	4:13	---	---	---	---	6:20	7:13	8:38	9:12	11:04	12:04				
●	C	Hollywood (Zoo Stop)	---	5:32	---	---	---	6:15	---	---		---	---	---	7:03	---	---	---	---	---	---	---	---		7:53	---	---	---	---	---	8:22	---	---	---	9:26	10:26	11:14	1:14	3:15	4:15	---	---	---	---	6:22	---	---	---	---	---					
○	C	Riverside	---	5:34	---	6:09	---	6:18	---	---		6:42	---	---	7:06	---	---	---	---	---	7:31	---	---		7:55	---	---	---	---	---	8:25	---	---	---	9:28	10:29	11:16	1:17	3:17	4:18	---	---	---	---	6:25	7:16	8:42	9:16	11:08	12:07					
●	B	Harlem Ave.	---	5:37	---	6:12	---	6:21	---	---		---	---	---	7:09	---	---	---	---	---	---	---		7:59	---	---	---	---	---	8:28	---	---	---	9:31	10:32	11:19	1:20	3:20	4:21	---	---	---	---	6:28	7:19	---	9:18	---	---						
●	B	Berwyn	---	5:39	---	6:14	---	6:23	---	---		6:46	---	---	---	---	---	---	---	---	7:35	---	---		8:01	---	---	---	---	---	8:31	---	---	---	9:33	10:34	11:21	1:21	3:22	4:23	---	---	---	---	6:30	7:21	8:45	9:20	11:11	12:11					
●	B	LaVergne	---	5:41	---	---	---	6:25	---	---		---	---	---	---	---	---	---	---	---	---	---		8:04	---	---	---	---	---	---	8:33	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---			
	B	Cicero	---	5:45	---	---	---	6:29	---	---		---	---	---	---	---	---	---	---	---	---	---		8:08	---	---	---	---	---	---	8:37	---	---	---	9:38	10:39	11:26	1:26	3:27	4:27	---	---	---	---	6:35	7:25	8:50	9:25	11:16	12:16					
	A	Western Ave.	---	5:50	---	---	---	6:34	---	---		---	---	---	7:23	---	---	---	---	---	---	---		---	---	---	---	8:25	---	---	---	---	---	9:43	---	---	1:32	3:33	4:33	---	---	---	---	6:40	7:31	---	9:31	---	---						
	A	Halsted St.	---	5:54	---	---	---	6:38	---	---		---	---	---	7:27	---	---	---	---	---	---	---		---	---	---	---	8:29	---	---	---	---	---	9:47	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---				
●	A	Chicago CUS AR:	5:14	6:00	6:12	6:30	6:38	6:45	6:51	6:55	7:02	7:08	7:14	7:18	7:33	7:37	7:41	7:45	7:50	7:55	8:00	8:05	8:11	8:16	8:21	8:26	8:30	8:35	8:40	8:46	8:51	8:59	9:03	9:07	9:57	10:57	11:47	1:47	3:47	4:44	4:49	5:25	5:29	5:38	5:46	6:51	7:40	9:03	9:40	11:29	12:29				
	# of bikes allowed per train		10	10	5	5																												10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10						

