

VIA ELECTRONIC FILING

February 22, 2022

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

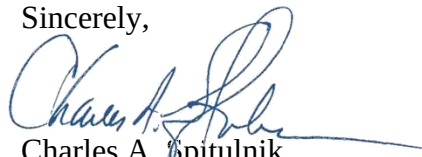
Re: *Wisconsin Central, Ltd. – Petition for Declaratory Order – Interchange with Soo Line Railroad Company*, STB Docket No. FD 36397

Dear Ms. Brown:

I am attaching for e-filing in the above-captioned proceeding the Reply of the Commuter Rail Division of the Regional Transportation Authority d/b/a Metra to Post Remand Brief of Wisconsin Central Ltd. and Correspondence from Soo Line Railroad Company.

Please do not hesitate to contact me with any questions.

Sincerely,


Charles A. Epitulnik

Enclosure

Cc: All Parties of Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 36397

**WISCONSIN CENTRAL, LTD. – PETITION FOR DECLARATORY ORDER –
INTERCHANGE WITH SOO LINE RAILROAD COMPANY**

**REPLY OF
THE COMMUTER RAIL DIVISION OF THE REGIONAL TRANSPORTATION
AUTHORITY D/B/A METRA (“METRA”) TO
POST REMAND BRIEF OF WISCONSIN CENTRAL LTD. AND
CORRESPONDENCE FROM SOO LINE RAILROAD COMPANY**

Communications with respect to this pleading
should be addressed to:

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Dated: February 22, 2022

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 36397

**WISCONSIN CENTRAL, LTD., - PETITION FOR DECLARATORY ORDER –
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**REPLY OF
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CORRESPONDENCE FROM SOO LINE RAILROAD COMPANY**

The Commuter Rail Division of the Regional Transportation Authority d/b/a Metra (“Metra”) hereby submits this Reply to two pleadings filed in this proceeding following the remand order issued by the U.S. Court of Appeals for the Seventh Circuit on December 8, 2021, *Wisconsin Central Ltd. v. STB*, 20 F.4th 292 (7th Cir. 2021). Specifically, Wisconsin Central Ltd. (hereinafter “WC”) on its own volition and without prompting from this Board following that remand decision, filed a Post-Remand Brief on February 2, 2022. Soo Line Railroad Company (hereinafter, “Soo”) submitted a letter to this Board on February 14, 2022, asking the Board to strike WC’s brief, to establish the questions to be addressed post-remand, and to establish a procedural schedule for the post-remand proceedings. All of this activity occurred without this Board having issued any orders in this matter since the 7th Circuit acted in December.

In August 2020, Metra had filed a Notice of Intent to Participate in this proceeding in order to stay apprised of the status of the interchange location, which may implicate additional or continued use of Metra-owned track and facilities. Now, it appears from the WC and Soo pleadings that there may be a question about the location of the interchange between them,

including options for the interchange to occur at either the Belt Railway of Chicago's Clearing Yard or at Spaulding. The question persists because, notwithstanding WC's assertion that only one question remains, the 7th Circuit identified three questions that must be answered in the context of an interchange dispute. These questions are:

- (1) May the receiving carrier ever designate a willing third party to receive traffic on its behalf?
- (2) if yes, is the proposed location for interchange "reasonable" (another important word in § 10742) compared with the place where switching would otherwise occur; and
- (3) if yes to both of these questions, who pays the third party?

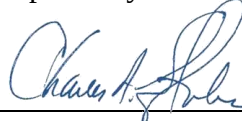
Id. at 294-295. The Court remanded the matter to the STB because "[b]y mixing these up, and smuggling an assumption about the answer to Question 3 into its decision about Question 1, the Board erred." *Id.* at 295.

Metra submits that it is now up to the Board to determine the questions it wishes the parties to address and the schedule on which it would like to address them. As was the case when it initially signaled its intent to participate in this proceeding, Metra seeks to participate and to file comments in the event that the parties' proposals for resolution of the dispute or other developments in this proceeding will have further impact on tracks Metra owns or uses for its commuter rail operations. That possibility is real, whether because an interchange at Clearing Yard would impact Metra's line that CP would use to reach that interchange, or because an interchange at Spaulding would have direct, deleterious impacts on Metra's operation through that point. Metra will not be an innocent bystander here and seeks the opportunity to see the issues the Board wants the parties to address, and to comment on them if necessary to protect its interests.

In conclusion, Metra hereby respectfully requests the Board to issue an order setting out (1) the questions it wishes the parties to address on remand, and (2) a procedural schedule for

interested parties, potentially including Metra, to submit evidence and argument in support of their positions.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Charles A. Spitulnik", is positioned above a horizontal line.

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Dated: February 22, 2022

CERTIFICATE OF SERVICE

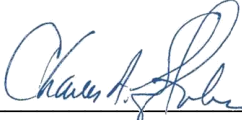
I hereby certify that I have on the 22nd day of February 2022, caused to be served a copy of the foregoing Reply of the Commuter Rail Division of the Regional Transportation Authority d/b/a Metra ("Metra") to Post Remand Brief of Wisconsin Central Ltd. and Correspondence from Soo Line Railroad Company, upon the following parties of record in this proceeding by email:

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Dated: February 22, 2022