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June 4, 2024

BY E-FILING

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

ENTERED
Office of Proceedings
June 4, 2024
Part of
Public Record

Re: *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 (Docket No. NOR 42175)*

Dear Ms. Brown:

Attached for filing in the above-referenced proceeding is the "Response of Illinois Central Railroad Company to Appendix—Part I (Train 1) of the Surface Transportation Board's February 13, 2024 Decision."

Sincerely,

/s/ David A. Hirsh

David A. Hirsh

Counsel for Illinois Central Railroad Company

Enclosure

cc: All Parties of Record

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

**RESPONSE OF ILLINOIS CENTRAL RAILROAD COMPANY TO
APPENDIX—PART I (TRAIN 1)
OF THE SURFACE TRANSPORTATION BOARD’S
FEBRUARY 13, 2024 DECISION**

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FEBRUARY 13, 2024 DECISION**

Pursuant to the Surface Transportation Board’s (“STB” or “Board”) April 5, 2024 decision, Illinois Central Railroad Company (“CN”) hereby provides its narrative explanations of the root causes of the delays attributed by Amtrak to CN in Appendix—Part I, of the Board’s February 13, 2024 decision (“Decision”). In its May 24, 2024 decision, the Board extended the deadlines for submitting those narrative explanations to June 4, 2024 for delays to Train 1 and to July 24, 2024 for delays to Train 2. CN hereby provides its narrative explanations for Train 1.¹

DEFINITIONS

1. "Amtrak" refers to the National Railroad Passenger Corporation.
2. "CN" refers to Illinois Central Railroad Company.
3. "EBJ-SPJ Segment" refers to the line owned by CN, but leased to NOPB, between East Bridge Junction, LA (MP A906.5) and Southport Junction, LA (MP A908.7).
4. "EDR" refers Amtrak’s electronic conductor delay report.
5. "FRA" refers to the Federal Railroad Administration.

¹ The Board’s May 24, 2024 decision also extended to August 8, 2024 the deadline for filing supporting materials underlying each party’s narrative explanations.

6. “FTI” refers to freight train interference.
7. “KCS” refers to The Kansas City Southern Railway Company.
8. “NOPB” refers to New Orleans Public Belt Railroad Commission for the Port of New Orleans.
9. “NOUPT” refers to New Orleans Union Passenger Terminal.
10. “Operating Agreement” refers to the CN-Amtrak Operating Agreement in effect during the Relevant Period.
11. “Relevant Period” refers to the period October 1, 2021 through December 8, 2022.
12. “SP” refers to Southern Pacific Transportation Company.
13. “Sunset Limited” refers to the Amtrak service (Amtrak Trains 1 and 2) that is the subject of this docket.
14. “TGBO” refers to Tabular General Bulletin Order.
15. “UP” refers to Union Pacific Railroad Company.

GENERAL STATEMENTS AND OBJECTIONS

1. A response by CN to any information request does not indicate and should not be construed as an acknowledgement by CN that such information is relevant or admissible. CN expressly reserves the right to object to additional information requests and to object to the introduction into evidence, in this investigation or any action, of its responses hereto or documents produced in connection herewith.
2. The responses and objections contained herein are made to the best of CN’s present knowledge, information, and belief. CN expressly reserves the right to amend, supplement, and clarify its objections and responses, but assumes no obligation to do so beyond the requirements of 49 C.F.R. § 1114.29.
3. Unless stated otherwise, responses are limited to the Relevant Period.
4. By answering and producing documents in response to any information request, CN does not waive objections or make any admissions as to: (a) the delay data and information provided by Amtrak (including, without limitation, Amtrak_STB_Native_002.xlsx and subsets of data drawn from it); (b) the admissibility or relevance of any information or documents referenced herein or subsequently produced pursuant to the decisions served April 5 and May 24, 2024; (c) the scope of the information requests relative to the subject matter of the above-captioned investigation; and (d) any additional, amended or supplemental information requests that the STB may issue in the future. CN expressly reserves the right to raise such objections and to challenge the accuracy of the data and information provided by Amtrak.
5. CN’s responses to the information requests are made subject to and without waiving these General Statements and Objections. CN incorporates its General Responses and Objections into each response set forth below as if fully stated therein.
6. These General Statements and Objections are made to avoid the duplication and repetition of restating them for each of the information requests. However, the response

to an individual request may, for purposes of clarity, include an objection that is wholly or partially covered by a General Statement or Objection. The failure of an individual response to list a particular General Statement or Objection does not constitute and should not be construed as a waiver of that objection for that response, and the production of any documents that are otherwise subject to an objection is not a waiver of any such objection as to any other document not produced.