Chicago to Aurora – Monday through Friday										EFFECTIVE: September 3, 2019																																										
	Zone	Train # Station	1201 AM	1205 AM	1209 AM	1213 AM	1215 AM	1371 AM	1221 AM	1225 AM	1227 AM	1229 AM	1231 PM	1233 PM	1235 PM	1237 PM	1239 PM	1241 PM	1243 PM	1245 PM	1247 PM	1249 PM	1251 PM	1253 PM	1255 PM	1375 PM	1257 PM	1259 PM	1261 PM	1263 PM	1265 PM	1267 PM	1269 PM	1271 PM	1273 PM	1275 PM	1277 PM	1279 PM	1281 PM	1283 PM	1373 PM	1285 PM	1287 PM	1289 PM	1291 PM	1293 PM	1295 PM	1297 PM	1299 PM	1325 AM		
●	A	Chicago CUS LV:	5:31	6:29	6:50	7:03	7:07	7:21	7:32	7:56	8:50	10:30	12:30	1:30	2:30	2:34	3:17	3:19	3:57	4:02	4:17	4:25	4:38	4:42	4:50	4:53	4:58	5:02	5:06	5:11	5:17	5:22	5:28	5:32	5:36	5:41	5:46	5:50	6:02	6:20	6:26	6:31	7:03	7:07	7:40	8:40	9:40	10:40	11:41	12:45		
	A	Halsted St.	5:38	---	---	---	---	7:27	---	---	---	---	---	1:36	---	2:40	---	3:25	---	---	4:23	---	---	---	---	4:59	---	---	---	5:12	---	---	---	---	---	5:42	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
	A	Western Ave.	5:42	---	---	---	7:16	---	---	8:05	8:59	10:39	12:39	1:40	---	2:44	---	3:29	---	4:11	---	4:33	---	---	---	---	---	---	---	5:20	---	---	---	---	---	5:46	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	
	B	Cicero	5:47	---	---	---	---	---	---	8:10	9:04	10:44	12:44	1:45	---	2:49	---	3:35	---	4:17	---	4:38	---	---	---	---	---	---	---	5:20	---	---	---	---	---	5:52	---	---	---	6:15	---	---	---	6:43	---	7:19	7:52	8:54	9:52	10:52	11:53	12:57
●	B	LaVergne	---	---	---	---	---	---	---	---	---	---	---	1:49	---	---	---	3:39	---	---	---	4:42	---	---	---	---	---	---	5:25	---	---	---	---	---	5:56	---	---	---	6:19	---	---	---	7:24	---	---	---	8:59	---	---	---	---	---
●	B	Berwyn	5:52	---	---	---	---	---	---	8:15	9:09	10:49	12:49	1:51	---	2:54	---	3:41	---	4:22	---	4:44	---	---	---	5:09	---	---	---	5:27	---	---	---	---	---	5:59	---	---	---	6:21	---	---	---	6:48	---	7:26	7:57	9:01	9:57	10:57	11:58	1:02
●	B	Harlem Ave.	5:54	---	---	---	---	---	---	8:17	9:11	10:50	12:51	1:53	---	2:56	---	3:43	---	4:24	---	4:46	---	---	---	---	---	---	5:29	---	---	---	---	---	6:01	---	---	---	6:23	---	---	---	6:50	---	7:28	7:59	9:03	9:59	10:59	12:00	1:04	
○	C	Riverside	5:57	---	---	---	---	---	---	8:20	9:14	10:53	12:54	1:56	---	2:58	---	3:46	---	4:27	---	4:49	---	---	5:06	---	---	---	5:33	---	---	---	---	---	6:04	---	---	---	6:27	---	---	---	6:53	---	7:31	8:02	9:05	10:02	11:01	12:02	1:07	
●	C	Hollywood (Zoo Stop)	---	---	---	---	---	---	---	---	---	10:56	12:56	1:58	---	3:01	---	3:48	---	4:29	---	4:51	---	---	---	---	---	---	5:35	---	---	---	---	---	6:07	---	---	---	---	---	---	---	7:33	---	---	9:08	---	---	---	---	---	
○	C	Brookfield	6:00	---	---	---	---	---	---	8:23	9:17	10:58	12:59	2:01	---	3:04	---	3:51	---	4:32	---	4:54	---	---	5:09	---	---	---	5:38	---	---	---	---	---	6:10	---	---	---	6:31	---	---	---	6:56	---	7:35	8:05	9:10	10:05	11:05	12:06	1:10	
	C	Congress Park	---	---	---	---	---	---	---	---	---	---	---	2:03	---	---	---	3:53	---	---	---	---	---	---	---	5:14	---	---	---	---	---	---	---	---	6:02	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	
●	C	LaGrange Rd.	6:03	---	---	---	7:28	---	---	8:27	9:20	11:01	1:02	2:06	---	3:07	---	3:56	---	4:36	---	4:58	---	---	---	5:17	---	---	---	5:40	---	---	---	---	6:13	6:05	---	---	6:34	---	---	---	7:00	---	7:41	8:09	9:15	10:09	11:08	12:09	1:14	
