
BEFORE THE
SURFACE TRANSPORTATION BOARD

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

AMTRAK’S MOTION FOR A PROTECTIVE ORDER
PURSUANT TO 49 C.F.R. § 1114.21(C)

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September 1, 2023

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AMTRAK’S MOTION FOR A PROTECTIVE ORDER
PURSUANT TO 49 C.F.R. § 1114.21(C)

The National Railroad Passenger Corp. (“Amtrak”) hereby moves for a protective order pursuant to 49 C.F.R. § 1114.21(c) to require Union Pacific Railroad Company (“UP”) to withdraw its First Set of Discovery Requests to Amtrak (attached hereto as Exhibit A). For the reasons discussed below, the Surface Transportation Board (“Board”) should order either that the discovery not be had, pursuant to 49 C.F.R. § 1114.21(c)(1), or that the scope of discovery be limited, as provided in 49 C.F.R. § 1114.21(c)(5).

The relief Amtrak seeks is necessary to protect Amtrak from “oppression,” “annoyance,” “undue burden or expense,” and to “prevent the raising of issues untimely or inappropriate to the proceeding.” 49 C.F.R. § 1114.21(c). UP has served Amtrak with a scattershot 150 requests for production and interrogatories with a response date of September 7, while making no effort to impose any reasonable limits on its requests in light of the detailed investigatory requests already propounded by the Board, to which the parties must respond by September 25. Not only is the sheer volume of requests unduly burdensome and entirely inappropriate in this Board-led investigative proceeding, but at least a third of UP’s requests are entirely duplicative of the Board’s investigative questions. In addition, UP’s requests raise issues that are untimely and irrelevant to

this proceeding. Over 130 of UP's requests ask for information dating back to 2016, which is well beyond the relevant time period set by the Board for its investigation.

For these reasons, and in the interest of an efficient proceeding, Amtrak respectfully requests entry of an order that Amtrak need not respond to UP's excessive, burdensome, and duplicative discovery requests, and that the scope of discovery be limited to those issues relevant in this proceeding and not already encompassed by the Board's requests. Amtrak's counsel requested that UP withdraw its requests and offered to meet and confer, but UP declined to withdraw its requests.

PROCEDURAL HISTORY

On July 11, 2023, the Board instituted an investigation into the substandard on-time performance of Amtrak's *Sunset Limited* trains, a long-distance passenger service between New Orleans, Louisiana and Los Angeles, California. The Board's July 11, 2023 Order ("Order") followed Amtrak's Complaint and Petition requesting that the Board initiate an investigation of the on-time performance of the *Sunset Limited*. See Amtrak's Complaint and Petition for Board Investigation and Other Relief, filed Dec. 8, 2022 ("Complaint"). In conjunction with its Complaint, Amtrak filed a separate motion proposing a procedural framework for the Board's investigation. See Amtrak's Proposed Procedures and Framework for Board Investigative and Remedial Phases of Proceeding Under 49 U.S.C. § 24308(f), filed Dec. 8, 2022 ("Amtrak's Procedures Motion").

Amtrak's Procedures Motion requested that the Board structure its investigation into two phases. The first phase would be investigative, where the Board would develop a factual record, determine whether delays or failure to achieve minimum standards are due to causes that could be addressed by host railroads, and determine whether delays or substandard on-time performance

are attributable to a host railroad's failure to provide preference to Amtrak. The second phase would be remedial, where the Board would identify reasonable measures and recommendations to improve service, quality, and on-time performance, and determine whether to award damages or other relief. UP criticized Amtrak's proposed procedures and instead advocated for the Board to utilize an adversarial, party-directed litigation process to adjudicate the case. See Union Pacific Railroad Company's Response to Amtrak's Complaint and Petition and Proposed Procedures ("UP's Response"), filed Jan. 27, 2023, at 2.¹

The Board's Order instituted an investigation and implemented a procedural framework involving two stages, an investigative stage and, if necessary, a stage to determine damages and prescribe other relief. Order at 12. In so doing, the Board largely adopted the framework proposed by Amtrak, and made clear that "certain aspects of the data and information development in this proceeding should be directed by the Board." *Id.* at 11. The Board explained that it was well-suited to take the lead in this record development given the "data expertise within its Office of Economics, which now has a Section of Data Analytics," and because "unprecedentedly detailed passenger train performance data are now publicly available" from the Federal Railroad Administration. The Board noted that "[a]ccess to this data and the Board's increased capabilities regarding data analytics and passenger rail will enable the Board to further focus the investigation." *Id.* Accordingly, the Board found that it "now has specific data requirements, questions, and instructions to guide development of the record" in this proceeding. *Id.*

¹ Other host railroads, including the BNSF Railway Company ("BNSF") and Canadian National Railway Company ("CN") also argued that the Board should adopt an adversarial, party-directed litigation process for development of the record. See Letter from BNSF to Board, filed Jan. 27, 2023, at 2; Response of Illinois Central Railroad Company to Amtrak's Complaint and Proposed Procedures, filed Jan. 27, 2023, at 3-4.

The Board nonetheless saw value in allowing some party-directed discovery in addition to the Board’s own inquiries. *Id.* But the purpose of party-led discovery is to “*further* develop the record.” *Id.* at 11 (emphasis added). Party-directed discovery was not meant to displace or duplicate the Board’s investigative requests. Accordingly, Amtrak expected that the parties would make only “reasonable requests for discovery,” to develop a “thorough but manageable record to resolve this dispute while keeping litigation costs as low as possible.”² Thus, while allowing party-led discovery in this proceeding, the Board adopted a procedural framework where the Board would primarily direct fact development, and allowed party-led discovery to supplement, but not duplicate or prolong, the Board’s factual investigation.

In initiating the investigation, the Board issued 44 interrogatories and document requests to Amtrak (Order, App. A—Part III), as well as numerous interrogatories and document requests to UP and other parties (Order, App. A—Parts IV-V).³ The Board noted that these were “initial investigatory questions” and were “not determinative of the entirety of the Board’s inquiry,” stating that “[a]fter receiving the parties’ responses, the Board may issue more interrogatories and/or document requirements or otherwise seek further information.” Order at 13. The Board defined the Relevant Period for its investigative questions as limited to October 1, 2021 through December 8, 2022. Order, App. A—Part I, ¶ 10. The Board’s 44 interrogatories and requests for production for Amtrak involve voluminous data sets, detailed narrative responses, and numerous documents, including Amtrak’s records, policies, and procedures. *See, e.g.*, Exhibit B. In one

² *National Railroad Passenger Corp.—Section 213 Investigation of Substandard Performance on Rail Lines of Canadian National Railway Co.*, NOR 42134, slip op. at 3, 4 (S.T.B. served Jan. 3, 2013). The discovery period provided in this case was limited to 90 days, but due to abeyance requests, the case never proceeded through discovery.

³ Appendix A—Part III of the Board’s Order, Interrogatories and Document Requirements for Amtrak, is attached as Exhibit B to this motion.

example, the Board requested from Amtrak “a detailed list of delays that occurred during the Relevant Period,” with the requirement that the list be in “a machine-readable table,” and set forth 23 unique data fields that should be included in the machine-readable table. See Exhibit B at 25-26, ¶ 7. In another example, the Board requested that Amtrak “describe the process, step-by-step, that occurs when a host railroad disputes a delay and/or delay cause.” See Exhibit B at 27, ¶ 15. The Board requested responses from Amtrak and all parties by August 25, 2023.

In response to UP’s request for an extension of the August 25 deadline, the Board gave all parties until September 25 to respond to the Board’s initial investigative requests. After the Board granted this extension, UP on August 23 served Amtrak with 150 discovery requests (with numerous subparts) and requested Amtrak’s response by September 7, nearly three weeks before the parties’ initial investigative responses are due to be submitted to the Board on the extended deadline requested by UP.

ARGUMENT

The Board should grant a protective order to Amtrak and should foreclose UP from proceeding with its discovery requests, which are burdensome, inefficient, and inconsistent with the Board’s procedures for this investigation. Discovery in Board proceedings is limited to matters “relevant to the subject matter involved in a proceeding.” 49 C.F.R. § 1114.21(a)(1). Although the Board has described the standard for discovery before the Board as “broad,” a party may “by motion seek an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, or to prevent the raising of issues that are untimely or inappropriate to the proceeding.” *Ocean Logistics Mgmt., Inc. v. NPR, Inc., and Holt Cargo Systems, Inc.*, WCC-102, slip op. at 3 (S.T.B. served July 27, 1999) (citing 49 C.F.R. § 1114.21(c)). The Board may provide relief from untimely, inappropriate, and unduly burdensome requests by ordering that “the

discovery not be had,” or that “the scope of discovery be limited to certain matters.” *Id.* § 1114.21(c)(1), (5).⁴ Under 49 C.F.R. § 1114.21(c), “discovery may be denied if it would be unduly burdensome in relation to the likely value of the information sought.” *Omaha Pub. Power Dist. v. Union Pac. R.R. Co.*, NOR 42173, slip op. at 1 (S.T.B. served Oct. 13, 2022).