7. CN objects to the extent the information requests seek confidential or proprietary or personal information of a third party, the disclosure of which is restricted by reason of contract, privacy laws, or other binding legal obligations.

ROOT CAUSES FOR SPECIFIC DELAYS

In Section I of its Decision, the Board requests explanations of the root causes of specified delays from Amtrak’s previously produced list of Sunset Limited train delays during the Relevant Period (Amtrak_STB_Native_0002.xlsx). The data reflects Amtrak’s assignment of responsibility for each delay. The Board provides the following instructions for responding to the individual delays listed in Appendix—Part I:

For each delay listed, the party listed as the responsible railroad will be ordered to provide an explanation of the root cause(s) of the delay(s). Parties are required either to provide a narrative explanation for each stand-alone delay or cluster of delays, or to group stand-alone delays and/or clusters together where a common root cause or causes will explain the grouped items. Examples of the explanation of root cause(s) of delay(s), may include a detailed explanation of a dispatching decision, the chain of events leading to a particular delay, intervening events, and any other relevant piece of information that will illustrate the underlying reason for a delay to an Amtrak train.

Decision at 2-3. The Decision also notes that if any party “believes a correction needs to be made to data found in the Appendix [it] should bring that to the Board’s attention in a filing.” *Id.* at 3.

Before discussing the specific delays for which responsibility is assigned to CN by Amtrak, CN wishes to address briefly two more general points (while reserving the right to address these points at greater length later in this proceeding). In Part A, we explain again that

CN is not and never has been a “host” for the Sunset Limited, and that Amtrak’s claims in this proceeding to the contrary are without merit. In Part B, we briefly place in context again the very small number of overall delays and delay minutes that occur in the EBJ-SPJ Segment that is leased to NOPB by CN. Finally, in Part C, we address the six delays specific to Train 1 in Appendix—Part I of the Decision, for which CN is listed by Amtrak as the responsible party.

A. CN Is Not a Host for the Sunset Limited and Should Not Be Listed as One in Amtrak’s Data or Treated as One for Purposes of This Investigation.

CN has previously explained that it is not a host for the Sunset Limited and that before Amtrak filed its Complaint it had never brought any concerns to CN or sought discussions with CN concerning the Sunset Limited.² Nonetheless, Amtrak’s list of asserted delays inaccurately refers to CN as a “Host RR.”

As a fundamental legal and logical matter, for a railroad to assume the role of “host” for an Amtrak service there must be an agreement in place between Amtrak and that railroad that governs that relationship for the service. This fundamental requirement is recognized in the FRA’s regulations that define “host railroad” as “a railroad that is directly accountable to Amtrak *by agreement* for Amtrak operations over a railroad line segment.”³ The requirement that there be an agreement is also embedded in Amtrak’s statutory authority which provides that Amtrak “may make an agreement with a rail carrier” for the use of facilities and services.⁴

² See Response of Illinois Central Railroad Company to Surface Transportation Board’s Interrogatories and Document Requirements, at 3-5 (filed Sept. 25, 2023); Response of Illinois Central Railroad Company to Amtrak’s Complaint and Proposed Procedures, at 7-10 (filed Jan. 27, 2023).

³ 49 C.F.R. § 273.3 (emphasis added).

⁴ 49 U.S.C. § 24308(a). Further, the statute specifically requires that the terms of such an agreement “shall include a penalty for untimely performance.”

As CN has explained, Amtrak has never had an agreement with CN to run the Sunset Limited, and it pays nothing to CN for its operation. Before Amtrak began operations in 1971, UP's predecessor SP operated the Sunset Limited as its own passenger train over the Segment, using trackage rights granted by CN's predecessor. Those trackage rights for passenger trains remain in force today between CN and UP. When Amtrak assumed direct operation of the Sunset Limited in 1971, it continued operating over the Segment as SP had done, as SP's successor and via SP's (now UP's) trackage rights, and to this day Amtrak continues to operate via those rights. UP pays CN a flat annual fee for Amtrak's operation of the Sunset Limited trains via UP's trackage rights over the Segment. None of these arrangements support classifying CN as a "host railroad" for the Sunset Limited service.