○	C	LaGrange, Stone Ave.	---	---	---	---	---	---	---	8:29	9:22	11:03	1:04	2:08	---	3:09	---	3:59	---	4:38	---	5:00	---	---	---	5:19	---	---	---	5:43	---	---	---	---	6:13	6:08	---	---	6:36	---	---	---	7:02	---	7:43	8:11	9:17	10:11	11:10	12:11	1:16	
●	D	Western Springs	6:07	---	---	---	---	---	---	8:32	9:25	11:07	1:08	2:11	---	3:12	---	4:02	---	4:42	---	5:04	---	---	---	5:23	---	---	---	5:48	---	---	---	---	6:17	6:12	---	---	6:40	---	---	---	7:06	---	7:46	8:14	9:21	10:14	11:13	12:14	1:19	
	D	Highlands	6:10	---	---	---	---	---	---	---	---	---	---	2:14	---	---	---	4:05	---	---	---	---	---	---	5:26	---	---	---	5:50	---	---	---	---	---	6:15	---	---	---	6:42	---	---	---	---	---	7:49	---	9:24	---	---	---	---	---
●	D	Hinsdale	6:12	---	7:12	---	7:33	---	7:54	8:36	9:29	11:10	1:11	2:16	---	3:16	---	4:08	---	4:46	---	5:07	---	---	---	5:16	---	---	---	5:37	---	---	---	---	5:56	6:21	6:17	---	---	6:45	---	---	---	7:10	---	7:51	8:18	9:26	10:17	11:17	12:18	1:22
○	D	West Hinsdale	---	---	---	---	---	---	---	---	---	---	---	2:19	---	---	---	4:11	---	---	---	---	---	---	5:19	---	---	---	5:40	---	---	---	---	5:59	---	---	---	6:20	---	---	6:48	---	---	---	7:54	---	9:29	---	---	---	---	---
○	D	Clarendon Hills	6:16	---	---	---	---	---	---	8:39	9:32	11:13	1:15	2:20	---	3:19	---	4:12	---	4:50	---	5:11	---	---	---	5:22	---	---	---	5:43	---	---	---	---	6:02	6:26	6:22	---	---	6:50	---	---	---	7:14	---	7:56	8:21	9:31	10:21	11:20	12:21	1:26
●	D	Westmont	6:19	---	7:17	---	7:37	---	7:59	8:42	9:35	11:17	1:18	2:24	---	3:22	---	4:16	---	4:54	---	5:15	---	---	---	5:26	---	---	---	5:48	---	---	---	---	6:06	6:29	6:25	---	---	6:53	---	---	---	7:17	---	7:59	8:25	9:34	10:24	11:23	12:24	1:29
●	E	Fairview Ave.	6:22	---	---	---	---	---	---	8:45	9:38	11:19	1:21	2:26	---	3:25	---	4:18	---	4:56	4:45	5:19	---	---	---	5:30	---	---	---	5:51	5:59	---	---	---	6:09	6:32	6:28	---	---	6:56	---	---	---	7:20	---	8:02	8:27	9:37	10:27	11:26	12:27	1:32
●	E	Downers Grv./Main St	6:25	6:55	---	7:29	---	7:48	---	8:48	9:41	11:22	1:23	2:29	2:56	3:28	3:43	4:21	4:24	---	4:49	---	---	5:11	---	---	---	5:31	---	5:53	---	---	---	5:58	---	6:35	---	---	6:18	6:58	---	6:53	7:23	7:29	8:04	8:30	9:40	10:30	11:28	12:29	1:35	
●	E	Belmont	6:28	6:59	---	7:34	---	7:52	---	8:52	9:44	11:26	1:27	2:33	2:59	3:31	3:47	---	4:29	---	4:53	---	---	5:17	---	---	---	5:36	---	---	---	---	6:03	---	6:39	---	---	6:23	7:02	---	6:58	---	7:33	---	8:34	9:43	10:33	11:32	12:33	1:38		
●	E	Lisle	6:32	7:03	---	7:38	---	7:55	---	8:55	9:48	11:29	1:31	2:36	3:03	3:35	3:51	---	4:34	4:58	---	---	5:22	---	---	5:29	---	6:00	---	5:53	---	---	---	6:43	---	---	6:27	7:05	6:51	---	7:28	7:37	---	8:38	9:47	10:37	11:36	12:37	1:42			
●	F	Naperville	6:38	7:10	---	7:44	---	8:01	---	9:01	9:54	11:35	1:37	2:42	3:09	3:41	3:58	---	4:42	5:05	---	---	5:13	---	---	5:38	---	6:08	---	6:02	---	---	---	6:48	---	---	6:26	---	7:11	6:59	---	7:34	7:44	---	8:44	9:54	10:43	11:42	12:43	1:48		
●	G	Route 59	---	7:16	---	7:50	---	8:06	---	9:07	9:59	11:40	1:43	2:47	3:15	3:46	4:05	---	4:48	5:13	---	---	5:21	---	---	---	5:47	---	6:08	---	6:15	---	---	---	6:54	---	---	6:31	---	7:17	---	7:08	---	7:39	7:51	---	8:50	9:59	10:48	11:47	12:48	1:53
●	H	Aurora AR:	---	7:26	---	7:59	---	8:15	---	9:18	10:08	11:53	1:53	2:59	3:28	3:55	4:14	4:40	5:00	---	5:23	---	---	5:31	---	6:00	---	5:50	---	---	---	---	6:15	---	---	6:32	7:02	---	---	6:47	7:27	7:11	---	7:48	8:00	---	8:59	10:08	10:58	11:57	12:57	2:02
		# of bikes allowed per train	10	10	10	10	10	10	10	10	10	10	10	10	10	10																																				