The Board has routinely limited discovery that is oppressive, unduly burdensome, or that would raise issues irrelevant to the proceeding.⁵ Moreover, the Board has decided to limit discovery in other types of proceedings before the Board in order to reduce the burden and expense on parties.⁶ Applying these principles, a protective order limiting discovery is warranted here. UP’s discovery requests are overbroad and unduly burdensome, especially in relation to the value of the information sought. *First*, the sheer volume of document and information requests—150 overall requests, many with numerous subparts—is absurd, particularly compared to other

⁴ The Board’s standard for a protective order in 49 C.F.R. § 1114.21(c)(1) is similar to the standard under Federal Rule of Civil Procedure 26(c). *See* Fed. R. Civ. P. 26(c) (“The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.”). UP’s discovery requests vastly exceed all reasonable limits set by the federal rules. *See* Fed. R. Civ. P. 33 (limiting interrogatories to 25 per party, including subparts).

⁵ *See, e.g., Omaha Pub. Power Dist.*, NOR 42173, slip op. at 1 (narrowing discovery requests that were overbroad and unduly burdensome); *Application of the Nat’l R.R. Passenger Corp. Under 49 U.S.C. S 24308(e)-CSX Transportation, Inc., & Norfolk S. Ry. Co.*, FD 36496, slip op. at 4 (July 22, 2022) (denying motion to compel discovery that the party already had access to internally); *Ocean Logistics*, WCC-102, slip op. at 3-4 (denying request for deposition when the same information could be acquired through other, less burdensome means); *CSX Transportation, Inc.—Abandonment Exemption—In Laporte, Porter, & Starke Ctys., Ind.*, AB 55_643_X, *Chesapeake & Indiana R.R. Co.—Petition for Declaratory Ord.*, FD 36076, slip op. at 7 (S.T.B. served May 31, 2017) (denying motion to compel responses to discovery requests seeking information that was irrelevant to the outcome of a proceeding).

⁶ *See, e.g., 49 C.F.R. § 1114.26(d)* (limiting parties to ten interrogatories (including subparts) in cases using simplified standards); *id.* § 1114.30(c) (limiting parties to ten document requests (including subparts) in cases using simplified standards); *see also Rules Relating to Board-Initiated Investigations*, 81 Fed. Reg. 90,229 (Dec. 14, 2016) (declining to provide for any party-led discovery in investigations conducted on the Board’s own initiative pursuant to Section 12 of the Surface Transportation Board Reauthorization Act of 2015 in part due to the potential for such discovery to “unnecessarily obstruct and delay a Board-Initiated Investigation”).

adversarial proceedings between Amtrak and host railroads. For example, in *Application of the National Railroad Passenger Corp. Under 49 U.S.C. § 24308(e) – CSX Transportation, Inc. and Norfolk Southern Corporation*, FD 36496, a proceeding which involved *only* party-directed discovery and no Board-led discovery, Amtrak served 13 requests for production of documents and 14 interrogatories on a host railroad, and Amtrak received 15 requests for production of documents and 18 interrogatories from the same host railroad.

In addition, at least 44 of UP's requests⁷ overlap with the Board's own investigative requests, which are already extraordinarily detailed and comprehensive. Asking Amtrak to respond to UP's duplicative requests is unduly burdensome relative to the negligible benefit UP will receive: the same information Amtrak is already producing to the Board.⁸ *See, e.g., Nicholas v. Wyndham Int'l, Inc.*, 373 F.3d 537, 542-44 (4th Cir. 2004) (upholding decision to enter protective order denying discovery that was cumulative and duplicative); *see also Medtronic Sofamor Danek, Inc. v. Michelson*, 229 F.R.D. 550, 552–53 (W.D. Tenn. 2003) (a court may limit discovery if the requested discovery is “unreasonably cumulative; . . . the party seeking discovery has had ample opportunity by discovery in the action to obtain the information; or the burden or expense of the proposed discovery outweighs its likely benefit”). This is particularly so when UP seeks this discovery weeks before the parties have responded to the Board's initial investigative

⁷ On initial review, Amtrak identified at least 44 out of 150 requests that directly overlap with documents or information requested by the Board in Appendix I, Part III of its July 11, 2023 Order.

⁸ *Compare, e.g.*, UP Request No. 17, Exhibit A at 10-11, ¶ 17 (requesting machine-readable table of Sunset Limited delays from October 1, 2021 through December 8, 2022) *with* Board Request No. 7, Exhibit B at 25-26, ¶ 7 (same); *compare also, e.g.*, UP Request No. 27, Exhibit A at 12, ¶ 27 (requesting Amtrak policies and procedures regarding delay change requests made by host railroads) *with* Board Request Nos. 15-16, Exhibit B at 27, ¶¶ 15-16 (same).

requests, based upon the extension that UP itself requested. Indeed, some of UP's requests cannot even be answered prior to Amtrak's responses to the Board.⁹

Second, UP's discovery requests raise "issues untimely or inappropriate to the proceeding." 49 C.F.R. § 1114.21(c). The majority of UP's requests (over 130) seek information from 2016 to the present, and some of UP's requests stretch even further into the past, seeking documents and communications from the 1960s to the present or with no time period limitation at all.¹⁰ Given that the Board set the relevant period for its investigation as October 1, 2021 to December 8, 2022, it is hard to fathom why UP needs information from five years before this time frame, and UP has not provided any such justification.¹¹ If UP needs historic information beyond the Board's relevant period, it should be required to justify those requests with particularity. See *Trailways Lines, Inc. v. I.C.C.*, 766 F.2d 1537, 1546 (D.C. Cir. 1985) (upholding decision to deny discovery into Greyhound's historic information "as being of little utility"). At the very least, there is limited need for discovery that pre-dates the Board's Customer OTP Rule, which was published on November 16, 2020 and went into effect on December 16, 2020.¹²

⁹ See, e.g., Exhibit A, Union Pacific Railroad Company's First Set of Discovery Requests to Amtrak at 27, ¶ 129 ("Identify and describe with precision the amount of time associated with each delay that Amtrak identifies in response to the Request 7 in Appendix A—Part III of the Board's Order served July 11, 2023 . . .").

¹⁰ See e.g., Exhibit A at 8, ¶ 8 ("Produce all agreements, regardless of date . . ."); *id.* at 23, ¶ 95 ("Produce all documents since the 1968 proceeding described in the footnote to Paragraph 38 . . ."); *id.* at 16, ¶ 50 ("Produce all documents relating to the removal of sidings from any portion of the Sunset Limited Route since 1971.").

¹¹ Amtrak recognizes that two of the Board's questions in Part IV, Question 17 and Part V, Question 8 date back to October 1, 2016. However, both of those questions were limited in scope to whether the host railroad had removed or shortened any passing sidings or double-track segments on the Sunset Limited in the five years prior to the relevant period. UP's requests, by contrast, are much more expansive and set the default period for responses as dating back to 2016.

¹² Metrics and Minimum Standards for Intercity Passenger Rail Service, 85 Fed. Reg. 72,971 (Nov. 16, 2020) (codified at 49 C.F.R. Part 273).

UP's requests are additionally untimely or inappropriate to the proceeding to the extent they prematurely seek detailed financial information from Amtrak relevant only to the issue of damages.¹³ The Board's Order instituting this investigation established a two-stage procedural framework because "the fact finding, evidence, and argument required to assess damages and prescribe other relief would be a time-consuming process for both the parties and the Board," and "it would be wasteful and premature for the Board to develop the record needed to assess damages and relief before it determines whether there is a violation of Amtrak's statutory preference." Order at 12. UP's discovery requests seeking information relevant to damages, and irrelevant to UP's violation of Amtrak's rights to statutory preference on on-time performance, are therefore untimely, premature, and wasteful to the current stage of the investigation.

Third, several of UP's requests, including requests 20, 21, 52, 54-59, 69, 114, and 140, are not even confined to the *Sunset Limited*, again without any basis.¹⁴ As these examples illustrate, UP seeks information in some of its requests about *all* of Amtrak's intercity passenger services dating back to 2016, which would be both "untimely" and "inappropriate to the proceeding." Producing discovery related to other intercity passenger service lines would enlarge the scope of this proceeding, place a significant burden on Amtrak, and would be very unlikely to reveal

¹³ See, e.g., Exhibit A at 13, ¶ 34 ("Produce documents sufficient to show Amtrak's total revenues for the Sunset Limited Trains, separately for each year from 2016 to the present . . ."); *id.* at 14, ¶ 35 ("Produce documents sufficient to show Amtrak's total operating costs for the Sunset Limited Trains, separately for each year from 2016 to the present . . ."); *id.* at 29, ¶ 139 ("Identify and describe with particularity the amount of 'reduced ticket sales' experienced by Amtrak . . ."); *id.* at 29, ¶ 142 ("Identify and describe with particularity the amount of costs that delays to Sunset Limited Trains have imposed on Amtrak. . .").

¹⁴ See, e.g., Exhibit A at 11, ¶ 20 ("Produce all documents that consist of, or that discuss or describe, communications between or among Amtrak employees, or between or among Amtrak employees and former employees, relating to the classification or coding of delays to Amtrak trains for (a) Host-Responsible Delays; (b) Amtrak-Responsible Delays; or (c) Third-Party Responsible Delays."); *id.* at 18, ¶ 59 ("Produce all Amtrak's schedule skeletons for intercity passenger services in force at any time since 2016.").

information relevant to this proceeding. See *Elkhart & W. R.R. Co. LLC-Discontinuance of Trackage Rts. Exemption-in Marshall & Fulton Ctys., Ind.*, AB 1329X, slip op. at 3 (S.T.B. served July 10, 2023) (denying motion to compel discovery where the information sought would not affect the outcome of the proceeding); see also *Trailways Lines*, 766 F.2d at 1546 (upholding decision to deny discovery requests that “went far beyond the route authority in question . . . and wandered intrusively into Greyhound’s systemwide operations.”).

