



U.S. Department
of Transportation

General Counsel

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Washington, DC 20590

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April 13, 2023

VIA ELECTRONIC FILING

The Honorable Martin Oberman
Chairman
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
April 13, 2023
Part of
Public Record

Re: Docket No. NOR 42175, *Complaint and Petition of the National Railroad Passenger Corp. under 49 U.S.C. § 24308(f) – For Substandard Performance of Amtrak’s Sunset Limited Trains 1 and 2*

Dear Chairman Oberman:

I write to you on behalf of the United States Department of Transportation (DOT or Department) and the Federal Railroad Administration (FRA), an operating administration of DOT, in connection with the above-captioned proceeding before the Surface Transportation Board (Board). The Board’s decision and its approach to an investigation of the causes of substandard on-time performance (OTP) of Amtrak service will have far-reaching implications beyond the Sunset Limited service and will be essential, whatever its conclusions, to strengthening Amtrak passenger train performance. We believe it is imperative that the Board conduct a focused and time-limited investigation, and that a lengthy, protracted adversarial proceeding would not conform to the relevant statutory direction in 49 U.S.C. § 24308(f) to conduct an investigation, nor would it serve the interests of the public or of the parties.

The Board’s investigation here presents an important opportunity to set forth a consistent roadmap for investigations carried out pursuant to Section 213 of the Passenger Rail Investment and Improvement Act of 2008, Pub. L. 110-432 (PRIIA). Establishing a predictable investigative process will benefit all parties by providing certainty and by extension facilitating productive Amtrak-freight rail carrier discussions. We believe that in turn this will lead to more reliable intercity passenger rail service across the country. As you know, outside of the Northeast Corridor, Amtrak operates primarily on railroad line segments owned by freight rail carriers and Amtrak depends on these freight rail carriers to provide preference to Amtrak trains over freight transportation as required under the law.

The data collected pursuant to FRA’s Metrics and Minimum Standards for Intercity Passenger Rail Service (49 CFR part 273) measure the performance and service quality of intercity passenger train operations across four categories: OTP and train delays (49 CFR § 273.5), customer service (49 CFR § 273.7), financial performance (49 CFR § 273.9), and public benefits

(49 CFR § 273.11). FRA publishes quarterly reports on these performance and service metrics utilizing data provided by Amtrak, available at: [Intercity Passenger Rail Service Quality and Performance Reports | FRA \(dot.gov\)](https://www.fra.dot.gov/IntercityPassengerRailServiceQualityandPerformanceReports). DOT believes this data can, and should, be relied on as part of the Board's Section 213 investigation, and that the OTP and train delay data is a valuable indicator in understanding the causes of delay and determining whether host railroads are providing preference to Amtrak trains as required by 49 U.S.C. § 24308.

Lastly, DOT and FRA strongly encourage the Board to adopt an efficient and focused process for this investigation, as intended by 49 U.S.C. § 24308(f), to ensure an expedited resolution for the benefit of the public and the parties to this dispute. The Board can and should conduct an objective investigation without engaging in a drawn-out adversarial proceeding or referring the matter to mediation at this time.

Thank you for your consideration of the Department's views. DOT and FRA remain available to work with the Board and the parties to resolve this proceeding and may offer further views at a later stage if appropriate.

Respectfully,

A handwritten signature in blue ink, appearing to read "John E. Putnam", with a stylized flourish at the end.

John E. Putnam
General Counsel

cc: Service List in Docket No. NOR 42175

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of April, 2023, I caused the foregoing Letter to be filed electronically with the Board's e-filing system, and caused a copy of this Letter to be served by electronic mail upon all parties of record in this proceeding.

/s/ Erin D. Hendrixson

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