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36332

**PETITION BY THE NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK) FOR PROCEEDINGS UNDER 49 U.S.C. § 24903(c)(2)**

SECOND VERIFIED STATEMENT OF BETHANY TIERNAN

Date: June 24, 2020

Bethany Tiernan
Amtrak Police Department – Office of Intelligence and Analysis
900 2nd Street NE, Suite 110
Washington, DC 20002

SECOND VERIFIED STATEMENT OF BETHANY TIERNAN

I, Bethany Tiernan, hereby declare under penalty of perjury that the foregoing is true and correct.

1. I am a resident of the [REDACTED], over the age of 18, and competent to make this verified statement.

2. I incorporate by reference my first Verified Statement in this matter, submitted with Amtrak's opening statement on May 20, 2020.

3. I am an employee of the National Railroad Passenger Corporation ("Amtrak"). I have been an employee of Amtrak since March 2017. My current position is Criminal Intelligence Analyst of the Amtrak Police Department ("APD") Office of Intelligence and Analysis ("OIA").

4. I am fully familiar with the facts and circumstances set forth herein, based upon my own personal knowledge, and from records and documents of Amtrak with which I am familiar.

5. The purpose of this verified statement is to respond to factual assertions made by Metra's witness, Mr. Robert Byrd, and to provide additional facts and analysis in support of Amtrak's reply brief.

6. OIA helped prepare the hot spot maps shown at Amtrak0006581-6599 as part of APD's monthly Compstat¹ obligations.

7. These maps reflect a limited subset of data developed for a specific reporting purpose, and they do not represent all activity in Chicago Union Station. Many of these maps

¹ See generally, *Compstat: Its Origins, Evolution, and Future in Law Enforcement Agencies*, BUREAU OF JUSTICE ASSISTANCE, POLICE EXECUTIVE RESEARCH FORUM (2013), <https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/PERF-Compstat.pdf>

reflect only officer-initiated calls for service (“CFS”) (rather than dispatched CFS) and do not include all types of CFS—for example, larcenies and drug-related incidents are not among the CFS included on these maps.

8. In addition, the spatial analyses in the maps are based on geolocation data. As I explained in my first Verified Statement, geolocation data is an approximation and is not always precise. Locations of CFS or incidents are assigned based on the information available to the responding officer or dispatcher at the time, and therefore are subject to human error.

9. CFS or incidents geolocated in the Great Hall, Food Court, or anywhere else cannot be assumed to be Amtrak-related or attributed to any particular group of individuals.

10. The Great Hall and Food Court at Chicago Union Station, like most other areas at the Station, are open to the public. Therefore, anyone can walk through the Great Hall or use the Food Court.

11. OIA can report from anecdotal evidence of reviewing thousands of CFS and incident reports that Metra passengers patronize, walk through, and congregate in the Food Court. Metra passengers may enjoy a drink at the Junction Bar or grab a snack at the Corner Bakery. Likewise, Metra passengers walk through the Great Hall to get to their trains.

12. Based on my experience as a Criminal Intelligence Analyst reviewing APD policing data, as well as data specific to Chicago Union Station, I do not believe that these hot spot maps are in any way a reliable measure for determining the overall CFS or incidents attributable to Amtrak passengers versus Metra passengers.

13. In addition, Metra’s assertions that Metra passengers “generally move briskly to their destination,” “spend less time within [Chicago Union Station] per trip than do Amtrak passengers,” and therefore are “less of a target for criminals,” *see* Metra Br. at 23-24, are simply

untrue. OIA can report from anecdotal evidence of reviewing thousands of CFS and incident reports that Metra passengers have been victims of crimes. For example, Metra passengers have been the target of pickpocketing as they move throughout the crowded Station.