* * *

UP’s discovery requests are far-reaching and burdensome, and Amtrak would have to dedicate considerable personnel hours to answering them, on top of the extensive work it is already undertaking to answer the Board’s requests. Amtrak should not bear the burden of responding or objecting individually to each of UP’s 150 requests in the first instance, when UP apparently made no effort at all to tailor its requests appropriately to this proceeding prior to issuing them to Amtrak.

In addition, UP’s requests, some of which ask about *all* of Amtrak’s intercity passenger routes and most of which ask for information dating back to 2016, risk raising issues that are untimely, outside the scope of this proceeding, duplicative, and that would delay the ultimate resolution of this matter. In the face of discovery requests that are oppressive, unduly burdensome, or that risk raising issues that are untimely or inappropriate to the proceeding, the Board may order “[t]hat the discovery not be had” or that the “scope of discovery be limited.” 49 C.F.R. § 1114.21(c)(1). Such an order is warranted here.

CONCLUSION

For the foregoing reasons, Amtrak respectfully requests that the Board enter an order requiring UP to withdraw its current discovery requests to Amtrak and hold either that the discovery not be had, pursuant to 49 C.F.R. § 1114.21(c)(1), or that the scope of discovery be limited, as provided in 49 C.F.R. § 1114.21(c)(5).

Should the Board order that the scope of discovery be limited, UP should be ordered to confine its discovery requests to a reasonable overall number—either in keeping with the limits set by the Board in other proceedings or with the limits in the Federal Rules of Civil Procedure. UP should also be ordered to confine its discovery requests to matters that are not already encompassed by the Board’s investigative requests, that are confined to the relevant period defined by the Board unless otherwise justified, that are confined to the *Sunset Limited* unless otherwise justified, and that do not seek information relevant only to the potential damages phase of this proceeding.¹⁵

Respectfully submitted,

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¹⁵ Should this motion be denied, Amtrak reserves all rights to respond and object on a request-by-request basis to UP’s First Set of Discovery Requests to Amtrak, including on grounds of annoyance, oppression, undue burden or expense, and to prevent the raising of issues untimely or inappropriate to the proceeding.

CERTIFICATE OF SERVICE

I, Jessica Ring Amunson, certify that copies of this document are simultaneously being provided by email to all parties identified on the service list for this proceeding, Docket Number NOR 42175.

September 1, 2023

/s/ Jessica Ring Amunson
Jessica Ring Amunson

EXHIBIT A

BEFORE THE
SURFACE TRANSPORTATION BOARD

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UNDER 49 U.S.C. § 24308(f) FOR SUBSTANDARD PERFORMANCE OF
AMTRAK'S SUNSET LIMITED TRAINS 1 AND 2

**UNION PACIFIC RAILROAD COMPANY'S
FIRST SET OF DISCOVERY REQUESTS TO AMTRAK**

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BEFORE THE
SURFACE TRANSPORTATION BOARD

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

**UNION PACIFIC RAILROAD COMPANY'S
FIRST SET OF DISCOVERY REQUESTS TO AMTRAK**

Pursuant to 49 C.F.R. §§ 1114.21-.31 and the Surface Transportation Board's Order in the captioned matter served July 11, 2023, Union Pacific Railroad Company hereby serves its first set of discovery requests on National Railroad Passenger Corporation ("Amtrak").

Amtrak should serve responses and objections as soon as possible, and in no event later than September 7, 2023, unless otherwise agreed to by the parties. Amtrak is asked to contact the undersigned promptly to discuss any objections or questions regarding these requests with a view to resolving any dispute or issues of interpretation informally and expeditiously.

DEFINITIONS

1. "2000 Operating Agreement" means the Agreement dated January 1, 2000, between National Railroad Passenger Corporation and Union Pacific Railroad Company, including all amendments thereto.
2. "Amtrak" means National Railroad Passenger Corporation.
3. "Amtrak-Responsible Delay(s)" has the same meaning as in the Complaint. *See, e.g.*, Complaint ¶ 52.
4. "BNSF" means BNSF Railway Company.

5. “Board” means the Surface Transportation Board.
6. “CDR” means reports of delays recorded by Amtrak conductors, as described in the Complaint. *See* Complaint ¶ 55.
7. “CN” means Canadian National Railway Company and its subsidiary Illinois Central Railroad Company.
8. “Communications” means any oral, written, or electronic transmission of information, including but not limited to meetings, discussions, conversations, telephone calls, memoranda, white papers, letters, email messages, and notes.
9. “Complaint” means the “Complaint and Petition for Board Investigation and Other Relief” submitted December 8, 2022, by Amtrak.
10. “Contractual OTP” means on-time performance of trains as calculated for purposes of determining compensation owed to Union Pacific under the 2000 Operating Agreement.
11. “COTP Metric” has the same meaning as in the Complaint. *See* Complaint ¶ 45.
12. “Customer OTP” means on-time performance of trains as calculated under the customer on-time performance metric and/or minimum standard promulgated by the FRA in Metrics and Minimum Standards for Intercity Passenger Rail Service, codified at 49 C.F.R. Part 273.
13. “Describe with particularity” means to give a full and complete narrative account of the information requested without the omission of any relevant facts, whether deemed material by you or not, and without omission of information that could lead to relevant facts.

14. “Document” means all types of documents that are subject to discovery under the Board’s rules at 49 C.F.R. § 1114.30(a)(1). “Document” includes every copy of a document that is not identical to the original or any other copy.

15. “Dwell Time” has the same meaning as in the Complaint. *See* Complaint ¶ 56.

16. “Extended Dwell Time” has the same meaning as in the Complaint. *See* Complaint ¶ 98 n.94.

17. “FRA” means the Federal Railroad Administration of the U.S. Department of Transportation.

18. “FTI” has the same meaning as in the Complaint. *See* Complaint ¶ 8.

19. “Host Railroad” means any railroad, or any State or State entity, with which Amtrak has entered an agreement pursuant to 49 U.S.C. § 24308(a)(1) or section 402(a) of RPSA providing for use by Amtrak of facilities of, or provision to Amtrak of services by, such railroad, State or State entity.

20. “Host-Responsible Delay(s)” has the same meaning as in the Complaint. *See, e.g.,* Complaint ¶ 52.

21. “Infrastructure” means the track, equipment, facilities, or systems relating to railroad operations.

22. “Machine-Readable” has the same meaning as in the Appendix A—Part I of the Board’s Order in this proceeding served July 11, 2023.

23. “Miscellaneous Time” has the same meaning as in the Complaint. *See* Complaint ¶ 98 n.94.

24. “NOPB” means New Orleans Public Belt Rail Corporation.

25. “On-Time Performance” means on-time performance as determined, discussed, recorded, or reported for any purpose, including without limitation

(a) “Contractual OTP”; and (b) “Customer OTP.”

26. “Operating Agreement” means an agreement made pursuant to 49 U.S.C. § 24308(a)(1) or section 402(a) of RPSA between Amtrak and a railroad or a regional transportation authority regarding the provision to Amtrak of services by, or the use by Amtrak of facilities of, the railroad or authority.

27. “Pure Running Time” has the same meaning as in the Complaint. *See* Complaint ¶ 56.

28. “PRIIA” means the Passenger Rail Investment and Improvement Act of 2008, Pub. L. No. 110-432, 122 Stat. 4907.

29. “Recovery Time” has the same meaning as in the Complaint. *See* Complaint ¶ 62 n.74.

30. “RPSA” means the Rail Passenger Service Act of 1970, Pub. L. No. 91-518, 84 Stat. 1327, including all amendments thereto (codified at 49 U.S.C. §§ 24101 *et seq.*).

31. “Third-Party Responsible Delay(s)” has the same meaning as in the Complaint. *See, e.g.,* Complaint ¶ 55.

32. “Preference” means Amtrak’s preference over freight transportation, as the term is used in 49 U.S.C. § 24308(c).

33. “Produce” means to make legible, complete, and exact copies of responsive Documents and provide them to the undersigned counsel.

34. “SCRRA” means Southern California Railroad Authority.

35. “Sunset Limited Route” means the route(s) used by Sunset Limited Trains.

36. “Sunset Limited Trains” means the Amtrak passenger trains operating between Los Angeles, California, and New Orleans, Louisiana, and includes the trains designated in the Complaint as “Sunset Limited 1” and “Sunset Limited 2.”

37. “Train Delays” has the same meaning as in the Complaint. *See, e.g.*, Complaint ¶ 52.

38. “Train Delay Metric” has the same meaning as in the Complaint. *See* Complaint ¶ 52.

39. “Uniform Milepost Number” means the milepost number contained in the list of stations produced in accordance with Appendix A—Part II of the Board’s Order in this proceeding served July 11, 2023.

40. “Union Pacific” means Union Pacific Railroad Company

INSTRUCTIONS

1. These discovery requests call for all documents and information in the possession, custody, or control of Amtrak or its employees, officers, agents, affiliates, subsidiaries, or attorneys.

2. Words used in the singular shall include the plural and words used in the plural shall include the singular, whenever the context permits. Terms such as “and,” “or,” “any,” “all,” and “including” shall be construed in the broadest and most inclusive manner, in the disjunctive or conjunctive as necessary, in order to bring into the scope of each Request all responsive information that might otherwise be construed to be outside the scope of the Request.

3. Where Requests seek information in a Machine-Readable format, provide the information as required by Instruction 6 in Appendix A—Part I of the Board’s Order in this proceeding served July 11, 2023.

