

SERVICE DATE – AUGUST 3, 2023

SURFACE TRANSPORTATION BOARD

DECISION

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

Digest:¹ The Board amends a request for information that it previously issued as part of its investigation into the substandard on-time performance of Amtrak’s *Sunset Limited* service.

Decided: August 2, 2023

By decision issued on July 11, 2023 (July 2023 Decision), the Board initiated an investigation under section 213 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), Pub. L. No. 110-432, 122 Stat. 4848, codified at 49 U.S.C. § 24308(f)(1), to examine the cause(s) of substandard on-time performance on Amtrak’s *Sunset Limited* service. The *Sunset Limited* is a 1,997-mile-long Amtrak passenger train service that runs three times weekly, in each direction, between New Orleans, La., and Los Angeles, Cal. The route travels mostly over track hosted by Union Pacific Railroad Company (UP), as well as track owned or operated by BNSF Railway Company (BNSF); Canadian National Railway Company (CN) (operating through its subsidiary Illinois Central Railroad Company); the New Orleans Public Belt Rail Corporation (NOPB); and the Southern California Railroad Authority (SCRRA), all of which are considered necessary parties to the investigation. See July 2023 Decision, NOR 42175, slip op. at 10.

In the July 2023 Decision, the Board also set forth a procedural framework for the investigation, under which the Board (among other things) would conduct an initial round of fact-finding by directing the parties to answer interrogatories and produce documents. Id. at 12-13. The complete list of interrogatories and document submission requirements was set forth in Appendix A of the July 2023 Decision. The Board stated that it would appoint an agency employee to serve as the investigation liaison. The investigation liaison would be available to answer questions from the parties about the process, intervene informally to help resolve discovery and other issues, and keep the process moving expeditiously. Id. at 13. Further, the Board directed the investigation liaison to conduct a technical conference with the parties to provide guidance on the manner and format for the parties’ responses to the Board. Id.

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

The technical conference occurred on July 25, 2023. The investigation liaison has informed the Board that, during the technical conference, a question was raised regarding a specific request for information set forth in Appendix A of the July 2023 Decision, in which the Board requested that certain parties provide the following information:

Passing Sidings. On a map, identify all passing sidings on portion(s) of the *Sunset Limited*'s route that you hosted, owned, operated, dispatched, served, and/or leased the [sic] during the Relevant Period. Identify any passing siding that was not long enough to accommodate all trains that traveled on the Route during the Relevant Period.

July 2023 Decision, NOR 42175, App. A, Part IV, Request 14 (requesting that UP and BNSF provide this information), and Part V, Request 5 (requesting that CN, NOPB, and SCRRA provide this information). The specific issue at hand is whether the phrase "any passing siding that was not long enough to accommodate all trains that traveled on the Route" refers only to the subset of "all trains" that actually passed that siding and not trains that moved over some other portion of the route, i.e., that the request is limited to looking at "passing sidings that the train traveled past," per the language used in Part IV, Request 15, and Part V, Request 6.

As a result, the Board will amend the language in Appendix A, Part IV, Request 14, and Part V, Request 5, to read as follows:

Passing Sidings. On a map, identify all passing sidings on portion(s) of the *Sunset Limited*'s route that you hosted, owned, operated, dispatched, served, and/or leased during the Relevant Period. Identify any passing siding that was not long enough to accommodate one or more train(s) that traveled past that passing siding during the Relevant Period.

It is ordered:

1. The July 2023 Decision is amended as set forth in this decision.
2. This decision is effective on its date of service.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.