VERIFICATION

I, Bethany Tiernan, verify under penalty of perjury that the foregoing is true and correct.

Further, I certify that I am qualified and authorized to file this verified statement.

Executed on June _23_, 2020 in [REDACTED]

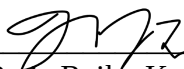

Bethany Tiernan

CERTIFICATE OF SERVICE

I hereby certify that I have this day, July 1, 2020, caused a copy of the foregoing to be served by electronic mail on:

Thomas J. Litwiler
Robert A. Wimbish
Thomas J. Healey
Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
tlitwiler@fletcher-sippel.com
rwimbish@fletcher-sippel.com
thealey@fletcher-sippel.com
bsmith@fletcher-sippel.com

Counsel for Metra



Perie Reiko Koyama

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36332

**PETITION BY THE NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK) FOR PROCEEDINGS UNDER 49 U.S.C. § 24903(c)(2)**

SECOND VERIFIED STATEMENT OF CHRISTINE SUCHY

Date: June 24, 2020

Christine Suchy
Director, Business Development, National Network
National Railroad Passenger Corporation (Amtrak)
1 Massachusetts Avenue, NW
Washington, DC 20002

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36332

**PETITION BY THE NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK) FOR PROCEEDINGS UNDER 49 U.S.C. § 24903(c)(2)**

SECOND VERIFIED STATEMENT OF CHRISTINE SUCHY

I, Christine Suchy, hereby declare under penalty of perjury that the foregoing is true and correct.

1. I am a resident of the Commonwealth of Virginia, over the age of 18, and competent to make this verified statement.

2. I incorporate by reference my first Verified Statement in this matter, submitted with Amtrak's opening statement on May 20, 2020.

3. I am an employee of the National Railroad Passenger Corporation ("Amtrak"). I have been an employee of Amtrak since 2006. My current job title is Director, Business Development, National Network.

4. I am fully familiar with the facts and circumstances set forth herein, based upon my own personal knowledge, and from records and documents of Amtrak with which I am familiar.

5. The purpose of this verified statement is to provide facts and analysis in support of Amtrak's reply brief.

I. Policing

6. The U.S. Department of Homeland Security (DHS) Intercity Passenger Rail (IPR) grant program is one of DHS's grant programs that directly supports transportation infrastructure

security activities, as authorized by section 1513 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Pub. L. No. 110-53, codified as amended at 6 U.S.C. § 1163.

7. IPR funds are awarded to support the creation of sustainable, risk-based efforts to protect critical surface transportation infrastructure and the traveling public from acts of terrorism, major disasters, and other emergencies.

8. There are specific eligibility requirements and priorities tied to this federal grant money. The IPR Program is primarily a security infrastructure, technology, and cybersecurity program. Applicants must develop formal investment justifications, demonstrating how proposed projects address gaps and deficiencies in current programs and capabilities.

9. The IPR Program is not intended to “defray” operating expenses, including the Policing costs at issue here, nor would it be possible to deduct “police budget line items” as Metra suggests. Importantly, this federal grant does not fund the Chicago Union Station officers’ regular wages and salaries.

10. These funds should not be construed as offsetting the Policing costs allocated in this matter.

II. Station Operations and Maintenance

11. I have reviewed the Verified Statement of Alvin Terry submitted in support of Metra’s Opening Brief.

12. Mr. Terry refers to Exhibit 2 to his Verified Statement as a “Consensus Plan” reflecting a consensus between Amtrak and Metra regarding the correct allocation of square footage in Chicago Union Station for purposes of determining Metra’s share of the Station Operations and Maintenance costs Amtrak incurs there.

13. Exhibit 2 to Mr. Terry's Verified Statement is a document prepared in the context of settlement negotiations between Amtrak and Metra.

14. Exhibit 2 to Mr. Terry's Verified Statement reflects, at most, a consensus between Amtrak and Metra regarding the *minimum* amount of square footage to be allocated to Metra. Neither I nor any other Amtrak employee believed that document reflected a consensus regarding the extent of "disputed areas."

15. Exhibit 3 to Mr. Terry's Verified Statement is an email I sent to him on March 9, 2020, in the context of settlement negotiations between Amtrak and Metra. The purpose of the email was to further settlement discussions, which were taking place on a track parallel to this proceeding. That email, and its attachment (Exhibit 4 to Mr. Terry's Verified Statement), reflect an attempt at compromise.

