

SERVICE DATE – NOVEMBER 20, 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 directs Amtrak, Union Pacific Railroad Company (UP), and BNSF Railway Company to clarify their responses to several of the Board’s requests for information.

Decided: November 20, 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 of Amtrak’s *Sunset Limited* service from October 1, 2021, through December 8, 2022. 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 Amtrak; 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); the Southern California Railroad Authority (SCRRA); and Canadian Pacific Kansas City Limited (CPKC), all of which are considered necessary parties to the investigation. See July 2023 Decision, NOR 42175, slip op. at 10; Complaint & Pet. of the Nat’l R.R. Passenger Corp. Under 49 U.S.C. § 24308(f)—For Substandard Performance of Amtrak’s Sunset Ltd. Trains 1 & 2 (CPKC Decision), NOR 42175, slip op. at 2-3 (STB served Sept. 12, 2023).² The Board has

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).

² By letter filed on September 22, 2023, Amtrak informed the Board that the City of New Orleans (City) is the “owner of the New Orleans Union Passenger Terminal [NOUPT], which includes the rail yard along with approximately six miles of right-of-way. The City leases its right, title, and interest in the Terminal to the New Orleans Building Corporation, which then subleases the Terminal to Amtrak, including all active railroad rights-of-way.” (Amtrak Letter 1, Sept. 22, 2023.) CN filed a reply stating that its understanding is that the City specifically owns the right-of-way between Southport Junction and the NOUPT, over which the *Sunset Limited* route operates. The Board has not found the City to be a necessary party to the investigation at this time.

ordered each of the necessary parties to provide certain information to the Board as part of its investigation. July 2023 Decision, NOR 42175, slip op. at 14-15, App. A.; CPKC Decision, NOR 42175, slip op. at 3.

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. July 2023 Decision, NOR 42175, slip op. at 12-13. The complete list of interrogatories and document submission requirements was set forth in Appendix A of the July 2023 Decision. In accordance with the due dates set by the Board, all parties to the investigation have now submitted their responses to the Board's requests for information.

The Board has reviewed the parties' responses and has determined that it is necessary to seek clarification from Amtrak, UP, and BNSF regarding some of the information provided in response to the Board's request for information. Amtrak, UP, and BNSF will be directed to respond to the Board's request for clarification contained in the appendix attached hereto no later than December 5, 2023.

The procedural schedule set forth in the July 2023 Decision included a 120-day discovery period from the effective date of that decision, meaning discovery closed on November 8, 2023. In light of the requests for clarification, the Board will briefly extend discovery to allow additional discovery among the parties related to the information provided in response to the Board's requests for clarification. Parties will have until December 20, 2023 to complete discovery. The Board will issue a subsequent decision establishing the briefing schedule. As stated in the July 2023 Decision, the Board intends to establish a schedule of 45 days for the submission of an opening statement from Amtrak, 30 days for replies, and 15 days for a rebuttal.

It is ordered:

1. Amtrak, UP, and BNSF are directed to respond to the requests for information as set forth in the appendix to this decision, no later than December 5, 2023.
2. The period for discovery is extended to December 20, 2023.
3. This decision is effective on its service date.

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

APPENDIX

Part I—Amtrak

The Board directs Amtrak to clarify its responses to the following requests for information set forth in the July 2023 Decision, Appendix A, Part III. Also, the Board directs Amtrak to answer one additional question below.

A. Original Question # 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.

Follow-up question:

The host delay code PTI, Passenger Train Interference, is described by Amtrak as “Delays resulting from Passenger Train Interference from all other non-Amtrak passenger trains, not including commuter trains.” Nonetheless, it appears as though the delay data submitted uses PTI to describe interference from more than just “**non**-Amtrak trains.” For example, in AMTRAK_STB_NATIVE_0002, on the tab labeled “CategorizedDelayDetails_v3M” Train 1 with an origin date of 10/1/2021 has an 11 minute PTI delay between SAS and XHT that the conductor described as “Meet AMTK2, Control Point, Dunlay.” Amtrak is directed to clarify its use of the delay code “PTI.”

B. Original Question # 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:

...
f. Actual run time for each schedule skeleton segment.

Follow-up question:

It appears that some of the calculations in the file submitted as AMTRAK_STB_NATIVE_0005 are incorrect or need further explanation. Specifically:

- In the tab titled “1 Runtime by Segment,” cell K102 lists the actual run time for segment XKY-SAS as 64,045,622 minutes.
- A number of segments listed 0 minutes for actual run time on both Train 1 and Train 2.
- On the tab titled “2 Runtime by Segment” cell K55 has a negative value.

- Lastly, Amtrak’s narrative mentions making adjustments for Daylight Savings Time, but those adjustments are not apparent in the spreadsheets submitted.

Amtrak is directed to review the items noted above, and the spreadsheet generally, and provide clarifications or explanations. If corrections are needed, Amtrak should provide a revised version of these worksheets (and any worksheets that this data flows to) along with a narrative explanation of the errors, what caused the errors, and how those calculations were corrected.

C. Original Question # 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.

Follow up question:

Amtrak is directed to describe in greater detail the “manual quality assurance review” procedures mentioned in the response to this investigative question. (See Amtrak Second Response 45, Sept. 25, 2023.)