4. Unless otherwise specified, these requests cover the period from October 1, 2016, to the present.

5. If any document is withheld on the ground that it is privileged or otherwise not discoverable: (a) identify the type of document (*e.g.*, letter, memorandum, report, chart, email); identify the author, each addressee, and each recipient; state the title, date, and number of pages of the document; briefly describe the subject matter of the document, and (b) state the basis for the claim that the document is privileged or otherwise not discoverable.

6. Documents and information responsive to each Request should be produced separately with a clear indication as to which Request the material satisfies. Material responsive to more than one request need only be produced once.

7. Discovery responses should be supplemented when a supplemental response is required pursuant to 49 C.F.R. § 1114.29.

8. Information and documents may be provided subject to the terms of an applicable protective order. The Board has ordered Amtrak to draft a protective order, and Union Pacific is willing to review the draft before Amtrak submits the draft to the Board and discuss any concerns it may have with Amtrak, with a view to obtaining a protective order expeditiously.

REQUESTS

1. Produce all documents that include analysis or discussion of Train Delays to Sunset Limited Trains.
2. Produce all documents that include analysis or discussion of failures Sunset Limited Trains to achieve On-Time Performance.
3. Produce all documents that include analysis or discussion of potential, proposed, or actual changes to the schedules for Sunset Limited Trains, including but not limited to changes to Pure Running Time, Dwell Time, Extended Dwell Time, Recovery Time, or Miscellaneous Time.
4. Produce all documents that include analysis or discussion of changes in On-Time Performance or Train Delays for Sunset Limited Trains.
5. Produce all documents that include analysis or discussion of Amtrak-Responsible Delays for Sunset Limited Trains.
6. Produce all documents that include analysis or discussion of Third-Party Responsible Delays for Sunset Limited Trains.
7. Produce all documents that include analysis or discussion of measures taken or proposed by Amtrak to improve On-Time Performance or reduce Train Delays for Sunset Limited Trains.
8. Produce all agreements, regardless of date, between Amtrak, on the one hand, and BNSF, CN, SCRRA, and NOPB, separately or together, on the other hand, relating to Sunset Limited Trains or the Sunset Limited Route.

9. Produce all correspondence between Amtrak, on the one hand, and BNSF, CN, SCRRA, and NOPB, separately or together, on the other hand, relating to Sunset Limited Trains or the Sunset Limited Route.
10. Produce all documents that include any analysis or discussion of measures taken or proposed by Amtrak, BNSF, CN, SCRRA, NOPB, or Union Pacific, separately or together in any combination, to improve On-Time Performance or reduce Train Delays for Sunset Limited Trains.
11. Produce all documents that include any analysis or discussion of measures Amtrak, BNSF, CN, SCRRA, NOPB, or Union Pacific, separately or together in any combination, might take to improve On-Time Performance or reduce Train Delays for Sunset Limited Trains.
12. Produce all documents that include any analysis or discussion of measures any non-railroad might take to improve On-Time Performance or reduce Train Delays for Sunset Limited Trains.
13. Produce all documents that include any analysis or discussion of rail line capacity or Infrastructure for all or any portion of the Sunset Limited Route.
14. Produce all documents that consist of, or that include any analysis or discussion of, operating planning studies conducted by Amtrak or on Amtrak's behalf for all or any portion of the Sunset Limited Route.
15. Produce all documents that consist of, or that discuss or describe, Communications between Amtrak, on the one hand, and BNSF, CN, SCRRA, NOPB, or Union Pacific, separately or together in any combination, on the other hand, relating to On-Time Performance or Train Delays for Sunset Limited Trains.

16. Produce all documents that consist of, or that discuss or describe, Communications between Amtrak, on the one hand, and BNSF, CN, SCRRA, NOPB, or Union Pacific, separately or together in any combination, on the other hand, relating to Amtrak's Preference.

17. For any delay to any Sunset Limited Train that occurred from October 1, 2021, through December 8, 2022, that Amtrak contends was attributable to a failure to give Amtrak Preference, provide the following information in a Machine-Readable table:

- a. The train number of the Amtrak train affected, as recorded by Amtrak;
- b. Surrogate train number used by another party for the Amtrak train affected, if applicable;
- c. The Train Index Date of the train affected;
- d. The train ID date assigned by the host railroad;
- e. The delay ID number employed by Amtrak for the train involved;
- f. Date and time that the delay began;
- g. Date and time that the delay ended;
- h. Duration of the delay in minutes;
- i. Railroad to which Amtrak assigned responsibility for the delay;
- j. Delay cause (code) as found in Appendix B the Complaint;
- k. Other causation information (i.e., any additional causation information supplied by the conductor or other personnel);
- l. Location of the delay:
 1. Host Railroad Subdivision name;
 2. Uniform Milepost Number;
 3. Delay location type; and
 4. Amtrak crew district name
- m. Latitude and longitude data;
- n. Indicate if the delay was disputed at any time;
- o. For delays that were disputed:
 1. Whether the delay was resolved or unresolved;

2. An explanation of the dispute that includes a description of any revisions made. If the dispute was unresolved, explain why;
 3. Date of the revision, if applicable;
 4. Host Railroad's concurrence or nonconcurrence in revision, if applicable; and
 5. Status as of the date of submission of this response, if applicable;
- p. Action the Host Railroad should have taken to avoid the alleged failure to give Amtrak Preference.

18. Produce all documents that consist of, or that discuss or describe, Communications between or among Amtrak employees, or between or among Amtrak employees and former employees, relating to the delays identified in response to Request 17.

19. Produce all documents that consist of, or that discuss or describe, Communications between Amtrak and Union Pacific relating to the delays identified in response to Request 17.

20. Produce all documents that consist of, or that discuss or describe, Communications between or among Amtrak employees, or between or among Amtrak employees and former employees, relating to the classification or coding of delays to Amtrak trains for (a) Host-Responsible Delays; (b) Amtrak-Responsible Delays; or (c) Third-Party Responsible Delays.

21. Produce all documents that consist of, or that discuss or describe, Communications between or among Amtrak employees, or between or among Amtrak employees and former employees, relating to the classification or coding of delays to Amtrak trains for FTI.

22. Produce all documents relating to instructions, training, procedures, manuals, guidelines, or policies for completing CDRs or for conductors, engineers, or assistant engineers otherwise to record information relating to delays to Amtrak trains.

23. Describe with particularity the reasons why the notation “insufficient run time” would appear in a CDR, to the extent the information is not provided in response to Request No. 22.

24. Describe with particularity the reasons why the notation “lost time no apparent reason” would appear in a CDR, to the extent the information is not provided in response to Request No. 22.

25. Describe with particularity the processes, procedures, and criteria employed by Amtrak to determine (a) how an individual delay to an Amtrak train or a type of delay to an Amtrak train should be categorized for purpose of calculating the COTP Metric; and (b) how an individual delay to an Amtrak train or a type of delay to an Amtrak train should be categorized for purpose of calculating the Train Delay Metric.

26. Describe with particularity the processes, procedures, and criteria employed by Amtrak to determine whether a CDR should be corrected.

27. Produce all documents relating to (a) any request by Union Pacific for correction of CRDs, and (b) Amtrak’s procedures, criteria, protocols, instructions, directions, and guidance for handling requests made by Host Railroads for correction of CDRs.

28. Produce all documents relating to any consideration or analysis by, within, or for Amtrak of (a) the accuracy, reliability, definition, or significance of the COTP Metric, (b) the criteria used by Amtrak to identify and categorize delays as FTI or

other Host-Responsible Delays, (c) the criteria used by Amtrak to identify and categorize delays as Amtrak-Responsible Delays; (d) the criteria used by Amtrak to identify and categorize delays as Third-Party Responsible Delays, and (e) whether to revise the aforementioned metrics or criteria.

29. For each Sunset Limited Train that operated from October 1, 2021, through December 8, 2022, produce document sufficient to show the number of passengers loading and unloading at each station on the Sunset Limited Route.

30. Produce all documents that include analysis or discussion of projections of the number of passengers on Sunset Limited Trains or the number of passengers traveling between particular stations on the Sunset Limited Route.

31. Produce all documents that include analysis or discussion of ridership trends on Sunset Limited Trains or factors affecting ridership on Sunset Limited Trains.

32. Produce all documents relating to Amtrak's pricing of passenger tickets on the Sunset Limited Route, including for individual segments, and including any documents relating to the relationship, if any, between ticket price and ridership.

33. Produce all documents relating to passenger ticket revenue generated by Amtrak on the Sunset Limited Route, and on each segment thereof, including but not limited to any data, measurements, analyses, estimates, or projections of revenue for Sunset Limited Trains and between particular segments and any analyses of revenue trends or factors affecting revenue.

34. Produce documents sufficient to show Amtrak's total revenues for the Sunset Limited Trains, separately for each year from 2016 to the present, and separately for : a) ticket revenue, b) food and beverage, c) State supported train revenue, and

d) other revenue, to the extent such documents are not produced in response to Request No. 33.

35. Produce documents sufficient to show Amtrak's total operating costs for the Sunset Limited Trains, separately for each year from 2016 to the present, and separately for : a) salaries, b) wages and overtime, c) benefits, d) train operations, e) fuel, power, and utilities, f) materials, g) facility, communication and office, h) advertising and sales, i) casualty and other claims, j) professional fees and data processing, and k) all other expenses.

