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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

**AMTRAK’S REPLY TO CANADIAN PACIFIC KANSAS CITY LIMITED’S
PETITION TO INTERVENE**

The National Railroad Passenger Corp. (“Amtrak”) hereby replies to Canadian Pacific Kansas City Limited (“CPKC”)’s August 28, 2023 Petition to Intervene (“Petition”). On July 11, 2023, the Surface Transportation Board (“Board”) issued a decision instituting an investigation into the substandard on-time performance of the *Sunset Limited*. The Board’s July 11, 2023 Order (“Order”) recognized that this investigation may be of interest to individuals or organizations outside of the proceeding, but stated that “to keep the investigation and proceeding orderly and manageable, the Board will assess petitions to intervene under the 49 C.F.R. § 1112.4 standard so that the proceeding is not unduly broadened.” Order at 10.

CPKC seeks to intervene in this proceeding on the basis that CPKC owns and dispatches 1.8 miles of the *Sunset Limited*’s route, and that CPKC operates pursuant to trackage rights over a segment of the *Sunset Limited*’s route primarily owned by UP and jointly dispatched by UP and BNSF. Petition at 1, n.1. CPKC asserts that it seeks intervention “for the purpose of staying apprised of the arguments and evidence offered in this proceeding.” Petition at 2. However, CPKC states that it “has no plans to serve discovery, file pleadings or evidence, or seek any relief in this proceeding” therefore its intervention “will have no effect whatsoever on the procedural schedule” of this investigation. Petition at 4-5. CPKC also states that it “has no interest in raising new issues

in this proceeding” and that its “participation likely will be passive,” therefore CPKC’s intervention will not unduly broaden the issues of the proceeding. Petition at 5. CPKC “concluded that it must become a formal participant” in the proceeding in order to access confidential material in the case, citing Union Pacific (“UP”)’s July 13, 2023 filing which redacted information UP designated as confidential. Petition at 3, n.3.

Acknowledging that CPKC owns and dispatches a segment of track which the *Sunset Limited* route runs over, Amtrak recognizes that CPKC may have a particular interest in the proceeding. Amtrak also understands CPKC’s stated need to intervene in this proceeding to stay apprised of arguments and evidence offered, due to UP’s position in designating as “Confidential” almost all of the materials it has submitted to the Board so far. Based on CPKC’s representation to the Board that it does not intend to serve discovery, file pleadings or evidence, seek any relief, or raise any new issues, Amtrak does not oppose CPKC’s petition to intervene for CPKC’s stated limited purpose of accessing confidential information in the investigation. Amtrak reserves the right to object to CPKC’s intervention to the extent CPKC later seeks to introduce new issues or otherwise delay the proceedings.

As stated above, Amtrak recognizes that CPKC may have a particular interest in the proceedings as an owner of a segment of track that the *Sunset Limited* route travels over. Amtrak opposes the intervention of any party that possesses only a general interest in the proceeding, or possesses only an interest in trackage rights on the *Sunset Limited*’s route without any ownership of track on the route. Intervention by such parties would unduly broaden the proceeding, cause further delays, and conflict with the Board’s interest in keeping the proceeding orderly and manageable.

Dated: September 5, 2023

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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.

/s/ Jessica Ring Amunson
Jessica Ring Amunson

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