D. Original Question # 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.

Follow-up question:

Amtrak has provided a SQL query as part of its response to Request No. 22, but there is no description of the fields and field names that the SQL query uses. Amtrak is directed to provide the missing descriptions of the fields and field names.

E. Original Question # 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.

Follow-up question:

Amtrak is directed to resubmit the schedule skeleton spreadsheets for Train 1 and 2 and provide the mileage information for all empty cells in the “Mileage” column.

F. Original Question # 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.*

Follow-up question:

According to Amtrak’s narrative, there have been two renegotiations of the Amtrak-UP operating agreement since 1998 that resulted in material revisions to the *Sunset Limited* schedule. Amtrak states that the first renegotiation occurred in 2005, in which 3.5 hours were added to the schedule. (Amtrak Second Response 58, Sept. 25, 2023.) Amtrak states that the second renegotiation took place after passage of PRIIA. (*Id.*) Amtrak notes that it has conducted a reasonable and diligent search and could not locate any underlying workpapers or studies related to these revisions. (*Id.* at 58 n.2.) Even if Amtrak does not have the underlying materials, Amtrak is directed to describe the specific revisions that were made in 2005. Also, Amtrak is also directed to identify when the second renegotiations occurred and what specific revisions to the schedule resulted, including whether any of the revisions were made in response to the passage of PRIIA.

G. Original Question # 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:*

- ...
- c. *Customer OTP for each run (based on all alighting passengers).*

Follow-up question:

There are train run Customer On-Time Performance (COTP) percentages and passenger count fields missing from the file AMTRAK_STB_NATIVE_0022, tab titled “COTP by run.” Amtrak is directed to provide the missing values. In addition, the tab titled “Lateness-COTP by Location” is missing values. Amtrak should provide the missing values or otherwise explain what those missing values indicate.

H. Original Question # 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.*

Follow-up question:

Some values in AMTRAK_STB_NATIVE_0025 show negative values for ridership, revenue, and miles. Additionally, there are some instances where ridership for an origin-destination pair is listed as 0 but the revenue has a positive value. Amtrak is directed to provide an explanation for these values. If corrections are needed, Amtrak should provide a revised version of these worksheets (and any worksheets that this data flows to) along with a narrative explanation of what caused the errors and how those calculations were corrected.

I. Additional Question:

Amtrak is directed to explain what entity is contractually responsible for Amtrak performance between Southport Junction and Live Oak. In addition, Amtrak should provide a copy of its operating agreement with BNSF.

Part II—UP

The Board directs UP to clarify its responses to the following requests for information set forth in the July 2023 Decision, Appendix A, Part IV:

A. Original Question # 10:

Unscheduled trains. *Describe your protocols for introducing unscheduled trains onto your rail system.*

Follow-up question:

UP is directed to provide additional detail regarding how the timing of train events (including origin departure, destination arrival, en route events, and other planned waypoint times) for unscheduled trains is established, and how the potential effect of the timing of unscheduled trains on the operation of scheduled UP freight trains and scheduled Amtrak trains is considered as part of that process.

Part III—BNSF

The Board directs BNSF to clarify its responses to the following requests for information set forth in the July 2023 Decision, Appendix A, Part IV:

A. Original Question # 2:

Delay causes. *To the extent that you track Amtrak and/or freight train delays and their causes, explain the process(es) for gathering, categorizing, recording, and storing train delay causes. Provide all relevant standard operating procedures, employee training manuals, guidelines, instructions, and other relevant material.*

Follow-up question:

BNSF states in its narrative response that it “actively monitors Amtrak train delays and their causes, including by reviewing Amtrak delay codes in certain circumstances.” (BNSF Second Response 2, Sept. 25, 2023). BNSF then describes its process for determining which Amtrak delay codes to review but does not describe other steps it takes to actively monitor Amtrak train delays and their causes. Additionally, none of the documents it produced appear to explain BNSF’s processes for “gathering, categorizing, recording, and storing train delay causes.” BNSF is directed to provide further detail regarding what information beyond the FRA quarterly reports and Amtrak-provided delay codes it relies on, if any, in monitoring Amtrak delays and causes, and how this information is derived.

B. Original Question # 16:

Amtrak delays and siding length. *List each instance during the Relevant Period, where passing siding length resulted in an Amtrak train being stopped or slowed (i.e., when a freight train could not fit onto passing siding due to a lack of length) on portion(s) of the Route that you host, own, operate, dispatch, serve, or lease. Identify the schedule skeleton segment or skeleton-station involved, the duration of the delay to the Amtrak train, and the Amtrak train number affected, with its date of departure from origin terminal.*

Follow-up question:

The worksheet for BNSF's response has a column for delay duration in minutes. In two instances, the value for the delay is listed as zero. BNSF is directed to provide an explanation for these zero values. If corrections are needed, BNSF should provide a revised version of these worksheets (and any worksheets that this data flows to) along with a narrative explanation of the errors, what caused the errors, and how those calculations were corrected.

Additionally, in BNSF's "Cover Letter and Table of Contents" narrative, BNSF notes that it was providing a list of 15 delay instances where an Amtrak train may have been stopped or slowed due to passing siding length. BNSF's file "Data_Dictionary_and_Templates_NOR_42175_BNSF_9_25_RESPONSE.xlsm", however, does not appear to have the tab labeled "bnsf_amtrak_delays_siding_leng" which is where BNSF states this list is located. BNSF is directed to resubmit the file with the list.