36. Describe with particularity Amtrak's policies, procedures, and practices relating to (a) the recording, coding, measurement, reporting, and description of delays to Amtrak trains as Host-Responsible Delay; (b) the recording, coding, measurement, reporting, and description of delays to Amtrak trains as Amtrak-Responsible Delay; (c) the recording, coding, measurement, reporting, and description of delays to Amtrak trains as Third-Party Responsible Delay; (d) the recording, coding, measurement, reporting, and description of delays to Amtrak trains as FTI; and (e) the recording, coding, measurement, and reporting of the COTP Metric.

37. Describe with particularity how the policies, procedures, and practices described in response to Request No. 36 are communicated to Amtrak's conductors, assistant conductors, engineers, and second engineers.

38. Identify all changes to any policies, procedures, or practices described in response to Request No. 36 and describe with particularity the nature of each such change.

39. Describe with particularity Amtrak's policies, procedures, and practices relating to Communications with dispatchers and other employees of Union Pacific.

40. Describe with particularity how the policies, procedures, and practices described in response to Request No. 39 are communicated to Amtrak's conductors, assistant conductors, engineers, and second engineers.

41. Identify all changes to any policies, procedures, or practices described in response to Request 39 and describe with particularity the nature of each such change.

42. State whether any Amtrak employees are or have been evaluated, compensated, supervised, or disciplined based in whole or part on information they recorded or failed to record in CDRs, and if so, identify the basis for this statement.

43. Produce all documents related to complaints, grievances, Ombudsman files, whistleblower disclosures, reports, and any other documents including criticism or assessments regarding (a) Amtrak's operation of Sunset Limited Trains, or (b) Amtrak's promulgation or implementation of policies, practices, or procedures for the monitoring, reporting, coding, reporting, measurement, or description of delays to Amtrak trains.

44. Identify all sources and stores of data maintained by Amtrak relating to the performance of Sunset Limited Trains, including but not limited to data regarding On-Time Performance and Train Delays. For each data set, describe what it contains, how it was collected, when it was collected, and who collected it.

45. Produce all documents relating to actual or potential capital expenditures, or contributions to actual or potential capital expenditures, by Amtrak to improve On-Time Performance or reduce Train Delays for Sunset Limited Trains.

46. Produce all documents relating to monies earmarked or otherwise available to Amtrak to fund, contribute to, or compensate a Host Railroad for capital expenditures to improve capacity or Infrastructure on the Sunset Limited Route.
47. Produce all documents relating to Amtrak efforts to obtain funds from public or private sources for capital expenditures to improve capacity or Infrastructure on the Sunset Limited Route.
48. Produce all documents relating to any determination or consideration by or within Amtrak of whether and what investment in Infrastructure would be necessary, appropriate, or desirable to improve On-Time Performance or reduce Train Delays for Sunset Limited Trains.
49. Identify and describe with particularity all sources of funding available or potentially available to Amtrak for investment in Infrastructure on the Sunset Limited Route.
50. Produce all documents relating to the removal of sidings from any portion of the Sunset Limited Route since 1971.
51. Describe with particularity any measures or plans Amtrak has to reduce Amtrak-Responsible Delays and produce all documents relating to such measures or plans.
52. Describe with particularity any measures or plans Amtrak has to reduce Third-Party Responsible Delays and produce all documents relating to such measures or plans.
53. Produce all documents that include analysis or discussion of potential, proposed, or actual changes to Amtrak train schedules subsequent to the Federal

Railroad Administration's promulgation of the final rule in Metrics and Minimum Standards for Intercity Passenger Rail Service, 85 Fed. Reg. 72,971 (Nov. 16, 2020).

54. Produce all documents relating to instances in which Amtrak proposed or agreed to an extension to an Amtrak train schedule extension subsequent to the Federal Railroad Administration's promulgation of the final rule in Metrics and Minimum Standards for Intercity Passenger Rail Service, 85 Fed. Reg. 72,971 (Nov. 16, 2020).

55. Produce all documents that include analysis or discussion of the relationship or absence of a relationship between the COTP Metric and any one or more of the following: (a) the Train Delay Metric; (b) Host-Responsible Delay minutes; (c) Amtrak-Responsible Delay minutes; or (d) Third-Party Responsible Delay minutes.

56. Produce all documents that include analysis or discussion of the relationship or absence of a relationship between the Train Delay Metric and any one or more of the following: (a) Host-Responsible Delay minutes; (b) Amtrak-Responsible Delay minutes; or (c) Third-Party Responsible Delay minutes.

57. Produce all documents that include analysis or discussion of the relationship or absence of a relationship between Contractual OTP and any one or more of the following: (a) the Customer OTP metric; (b) the Train Delay Metric; (c) Host-Responsible Delay minutes; (d) Amtrak-Responsible Delay minutes; or (e) Third-Party Responsible Delay minutes.

58. Produce all Amtrak's Operating Agreements with Host Railroads, including amendments, attachments, exhibits, and schedules thereto, in force at any time since 2016.

59. Produce all Amtrak's schedule skeletons for intercity passenger services in force at any time since 2016.

60. Produce all documents that include analysis or discussion of the impact on On-Time Performance of adding or redistributing schedule time for Sunset Limited Trains.

61. Produce all documents that consist of, or that include any analysis or discussion of, the methods, programs, criteria, processes, or models used by Amtrak to establish, analyze, or evaluate elements of the schedules of Amtrak trains that operate over the lines of Host Railroads, including but not limited to: (a) the amount of Pure Running Time; (b) the amount of Dwell Time; (c) the amount of Excess Dwell Time; (d) the amount of Recovery Time; (e) the distribution of Recovery Time within a schedule; (f) the amount of Miscellaneous Time; or (g) the distribution of Miscellaneous Time within a schedule.

62. Produce all documents that include analysis or discussion of questions or concerns regarding the sufficiency of Pure Running Time, Dwell Time, Excess Dwell Time, Recovery Time, or Miscellaneous Time in any Amtrak train schedule.

63. Produce all documents that consist of, or that include any analysis or discussion of, customer satisfaction ratings relating to transportation provided by Sunset Limited Trains.

64. Produce all documents from 2008 to the present that consist of, or that include any analysis or discussion of, performance improvement plans developed pursuant to Section 210 of PRIIA, codified at 49 U.S.C. § 24710, for Sunset Limited Trains.

65. Produce all documents from 2008 to the present relating to Amtrak's implementation of performance improvement plans developed pursuant to Section 210 of PRIIA, codified at 49 U.S.C. § 24710, for Sunset Limited Trains.

66. Produce all documents from 2008 to the present relating to the Federal Railroad Administration's monitoring of the development, implementation, and outcome of performance improvement plans developed pursuant to Section 210 of PRIIA, codified at 49 U.S.C. § 24710, for Sunset Limited Trains.

67. Produce all documents from 2008 to the present that consist of, or that include any analysis or discussion of, performance audits performed pursuant to 49 U.S.C. § 24315(e) relating to Sunset Limited Trains.

68. Produce all documents from 2008 to the present that consist of, or that include any analysis or discussion of, the 5-year service line plans prepared pursuant to 49 U.S.C. § 24320 relating to Sunset Limited Trains.

69. Produce all documents that consist of, or that include any analysis or discussion of, Communications by Amtrak containing allegations by Amtrak of violations of Amtrak's Preference.

70. Produce all documents supporting the allegation in Paragraph 1 of the Complaint that Amtrak's "'preference' over freight transportation" was a condition to the "public bargain that created Amtrak."

71. Produce all documents supporting the allegation in Paragraph 1 of the Complaint that Amtrak's statutory "'preference' over freight transportation" was "consistent with longstanding industry practice."

72. Produce all documents supporting the allegation in Paragraph 1 of the Complaint that “[w]hen freight railroads operated their own passenger trains before the creation of Amtrak, they recognized that prioritizing trains carrying passengers over slower freight trains carrying cargo was critical to providing a viable and reliable passenger service.”

73. Produce all documents supporting the allegation in Paragraph 2 of the Complaint that “railroads regularly prioritized freight over passengers, notwithstanding the statutory command to provide Amtrak with preference.”

74. Produce all documents supporting the allegation in Paragraph 8 of the Complaint that Union Pacific uses “enterprise-wide dispatching algorithms.”

75. Produce all documents supporting the allegation in Paragraph 8 of the Complaint that Union Pacific uses dispatching algorithms “that deny Sunset Limited Trains their statutory right to preference.”

76. Produce all documents supporting the allegation in Paragraph 8 of the Complaint that Union Pacific uses policies “that deny Sunset Limited Trains their statutory right to preference.”

77. Identify and describe with particularity the “policies” referenced in Paragraph 8 of the Complaint that allegedly deny Sunset Limited Trains their statutory right to preference.

78. Produce all documents supporting the allegation in Paragraph 8 of the Complaint that Union Pacific uses “practices . . . that deny Sunset Limited Trains their statutory right to preference.”

79. Identify and describe with particularity the “practices” referenced in Paragraph 8 of the Complaint that allegedly deny Sunset Limited Trains their statutory right to preference.

80. Produce all documents supporting the allegation in Paragraph 8 of the Complaint that Union Pacific uses “operational practices that result in systematic violations of Amtrak’s rights.”

81. Identify and describe with particularity the “operational practices” referenced in Paragraph of the Complaint that allegedly result in systematic violations of Amtrak’s rights.

82. Produce all documents supporting the allegations in Paragraph 8 of the Complaint that Union Pacific “imposed on the average Sunset Limited Train more than 15 instances of FTI per trip, resulting in more than 4 hours of delay for Amtrak passengers per trip.”