B. Delays on the EBJ-SPJ Segment Are Relatively Insubstantial.

In any discussion of delays for the Sunset Limited service, it is important to understand the very limited nature of delays attributed to CN by Amtrak on the EBJ-SPJ Segment. The Amtrak spreadsheet listing delays during the Relevant Period (Amtrak_STB_Native_0002.xlsx) includes 22,615 conductor-reported delays on the Sunset Limited. Of those, only 432 are attributed to CN – just 1.91% of the total number. Those few delays amount to only approximately 1% of the total delay minutes listed in Amtrak's spreadsheet (2,092 out of 207,530 minutes). For the Sunset Limited runs with the longest delays, as identified by the Board in the Decision, CN's role is even less significant. CN is listed as responsible for only ten (10) of the 1,043 delays listed in Appendix—Part I of the Decision (Train 1 and 2 runs with the greatest total number of "host-responsible delay minutes"), which is less than 1% of the total. Further, CN is not listed as responsible for any of the delays lasting 90 minutes or longer as listed in Appendix—Part II of the Decision. The number and length of delays attributed to CN by Amtrak itself are not significant.

CN's minimal role and importance in Sunset Limited's performance is also underscored by the types of delays attributed to it. The vast majority of delays reported on the EBJ-SPJ Segment during the Relevant Period were attributed to slow orders, which have largely been removed.⁵ And looked at from the perspective of delays attributed to FTI, which are the primary concern in Amtrak's Complaint, the numbers attributed to CN are minuscule. Only 4% of the already small number of delays on the EBJ-SPJ Segment attributed to CN during the relevant period were categorized by Amtrak as FTI (18 out of 432). That means that less than one tenth of 1% (18 out of 22,615) of the total delays during the Relevant Period were attributed by Amtrak to CN FTI on the EBJ-SPJ Segment.

C. Explanations for the Six (6) Train 1 Delay Events Listed for CN.

With regard to the Board's Appendix—Part I, the six (6) Amtrak-reported delays to Train 1 for which CN⁶ is listed (out of the 569 total) are:

Ref #s below	Train #	Origin Date⁷	From	To	Host RR	Type	Mins	Sub Name
1	1	4/24/2022	NOL	XSU	CC	DCS	27	NOUPT
2	1	5/06/2022	NOL	XSU	CC	DCS	18	NOUPT
3	1	6/03/2022	NOL	XSU	CC	DCS	6	NOUPT
4	1	6/03/2022	XSU	XEB	CC	FTI	30	McComb District

⁵ See CN's Response and Updated Response to the Board's Decision filed April 15, 2024 and April 24, 2024, respectively.

⁶ The rail carrier code for CN in Amtrak's conductor-reported delay spreadsheet is "CC."

⁷ The origin dates listed above and in Amtrak's data for Train 1 are a day earlier than the actual departure dates from New Orleans. As Amtrak has acknowledged, its data erroneously lists the origin dates as if Train 1 was still departing from South Florida, as it did at one time. See Amtrak's Response to the Board's February 13, 2024 Questions, at 2 n.4 (filed Apr. 15, 2024).

5	1	9/02/2022	XSU	XEB	CC	FTI	12	McComb District
6	1	9/20/2022	NOL	XSU	CC	DCS	8	NOUPT

Based on a diligent and reasonable search, CN provides explanations below of the root causes of the six delay events listed above for Train 1. The information available to CN concerning these six delay events is necessarily limited. CN does not maintain the EBJ-SPJ Segment and none of the delays involve CN's own trains, either directly or indirectly. Further, as the parties have never treated the Sunset Limited as within the Amtrak-CN Operating Agreement (Amtrak's claims in this proceeding notwithstanding), CN has had no reason to track the delays or performance of the Sunset Limited trains for the purpose of calculating base compensation or incentives and penalties.

1. **Amtrak delay description: 4/24/2022, Train 1, segment NOL to XSU (9:00-9:37 a.m.), 27 minute delay, type DCS (Signal Delay), "Restrictive signals(s) from unknown cause Stop, Control Point, XSU"**

CN Explanation:

Based on Amtrak's EDR it appears this train was approaching XSU (Southport Junction or "SPJ") on or close to schedule (i.e., 9:15 a.m.). From a dispatching playback it appears, however, that the train did not receive the signal from CN's dispatcher to proceed through XSU (Southport Junction or "SPJ") until 9:34 a.m. The reason for the delayed signal is not evident from the playback, and CN has located no additional information that explains the delay. The dispatching playback shows that the signal to enter the EBJ-SPJ Segment was not delayed due to the presence of another train.