16. Mr. Terry states that Metra does not dispose of trash in the trash receptacle dock the Basement – Concourse area. That is incorrect.

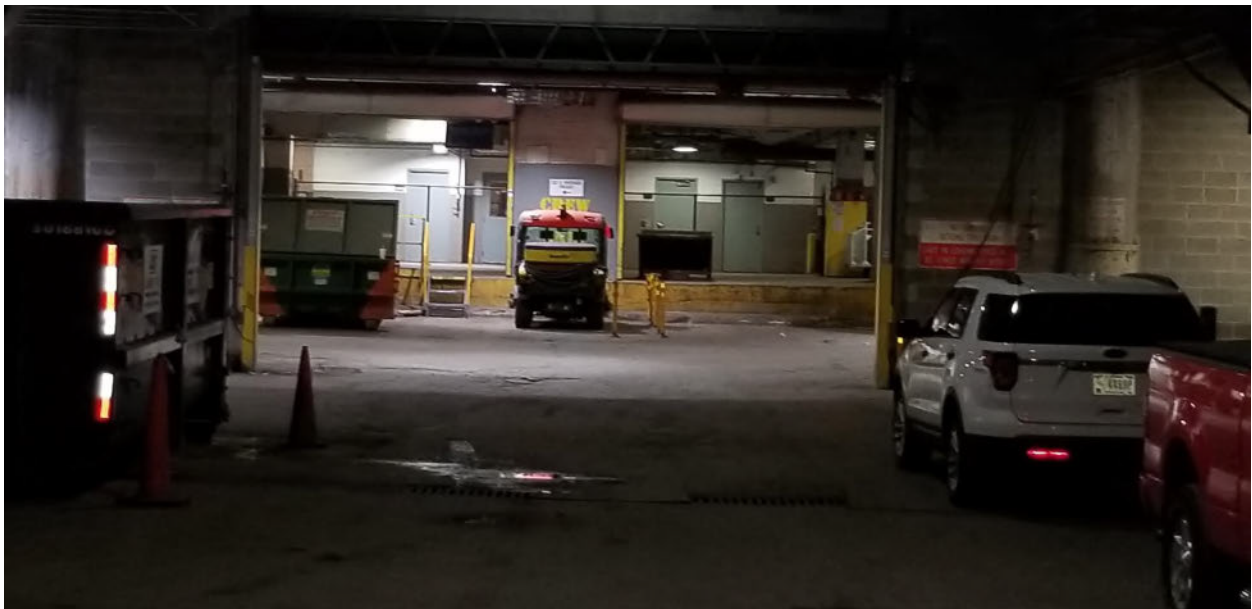
17. Metra uses this area to dispose of trash from at least one train, and possible more. Additionally, the trash removed by janitorial services from Metra's crew quarters, ticket office, and any other Metra-only area is disposed of in the trash receptacle dock in the Basement – Concourse area.

18. This is a current photograph of the Basement – Concourse trash receptacle dock:



The photograph shows the Basement – Headhouse area, and the foreground accurately depicts that area.

19. These are two current photographs of the Basement – Headhouse, facing east towards the loading dock, one with the dock door open and the other with the dock door closed:





The area in the foreground, up to the dock door, is in the Basement – Headhouse area.

20. This is a current photograph of the Basement – Headhouse area, facing west towards the ramp in the Basement – Headhouse that leads to the loading dock:



21. This is a current photograph depicting the entry gate to the Basement – Headhouse area:



The square footage of the area depicted in this photograph is included in the square footage for the Basement – Headhouse area that the parties have asked the Board to assign for purposes of the Station Operations and Maintenance expense allocation.

22. Under Metra’s proposal, all of the Basement – Headhouse area depicted in these photographs would be given equal weight in the Station Operations and Maintenance cost allocation as square footage in all areas on the Concourse level.

23. Mr. Terry states that few Metra passengers use the parking garage tunnel on the Concourse level. That is incorrect.

24. I have reviewed closed-circuit television footage of morning commuters using the parking garage tunnel during a period when there are no Amtrak trains. Over the course of 15 minutes from 6:30-6:45am, 63 people without luggage used the parking garage tunnel to leave Chicago Union Station. Because these individuals did not have luggage and were exiting the station through the CTA exit at a time when no Amtrak trains were arriving or departing, most if not all of these individuals were Metra passengers.