83. Produce all documents supporting the allegation in Paragraph 9 of the Complaint that Union Pacific “has routinely prioritized freight trains over Sunset Limited Trains, including when resolving meets and passes, determining access to main lines, and when otherwise failing to ensure that tracks are available for the . . . Sunset Limited Trains.”

84. Identify each instance in which Amtrak alleges Union Pacific “prioritized freight trains over Sunset Limited Trains” when “resolving meets and passes.” *See* Complaint ¶ 9.

85. Identify each instance in which Amtrak alleges Union Pacific “prioritized freight trains over Sunset Limited Trains” when “determining access to main lines.” *See* Complaint ¶ 9.

86. Identify each instance in which Amtrak alleges Union Pacific “prioritized freight trains over Sunset Limited Trains” when “otherwise failing to ensure that tracks are available for the Sunset Limited Trains.” *See* Complaint ¶ 9.

87. Identify Amtrak’s system-wide average train speed for each year beginning in 2016, excluding Amtrak’s average train speed for Sunset Limited Trains, as Amtrak calculates system-wide average train speed for purposes of 49 U.S.C. § 24101(c), and as referenced in Paragraph 12 of the Complaint.

88. Produce all documents supporting the allegation in Paragraph 17 of the Complaint that Union Pacific is “operating much longer trains that cannot fit into many sidings on UP’s own single-track lines.”

89. Produce all documents supporting the allegations in Paragraph 18 of the Complaint that Amtrak states are “[b]ased on information and belief.”

90. Produce all documents supporting the allegation in Paragraph 27 of the Complaint that “CN assumes host status for 2.2 miles.”

91. Identify and describe in detail what “host status” means, as the term “host status” is used in Paragraph 37 of the Complaint.

92. Produce all documents supporting the allegation in Paragraph 27 of the Complaint that “[b]etween East Bridge Junction and a location called ‘Live Oak’ (near Waggman, Louisiana), UP serves as the contractual host for 9.6 miles.”

93. Produce all documents supporting the allegation in Paragraph 28 of the Complaint that “BNSF is Amtrak’s host railroad on the approximately 190-mile stretch of track between Live Oak, Louisiana, and Iowa Junction, Louisiana.”

94. Produce all documents supporting the allegation in Paragraph 33 of the Complaint that “[a]s part of the grand bargain that created Amtrak . . . Congress expected that the priority accorded to passenger trains would continue.”

95. Produce all documents since the 1968 proceeding described in the footnote to Paragraph 38 of the Complaint that consist of or relate Communications between Amtrak and the Department of Justice relating to enforcement of Amtrak’s Preference.

96. Produce all documents relating to negotiation of modifications to published train schedules, as described in Paragraph 46 of the Complaint, for Sunset Limited Trains.

97. Produce in Machine-Readable format all data from October 1, 2021, through December 8, 2022, used to calculate the Station Performance Metric, as described in Paragraph 60 of the Complaint, for the Sunset Limited Route.

98. Produce in Machine-Readable format all data from October 1, 2021, through December 8, 2022, used to calculate the Host Running Time Metric, as described in Paragraph 61 of the Complaint, for the Sunset Limited Route.

99. Produce all documents related to the certification of the published train schedule for Sunset Limited Trains by BNSF, CN, and SCRRA as described in Paragraph 71 of the Complaint.

100. Produce in Machine-Readable format all data supporting the calculations in Paragraph 76 of the Complaint, along with documents sufficient to show how Amtrak used the data to calculate the percentages alleged in Paragraph 76 of the Complaint.

101. Produce in Machine-Readable format all data supporting the calculations in Paragraph 77 of the Complaint, along with documents sufficient to show how Amtrak used the data to calculate the percentages alleged in Paragraph 77 of the Complaint.

102. Produce in Machine-Readable format all data supporting the calculations in Paragraph 79 of the Complaint along with documents sufficient to show how Amtrak used the data to calculate the percentages alleged in Paragraph 79 of the Complaint.

103. Produce all documents that constitute, describe, discuss, or respond to the “complaints from passengers” referenced in Paragraphs 81 through 83 of the Complaint.

104. Produce all documents supporting the allegation in Paragraph 83 of the Complaint that “[s]erial delays cause by freight traffic affect Amtrak’s ability . . . to secure new” customers.

105. Produce all documents supporting the allegation in Paragraph 84 of the Complaint that “[t]he substandard performance of Sunset Limited Trains is driven by issues that could reasonably be addressed by UP.”

106. Identify and describe with precision the actions Amtrak alleges Union Pacific could take to “reasonably” address the “substandard performance of Sunset Limited Trains.” *See* Complaint ¶ 84.

107. Produce in Machine-Readable format all data supporting the calculations in Paragraph 90 of the Complaint, along with documents sufficient to show how Amtrak

used the data to calculate the “nearly eleven weeks of time” alleged in Paragraph 90 of the Complaint.

108. Produce all documents supporting the allegation in Paragraph 91 of the Complaint that “[b]ased on Amtrak’s experience, when host railroads reduce the amount of Host-Responsible Delay per 10,000 Train Miles below 900 minutes, the passenger train service generally will achieve compliance with the COTP Minimum Standard.”

109. Produce all documents supporting the allegation in Paragraph 93 of the Complaint that “[i]nterference from UP train trains is the leading cause of the substandard on-time performance of Sunset Limited 1.”

110. Produce all documents supporting the allegation in Paragraph 94 of the Complaint that “[i]nterference from UP train trains is also the leading cause of the substandard on-time performance of Sunset Limited 2.”

111. Produce all documents supporting the allegation in Paragraph 95 of the Complaint that Union Pacific “dispatching decisions” are either made by algorithms “programmed to effectuate business objectives like maximizing freight revenue” or by employees “acting in furtherance of enterprise-wide objectives like maximizing freight revenue.”

112. Produce all documents supporting the allegation in Paragraph 96 of the Complaint that the amount of FTI “makes it impossible to plan for, or respond to, this recurring problem.”

113. Produce all documents supporting the allegation in Paragraph 98 of the Complaint that the amount of recovery time, miscellaneous time, and dwell time built into the Sunset Limited 1 schedule is “extraordinary.”

114. For each of Amtrak's current published schedules for intercity trains, identify the route mileage, Pure Running Time, scheduled running time, Dwell Time, Excess Dwell Time, Recovery Time, and Miscellaneous Time, and the most recently quarterly average actual running time reported to the FRA.

115. Produce in Machine-Readable format all data supporting the calculations in Paragraph 100, Table 2 of the Complaint, along with documents sufficient to show how Amtrak used the data to calculate the specific figures in the table.

116. Produce all documents supporting the allegation in Paragraph 102 of the Complaint that the amount of recovery time, miscellaneous time, and dwell time built into the Sunset Limited 2 schedule is "considerable."

117. Produce in Machine-Readable format all data supporting the calculations in Paragraph 108, Table 3 of the Complaint, along with documents sufficient to show how Amtrak used the data to calculate the specific figures in the table.

118. Produce in Machine-Readable format all data supporting the calculations in Paragraph 110, Figure 5 of the Complaint, along with documents sufficient to show how Amtrak used the data to calculate the specific figures in the table.

119. Produce all documents supporting the allegation in Paragraph 111 of the Complaint that substandard on-time performance at stations between New Orleans and Houston "is driven by" delays that occur on tracks that are exclusively or jointly owned by Union Pacific.

120. Produce all documents supporting the allegation in Paragraph 111 of the Complaint that substandard on-time performance at stations between Houston and Los

Angeles “is driven by” delays that occur on tracks that are exclusively hosted, owned, and dispatched by Union Pacific.

121. Produce in Machine-Readable format all data supporting the calculations in Paragraph 116, Figure 6 of the Complaint, along with documents sufficient to show how Amtrak used the data to calculate the specific figures in the table.

122. Identify and describe with particularity the “operational adjustments” Amtrak alleges it identified in Paragraph 120 of the Complaint.

123. Produce all documents supporting the allegation in Paragraph 120 of the Complaint that Amtrak has identified “operational adjustments.”

124. Identify and describe with particularity the “additional recovery time” Amtrak alleges it identified in Paragraph 120 of the Complaint.

125. Produce all documents supporting the allegation in Paragraph 120 of the Complaint that Amtrak has provided “additional recovery time.”

126. Identify and describe with particularity the “extended dwell time” Amtrak alleges it identified in Paragraph 120 of the Complaint.

127. Produce all documents supporting the allegation in Paragraph 120 of the Complaint that Amtrak has provided “extended dwell time.”

128. Identify and describe with precision the “operational procedures” that Amtrak alleges Union Pacific has failed to implement or enforce in Paragraph 120 of the Complaint.

129. Identify and describe with precision the amount of time associated with each delay that Amtrak identifies in response to the Request 7 in Appendix A—Part III of the Board’s Order served July 11, 2023, would have been reduced by the “operational

procedures” that Amtrak alleges Union Pacific has failed to implement or enforce in Paragraph 120 of the Complaint would have eliminated.

130. Produce all documents supporting the allegation in Paragraph 120 of the Complaint that Union Pacific has failed to implement or enforce operational procedures that would “eliminate” or “significantly reduce” delays to Amtrak trains.

131. Produce in Machine-Readable format all data supporting the calculations in Paragraph 123 of the Complaint, along with documents sufficient to show how Amtrak used the data to calculate “average of four hours twenty-four minutes of FTI delay per trip” and “302 hours, 45 minutes of FTI delay” alleged in Paragraph 123 of the Complaint.