2. **Amtrak delay description:** 5/6/2022, Train 1, segment NOL to XSU (9:00-9:28 a.m.), 18 minute delay, type DCS (Signal Delay), “Restrictive signals(s) from unknown cause Stop, Control Point, XSU”

CN Explanation:

From the dispatching playback it appears that due to a track circuit failure CN’s dispatcher was unable to provide this train with a signal to proceed at XSU (SPJ). When a signal fails, a verbal approval from the dispatcher is necessary for Amtrak to proceed. Therefore, in this case, it appears the train had to stop at XSU so that CN’s dispatcher could provide Amtrak with the necessary verbal clearance to proceed safely. The track circuit failure is consistent with a broken track circuit bond wire.

3. **Amtrak delay description:** 6/3/2022, Train 1, segment NOL to XSU (9:20-9:46 a.m.), 6 minute delay, type DCS (Signal Delay), “Restrictive signals(s) from unknown cause Stop, Control Point, Southport”

CN Explanation:

According to Amtrak’s EDR, this train departed New Orleans terminal 20 minutes late (at 9:20 a.m.) and did not depart Carrollton Junction on the NOUPT segment (identified as “XN7” on the EDR) until 9:33 a.m. (27 minutes late). The dispatching playback shows that once the late train arrived at XSU (SPJ) it received a green signal to proceed at 9:43 a.m. While it is difficult to determine from the dispatching playback the precise time the train had arrived at XSU, Amtrak’s data suggests it was delayed at the signal for up to 6 minutes. According to a dispatching voice recording, the Amtrak crew, perhaps because they had been running late out of New Orleans terminal, did not conduct the mandatory TGBO (Tabular General Bulletin Order)⁸ review with CN’s dispatchers prior to arriving at XSU and therefore had to stop and conduct that

⁸ A “TGBO” is the Tabular General Bulletin Order that CN provides to every train crew operating on CN’s lines each day. It contains all the General Bulletin Orders, which include temporary slow orders, applicable to that CN track on that day.

review at XSU before CN could allow the train to proceed. In other words, this delay is not properly attributable to CN.

4. Amtrak delay description: 6/3/2022, Train 1, segment XSU to XEB (9:46-10:48 a.m.), 30 minute delay, type FTI (Freight Train Interference), “Cross Traffic Control Point, East Bridge JCT, Unknown”

CN Explanation:

Although the Amtrak EDR references a delay only at XEB (East Bridge Junction or “EBJ”), it appears the 30 delay minutes assigned by Amtrak within this segment may actually be based on two events.

First, it appears from the dispatching playback that westbound Train 1⁹ approached the Long Crossover at approximately 9:46 a.m. but did not receive a green signal to proceed past the Long Crossover to XEB until 9:54 a.m. The delayed signal was due to the tail of a KCS freight train (H05371 03) apparently unexpectedly blocking the main line for several minutes after it stopped for a red signal at the southern end of the Long Crossover. The KCS train, moving eastward on the CN Main, had arrived at the Long Crossover at 9:18 a.m. and begun moving off the CN Main.

Second, also from the dispatching playback, it appears Amtrak Train 1 approached the westbound XEB (EBJ) signal at approximately 9:57 a.m., but that it was not cleared to proceed through the EBJ interlocking until approximately 10:45 a.m. UP controls the westbound XEB signal and the broader EBJ interlocking. It appears that during the time Amtrak was stopped at the XEB signal, an unidentified freight train proceeded eastward through the EBJ interlocking to

⁹ We refer herein to Train 1’s movement over the EBJ-SPJ Segment and to movements generally over the EBJ-SPJ Segment and through the EBJ Interlocking as westbound/eastbound, but note that CN’s dispatch screens and playbacks orient the EBJ-SPJ Segment as northbound/southbound, reflecting the broader directional orientation of CN’s McComb Subdivision.

the Norfolk Southern Back Belt, and an unidentified freight train proceeded eastward through the EBJ interlocking on the NOPB west main line. These freight trains may have been allowed to proceed in advance of Amtrak because, as can be seen from the dispatching playback, CN's dispatcher made several priority requests beginning at 9:42 a.m., but those requests were inadvertently placed in the wrong routing section of the EBJ queue. According to the dispatching playback, at 10:43 a.m., CN's dispatcher made a priority request for Train 1 in the correct routing section of the EBJ queue after the dispatcher apparently realized that Train 1 had not proceeded.