25. Additionally, the parking garage tunnel provides access to the CTA terminal across Jackson Boulevard from Chicago Union Station. Metra passengers transferring to CTA transportation would reasonably use the parking garage tunnel.

26. Mr. Terry's assertion that Amtrak's use of the public restroom on the Concourse level is "exclusive" (Terry V.S. at 8) is not true. Metra employees and passengers use this public restroom.

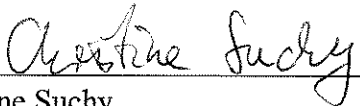
27. In Fiscal Year 2019, Metra contributed approximately [REDACTED] for capital expenses at Chicago Union Station.

VERIFICATION

I, Christine Suchy, verify under penalty of perjury that the foregoing is true and correct.

Further, I certify that I am qualified and authorized to file this verified statement.

Executed on June 23, 2020 in Alexandria, Virginia.



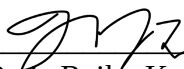
Christine Suchy

CERTIFICATE OF SERVICE

I hereby certify that I have this day, July 1, 2020, caused a copy of the foregoing to be served by electronic mail on:

Thomas J. Litwiler
Robert A. Wimbish
Thomas J. Healey
Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
tlitwiler@fletcher-sippel.com
rwimbish@fletcher-sippel.com
thealey@fletcher-sippel.com
bsmith@fletcher-sippel.com

Counsel for Metra



Perie Reiko Koyama

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36332

**PETITION BY THE NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK) FOR PROCEEDINGS UNDER 49 U.S.C. § 24903(c)(2)**

VERIFIED STATEMENT OF PAUL O'MARA

Date: June 24, 2020

Paul O'Mara
Assistant Vice President, Transportation – Central (North)
National Railroad Passenger Corporation (Amtrak)
500 West Jackson Boulevard
Chicago, Illinois 60661

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36332

**PETITION BY THE NATIONAL RAILROAD PASSENGER CORPORATION
(AMTRAK) FOR PROCEEDINGS UNDER 49 U.S.C. § 24903(c)(2)**

VERIFIED STATEMENT OF PAUL O'MARA

I, Paul O'Mara, hereby declare under penalty of perjury that the foregoing is true and correct.

1. I am a resident of the State of Illinois, over the age of 18, and competent to make this verified statement.

2. I am an employee of the National Railroad Passenger Corporation ("Amtrak"). I have been an employee of Amtrak since 1986. My current job title is Assistant Vice President, Transportation – Central Northwest Division.

3. I am fully familiar with the facts and circumstances set forth herein, based upon my own personal knowledge, and from records and documents of Amtrak with which I am familiar.

4. The purpose of this verified statement is to provide facts and analysis in support of Amtrak's reply brief.

5. Each year, Amtrak engineers meet with Metra representatives to discuss the projects needed for the coming year. Metra then tells Amtrak how much Metra is willing to contribute to capital projects that year. That amount is allocated to specific projects, which Amtrak also funds.

6. The parties then memorialize that agreement in an amendment to the 1985 Fixed Facilities Agreement.

7. Metra's decision about how much it is willing to contribute does not reflect the amount of capital investment needed at Chicago Union Station each year. While Metra contributes to some capital projects, Amtrak must fund the entirety of other necessary projects that benefit Metra.

8. By way of example, in Fiscal Year 2020 Amtrak upgraded the Chicago Union Station Northside signal system to LED lights to improve visibility and reduce electricity costs. Amtrak spent [REDACTED] on the project in Fiscal Year 2020. Metra did not contribute funds to the project. Because Metra operates over 90% of the trains using the North Concourse at Chicago Union Station, the upgrade to LED lights benefits Metra.

VERIFICATION

I, Paul O'Mara, verify under penalty of perjury that the foregoing is true and correct.

Further, I certify that I am qualified and authorized to file this verified statement.

Executed on June 19, 2020 in Chicago, Illinois.



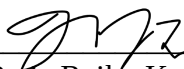
Paul O'Mara

CERTIFICATE OF SERVICE

I hereby certify that I have this day, July 1, 2020, caused a copy of the foregoing to be served by electronic mail on:

Thomas J. Litwiler
Robert A. Wimbish
Thomas J. Healey
Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
tlitwiler@fletcher-sippel.com
rwimbish@fletcher-sippel.com
thealey@fletcher-sippel.com
bsmith@fletcher-sippel.com

Counsel for Metra



Perie Reiko Koyama