132. Produce in Machine-Readable format all data supporting the calculations in Paragraph 124 of the Complaint, along with documents sufficient to show how Amtrak used the data to calculate “average of three hours, forty-five minutes of FTI delay per trip” and “260 hours, 8 minutes of FTI delay” alleged in Paragraph 124 of the Complaint.

133. Produce all documents supporting the allegation in Paragraph 138 of the Complaint that routing Sunset Limited Trains over the Beaumont Subdivision created more delay than the trains would have incur if the same trains had been routed over the Houston Subdivision.

134. Produce all documents supporting the allegation in Paragraph 139 of the Complaint that Union Pacific “often fails to coordinate with other host railroads about the location and handoff of Amtrak passenger trains on the Sunset Limited route, as well as the railroads that control crossings.”

135. Identify and describe with particularity each of the delays that could have been addressed by advanced notification from Union Pacific, as alleged in Paragraph 139 of the Complaint.

136. Produce all documents supporting the allegation in Paragraph 141 of the Complaint that Amtrak has suffered and continues to suffer “substantial financial loss” because of delays to the Sunset Limited Trains.

137. Identify and describe with particularity the amount of the “financial loss” suffered by Amtrak, as alleged in Paragraph 141 of the Complaint.

138. Produce all documents supporting the allegation in Paragraph 142 of the Complaint that Amtrak has experienced “reduced ticket sales for the Sunset Limited Trains and other Amtrak services” as a result of “delays on the Sunset Limited.”

139. Identify and describe with particularity the amount of “reduced ticket sales” experienced by Amtrak, as alleged in Paragraph 142 of the Complaint, for (a) Sunset Limited Trains, and (b) other Amtrak services.

140. Produce all documents that discuss or analyze the relationship, or absence of a relationship, between Amtrak’s on time performance and Amtrak’s financial performance.

141. Produce all documents supporting the allegation in Paragraph 144 of the Complaint that delays to Sunset Limit Trains imposes “significant direct and immediate costs on Amtrak.”

142. Identify and describe with particularity the amount of costs that delays to Sunset Limited Trains have imposed on Amtrak, as alleged in Paragraph 144 of the Complaint, separately with regard to: (a) labor costs for (i) conductors, (ii) engineers,

(iii) onboard service personnel; (iv) mechanical personnel, and (v) station personnel; (b) engine idling costs; (c) alternative passenger transportation costs; (d) vouchers for missed connections; (e) additional maintenance costs; (f) additional equipment costs; and (g) any additional costs.

143. Produce all documents that discuss or analyze Amtrak's crew utilization for the Sunset Limited Trains.

144. Produce all documents that discuss or analyze Amtrak's locomotive utilization for the Sunset Limited Trains.

145. Produce all documents that discuss or analyze Amtrak's car utilization for the Sunset Limited Trains.

146. Produce all documents from 2016 through the present supporting the allegation in Paragraph 144 of the Complaint that Amtrak has sought additional federal funding to pay for operating costs relating to delays to Sunset Limited Trains.

147. Identify and describe with particularity the amount of federal funding Amtrak has received, separately for each year from 2016 through the present, to pay for operating costs relating to delays to Sunset Limited Trains.

148. Produce all documents defining Amtrak's Preference.

149. Produce all Communications, except for filings with the Surface Transportation Board, in which Amtrak describes its understanding of the meaning of Preference, to the extent not produced in response to Request No. 148.

150. Produce all documents that consist of or relate to Communications between Amtrak and the Office of Inspector General relating to the Engagement Memorandum dated December 21, 2021 (Project Code 001-2022).

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August 23, 2023

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of August, 2023, I caused a copy of the foregoing document to be served by email on Administrative Law Judge McCarthy and all parties of record in Docket No. NOR 42175.

/s/ Michael L. Rosenthal

EXHIBIT B

APPENDIX A—Part III. **INTERROGATORIES AND DOCUMENT REQUIREMENTS** **FOR AMTRAK**

Delay causes and treatments.

1. **Detailed delay causes.** Provide further explanation of each delay code found in Appendix B of your December 8, 2022 Complaint. Provide examples that would make clear the typical circumstances of each delay cause.
2. **Mitigation of unforeseen delays.** Explain the procedures in place to minimize the operational consequences of unplanned and/or unanticipated delays. For example, stationing reserve equipment and/or crews at crucial locations. Provide any documents that describe these procedures, such as training manuals or guides.
3. **Mitigation of expected delays.** Explain the procedures in place to proactively minimize the consequences of planned and/or anticipated delays. For example, notice to passengers, or schedule adjustments. Provide any documents that describe these procedures, such as training manuals or guides.
4. **Train equipment.** Describe the typical train equipment and consists used on the *Sunset Limited* during the Relevant Period. This description should include the typical consists used east and west of San Antonio, Texas. If there were changes made during the Relevant Period include such.
5. **Reserve train equipment.** Did you maintain a fully operable reserve train set at either terminal at any time during the Relevant Period, if so specify the dates and describe the typical consist of the reserve train set?

Delays to the *Sunset Limited* in the Relevant Period.

6. **Sharing arrangements.** On portions of the Line that are jointly owned, operated, dispatched, and/or used by more than one railroad company, how does Amtrak distinguish among the participating railroads in assigning responsibility for delays?
7. **Detailed delay listing.** Provide a detailed list of delays that occurred during the Relevant Period. The list should be in a machine-readable table; it should include the following as separate data fields:
 - a. The train number of the Amtrak train affected, as recorded by Amtrak.
 - b. If applicable, any surrogate train number used by another party for the Amtrak train affected.
 - c. The train index date (departure date from originating terminal) of the train affected.
 - d. The train ID date assigned by the host railroad.
 - e. Any delay ID number employed by Amtrak for the train involved.

- f. Date and time that the delay began. In this format YYYY-MM-DD HH:MM:SS-05:00 (i.e., year-month-day hours:minutes:seconds-difference from UTC time).
 - g. Date and time that the delay ended. In this format YYYY-MM-DD HH:MM:SS-05:00 (i.e., year-month-day hours:minutes:seconds-difference from UTC time).
 - h. Duration of the delay in minutes.
 - i. Railroad to which Amtrak assigned responsibility for the delay.
 - j. Delay cause (code), as found in Appendix B to Amtrak's Dec. 8, 2022 Complaint.
 - k. Other causation information. That is, any additional causation information supplied by the conductor or other personnel.
 - l. Location of the delay:
 - 1. Host Railroad Subdivision name (string).
 - 2. Uniform Milepost Number, consistent with Part II of this Appendix (numeric).
 - 3. Delay location type (string) (e.g., at station, schedule skeleton segment, detour).
 - 4. Amtrak Crew District name (string).
 - m. Latitude and longitude data if available.
 - n. Indicate if the delay was disputed at any time.
 - o. For any delays that were disputed, whether the delay was resolved or unresolved
 - p. An explanation of the dispute that includes a description of any revisions made. If the dispute was unresolved, explain why.
 - q. Date of revision, if applicable.
 - r. Host railroad's concurrence or nonconcurrence in revision.
 - s. Status as of the date of submission of this response.
8. **Conductor delay reports.** Produce conductor-entered delay reports, as well as any supplementary communications received, for all delays during the Relevant Period. The list should be in a machine-readable table.
9. **Detailed run time data.** Provide a list of actual run time data for each schedule skeleton segment on a run-by-run, day-by-day basis, including alternate or detour routes if applicable. The list should be in a machine-readable table; it should include the following as separate data fields:
- a. Train number.
 - b. Train index date.
 - c. Schedule skeleton segment station pairs (starting "skeleton-station" and ending "skeleton-station" according to the Amtrak schedule skeleton).
 - d. Entity recorded as Host(s).
 - e. Scheduled run time for each schedule skeleton segment.
 - f. Actual run time for each schedule skeleton segment.

10. **Total run time.** Provide a list of all individual *Sunset Limited* trains' total actual run time from origin to destination during the Relevant Period. Include the entire train run even if the run began or ended outside of the Relevant Period, so long as the train run was in progress during the Relevant Period. Include the total scheduled run time. Indicate if a train run took an alternate route. The list should be in a machine-readable table.
11. **Detailed dwell time data.** Provide a list of separate day-by-day, train-by-train dwell times. The list should be in a machine-readable table; it should include the following as separate data fields:
 - a. Skeleton-Station.
 - b. Train index date.
 - c. Train number dwelling.
 - d. Scheduled dwell time (according to the schedule skeleton).
 - e. Actual dwell time.

Data Accuracy.