5. Amtrak delay description: 9/2/2022, Train 1, segment XSU to XEB (9:11-9:36 a.m.), 12 minute delay, type FTI (Freight Train Interference), "Cross Traffic unkwn frt, Control Point, E Bridge Jct"

CN Explanation:

Based on the dispatching playback, it appears that the CN dispatcher sent a signal request to UP at 8:54 a.m. for the westbound XEB (EBJ) signal for an NOPB train (N00271 30) coming off of the Long Crossover. CN then dispatched the NOPB train over the Long Crossover and onto the EBJ-SPJ Segment westbound to EBJ just before 8:59 a.m. Ordinarily, there would be sufficient time for the NOPB train to clear the EBJ interlocking in time for the arrival of Amtrak Train 1, which is not scheduled to arrive at XEB until 9:20 a.m. The NOPB train, however, was held at the entry point to the EBJ interlocking until just before 9:20 a.m., even though the EBJ interlocking appears to have been clear by 9:06 a.m.

In the meantime, for Train 1, the CN dispatcher had sent a signal request to UP at 9:09 a.m. for the westbound XEB signal. It appears, however, that the dispatcher mistakenly sent this as an ordinary (i.e., non-priority) request. When Amtrak Train 1 approached the Long Crossover signal around 9:11 a.m., CN had to hold it there until just before 9:24 a.m. because the NOPB

train remained stopped ahead at the westbound XEB signal. By 9:24 a.m., Train 1 had proceeded to the segment immediately east of the westbound XEB signal. By 9:25 a.m. the NOPB train had cleared the EBJ interlocking altogether. Nonetheless, Train 1 was held at the westbound XEB signal until just before 9:33 a.m., when it proceeded into the EBJ interlocking. According to the dispatching playback, the XEB signal remained red even when Train 1 proceeded through it. That may indicate that there was a signal failure that required Amtrak to obtain verbal clearance from the UP dispatcher to proceed. Amtrak's EDR shows that there was a restrictive UP signal delay at XEB.

In early 2023, CN sent a reminder to its dispatchers that they be sure that their signal requests for Amtrak's trains are sent as "priority requests."

6. **Amtrak delay description: 9/20/2022, Train 1, segment NOL to XSU (11:14-11:32 a.m.), 8 minute delay, type DCS (Signal Delay), "Restrictive signal(s) from known wayside signal failure Wait for signal to timeout, Stop, Control Point, XSU"**

CN Explanation:

This Amtrak Train 1 was out of slot. It was significantly delayed leaving the New Orleans station. As a result, according to the dispatching playback, it did not approach the westbound XSU (SPJ) signal until approximately 11:30 a.m., over two hours late. When Train 1 arrived at XSU it had a green signal and proceeded almost immediately, but Amtrak's conductor apparently attributed a short delay to CN because the signal was not lined earlier. According to a

dispatcher voice recording, Amtrak requested a signal at 11:30 a.m., which CN almost immediately granted.¹⁰

Respectfully submitted,

/s/ David A. Hirsh

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June 4, 2024

¹⁰ Amtrak's EDR used the phrase "restrictive signal(s) from known wayside signal failure." Amtrak's conductors frequently use that phrase or very similar phrasing in their delay report narratives. CN understands it to mean a "failure" to provide a favorable signal to Amtrak's train rather than meaning to convey that the conductor has evidence of an actual signal malfunction. In any event, CN has not located any evidence that a signal malfunction caused this delay.

VERIFICATION

I, Michael A. Matteucci, certify under penalties of perjury that I am Senior Director — Interline Services for Canadian National Railway Company and its subsidiaries (including Illinois Central Railroad Company), that I have read the foregoing Response of Illinois Central Railroad Company to Appendix—Part I (Train 1) of the Surface Transportation Board's February 13, 2024 Decision and that the facts stated therein are true as stated. I further declare under penalties of perjury that I am qualified and authorized to make this certification on behalf of Illinois Central Railroad Company and its affiliates.

Executed on June 4, 2024.

A handwritten signature in blue ink, appearing to read 'M. Matteucci', is written over a horizontal line.

Michael A. Matteucci

CERTIFICATE OF SERVICE

I, James M. Guinivan, hereby certify that I have, this 4th day of June, 2024, caused the foregoing Response of Illinois Central Railroad Company to Appendix—Part I (Train 1) of the Surface Transportation Board’s February 13, 2024 Decision to be served by email upon all parties of record.

/s/ *James M. Guinivan*

James M. Guinivan