12. **Customer OTP data.** Provide all standard operating procedures, employee training manuals, guidelines, instructions, and other relevant materials that describe the processes for gathering, calculating, recording, and storing on-time performance and station-by-station alighting traffic data, and all other data submitted to FRA on a quarterly basis. Documentation should also include how often the data is updated, who is responsible for updating the data, and /or the systems used.
13. **Train delay data.** Provide all standard operating procedures, employee training protocols and manuals, guidelines, instructions, and other relevant materials that describe, step-by-step, the processes for gathering, identifying, categorizing by cause, describing, recording, transmitting, and storing passenger train delay data.
14. **Train delay data review and revisions.** Provide documents that describe the review and/or revision processes and how passenger train delay data is reviewed and/or changed after it is initially recorded. Documents should include how reviews, revisions, and amendments are made, either internally or in reaction to feedback from a host railroad or other external entity.
15. **Host delay disputes.** Provide documents that describe the host delay dispute process. Documentation must describe the process, step-by-step, that occurs when a host railroad disputes a delay and/or delay cause.
16. **Resolving disputed delays.** Provide documents that describe how delay disputes are resolved. Documentation must explain the training and guidance provided to employees regarding the process for resolving disputed delays and steps related to resolving disputes. Provide relevant documents such as training manuals and guides.
17. **Deviations from delay dispute protocols.** During the Relevant Period, on the *Sunset Limited*, identify whether there were any deviations from the typical practice of resolving disputed delays. If so, explain the deviation and rationale for the deviation.
18. **Revised run time metric submissions.** Since FRA commenced publication of the

PRIIA § 207 data under 49 C.F.R. Part 273, the Run Time Metric workbooks have been revised and replaced for FY 22 Q1, FY 22 Q2, and FY 22 Q3.¹⁵ The revised workbooks include at least two changes. First, as originally published, the FY 22 Q3 run time summary data for Train 1 showed scheduled run time of 4,005 minutes, versus 2,795 in the Schedule Skeleton provided in Appendix A of Amtrak's Complaint. Second, in the same FY 22 Q3 Run Time Metric workbook, the scheduled time for Amtrak's short segment of *Sunset Limited* Train No. 1 was shown as 195 minutes, versus 15 minutes in the Schedule Skeleton in Appendix A of Amtrak's Complaint. Explain if the need for changes resulted from errors on Amtrak's part, and if so, explain the steps subsequently taken to prevent their recurrence. In addition, review your Run Time data for the Relevant Period (all worksheets and parameters) and identify any remaining needed changes, in Amtrak's view. Produce revised data workbooks with changed run times.

Internal Controls for Data Quality Assurance.

19. **Internal controls for data quality assurance.** Provide documentation on the quality assurance procedures used to verify and confirm accuracy of reports. List all the procedures Amtrak uses to ensure the accuracy of the reported data by processing it through a quality assurance procedure. Documentation must describe in detail the internal control procedures applied by Amtrak to ensure data accuracy regarding all the quarterly passenger OTP data, train delay data, and all other related data reported to FRA under 49 C.F.R. part 273. Your answer should discuss data gathering, recording, calculating, verifying, reviewing, correcting, maintaining, and delivery of all data reported to FRA.
20. **Deviation from internal controls.** Identify, if any, all actual deviation(s) during the Relevant Period from your internal control procedures for data quality assurance regarding the quarterly passenger OTP data and train delay data reported to FRA under 49 C.F.R. part 273. Include the rationale for the deviation(s).
21. **Third-party reviews of quarterly data submitted to FRA.** Describe the processes and findings of any independent parties engaged or assigned by Amtrak to verify the sufficiency and effectiveness of the standard protocols and internal control procedures described in the previous questions. Identify any actions taken by Amtrak to resolve and/or implement these findings.
22. **Source code for quarterly data.** Produce the source code used to extract, transform, and load; sort; filter; scrub; aggregate; cleanse; calculate; arrange; or otherwise modify raw passenger OTP data as it is prepared for submission to FRA. Provide a narrative that explains each program's purpose.

¹⁵ Intercity Passenger Rail Service Quality and Performance Reports, railroads.dot.gov/rail-network-development/passenger-rail/amtrak/intercity-passenger-rail-service-quality-and (select "Archived Reports") (last visited July 11, 2023).

Scheduling.

23. **Schedule.** Resubmit Appendix A from the December 8, 2022 complaint (“Complaint Appendix A”) in a machine-readable format. For each location referred to in Complaint Appendix A, provide the uniform milepost prefixes and numbers as specified in Part II of the present Appendix A, above. Also, it appears as though certain mileage cells were left blank under the column marked “Mileage” in Complaint Appendix A. In your response supply the missing mileage information using the uniform milepost prefixes and numbers.
24. **Schedule planning considerations.** When planning the pure running time, recovery time, and dwell time allowances for the schedule skeletons on the *Sunset Limited*, what underlying assumptions are made about the routing, track condition, weather, capacity, equipment consist and performance, and any other relevant variables?
25. **Schedule development.** Describe how Amtrak developed its schedule skeletons, including existing and contemplated schedules for the trains on the *Sunset Limited*; for example, what methodology was used? Produce the underlying work papers and/or any studies performed to develop the schedule skeleton. Include a description of any computer programs, SQL models, or other tools used in the process, including detailed descriptions of any equations or algorithms employed for distributing recovery time with the aim of optimizing schedules for customer OTP, whether used in the development of existing and contemplated schedules for the trains on the *Sunset Limited* or other Amtrak trains.
26. **Schedule skeletons—effective dates.** Confirm that the schedule skeletons in Appendix A of your complaint were in effect throughout the Relevant Period. If that is not the case, then provide all schedule skeletons in effect since October 1, 2021, with a detailed list of the *Sunset Limited* train numbers and train index dates to which each schedule skeleton applied.
27. **Schedule skeletons—negative minutes.** Explain all instances where negative values are given for “Misc. Adjust.” time and “Recovery Minutes” in Appendix A of your complaint.
28. **Schedule skeletons—dwell times.** Explain the purpose of “Dwell Minutes” scheduled for stations that are not passenger stops in Appendix A of your complaint.
29. **Variations in tri-weekly operation.** Describe and explain the reasons for any changes in the per-week frequency of *Sunset Limited* operations that occurred during the Relevant Period.
30. **Schedule updates.** Describe Amtrak’s processes, if any, for performing checks of its schedule skeletons to verify that the pure running times and dwell times prescribed therein remain attainable. Provide, where practicable, any work products or work papers, in a machine-readable format, that achieve this schedule skeleton checking functionality.
31. **Factors used to revise schedules.** Describe the assumptions, methods, and factors that have been used to revise the Line’s schedule skeleton in the past.

32. **Certified schedules.** Explain why no “certified schedule” (as defined by 49 C.F.R. § 273.3) has been created for Train 1 or Train 2.
33. **Proposed revised schedules using current scheduled run time.** Provide all schedules proposed by Amtrak to a host railroad after December 16, 2020, that use either the current overall scheduled running time of the trains or a lesser amount of run time.
34. **Proposed revised schedules that are greater than the current scheduled run time.** Provide all schedules proposed by Amtrak to a host railroad after December 16, 2020, that extend the overall scheduled running time of the trains beyond the current overall schedule run time.
35. **Tests for feasibility.** Produce the results of any tests, studies, or projects used to evaluate the feasibility or effectiveness of schedule skeletons on the *Sunset Limited*. Provide any work product, work papers, and all assumptions and documents relied upon in making these calculations in a machine-readable format.
36. **Detailed OTP, lateness, and train arrival data.** Provide a list of every *Sunset Limited* run in the Relevant Period. The list should be in a machine-readable table; it should include the following as separate data fields:
 - a. Train number.
 - b. Train index date.
 - c. Customer OTP for each run (based on all alighting passengers).
 - d. Average passenger-minutes late for the run (measured from scheduled arrival at every alighting station, including late durations less than 15 minutes).
 - e. Customer OTP at each alighting station for each run.
 - f. Minutes late (measured from scheduled arrival) at each station for each run, including late durations less than 15 minutes.
 - g. Number of alighting passengers at each station for each run.
37. **Origin/Destination Data.** For each origin/destination station pair served by the *Sunset Limited*, provide the total passenger-trips, passenger-miles, and ticket revenue for all *Sunset Limited* trains operated during the Relevant Period. Include data for all passenger-trips that arrived at destination stations during the Relevant Period, even if the train run originated or terminated before or after the Relevant Period. These data should be provided in a machine-readable format.
38. **Train-Mile and Passenger-Mile Data.** For each run of the *Sunset Limited*, and by train number, during the Relevant Period, provide train-miles, passenger-miles, and passenger-trips by schedule skeleton segment. These data should be provided in a machine-readable format.
39. **Expiring freight crews.** During the Relevant Period, what is the number of times Amtrak trains on the *Sunset Limited* route were stopped behind a freight train that was undergoing a host railroad crew change? Explain how you know a delay is caused by a host railroad crew change. How many delay minutes did these stops account for during the Relevant Period? Explain the methodology you used to calculate any delay minutes in the answer you provide.
40. **Houston Subdivision/Beaumont Subdivision—operating agreement.** Produce the

agreement between UP and Amtrak that specifies that the *Sunset Limited* is to operate over the Houston Subdivision. Provide a cite to the page or article that illustrates this.

41. **Houston Subdivision/Beaumont Subdivision—run time comparison.** Provide the average actual run time for all Amtrak trains during the Relevant Period for the following segments: (a) from the Houston Amtrak Station to Gulf Coast Junction, (b) from Gulf Coast Junction to Beaumont, (c) from Beaumont to the Houston Amtrak Station via the Houston Subdivision.
42. **Houston Subdivision/Beaumont Subdivision—routing.** How many times was Amtrak train 2, routed over the Beaumont Subdivision during the Relevant Period?

Improving Service, Quality, and On-time Performance.

43. **Plans for improving passenger service.** Explain any measures or plans you have, or would propose to undertake in cooperation with other entities, for improving passenger service and on-time performance of your passenger trains, with particular emphasis on the *Sunset Limited*.
44. **Passenger well-being and travel continuity.** Describe the procedures, if any, in place to ensure passengers' proper well-being and assure their continuity of travel when delays occur—specifically, passenger access to food, water, restrooms, and HVAC, as well as assistance with alternative travel arrangements and accommodations. Provide any documents that describe these procedures.