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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

**SUPPLEMENT TO AMTRAK OPENING STATEMENT
CONCERNING ADDITIONAL DELAYS IDENTIFIED BY THE BOARD IN ITS
SEPTEMBER 25, 2024 DECISION**

In its Opening Statement to the Surface Transportation Board (“Board”),¹ the National Railroad Passenger Corporation (“Amtrak”) explained that Union Pacific Railroad Company (“UP”) has failed to provide Amtrak’s *Sunset Limited* Trains with preference over freight transportation, as required under 49 U.S.C. § 24308(c). Amtrak further explained that the investigative record assembled by the Board in this proceeding confirms that *Sunset Limited* delays or failures to achieve the Customer On-Time Performance (“COTP”) Minimum Standard are attributable primarily to that failure.

In an order dated September 25, 2024 (“September 2024 Order”), the Board directed UP, Canadian Pacific Kansas City Limited (“CPKC”), and the Southern California Regional Rail Authority (“SCRRA”) to supplement the investigative record by providing additional root-cause analysis of certain Board-identified delays. UP’s root-cause analysis addresses delays previously attributed to SCRRA and BNSF Railway Company (“BNSF”), and provides an additional narrative explanation on a delay submitted in its previous root-cause analysis. The additional analysis that

¹ Amtrak’s Opening St., Oct. 7, 2024 (“Amtrak’s Opening Statement”).

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UP submitted on October 10, 2024 provides yet more evidence that UP has failed to provide Amtrak with its statutory right to preference over freight transportation.

For example, UP acknowledges that on April 24, 2022 Amtrak passengers were delayed for 74 minutes because { [REDACTED] }

{ [REDACTED] }.² As another example, UP acknowledges that on September 9, 2022, it { [REDACTED] }

{ [REDACTED] }.³ And, as a third example, UP acknowledges that on September 20, 2022 Amtrak was delayed because UP failed to clear maintenance crews before the *Sunset Limited* arrived, even though UP knows where *Sunset Limited* Trains are and can plan accordingly.⁴ In each case, UP favored its own operations over Amtrak's access to the rail lines, whether through inadequate planning for the expiration of freight crews or disregard for Amtrak's operation over shared rail lines.

In short, UP's Supplemental Submission reinforces what Amtrak explained in its Opening Statement: UP has failed to comply with its statutory obligation to provide Amtrak trains with preference over freight transportation, and the Board should progress to the remedial phase of its investigation, so that Amtrak can obtain appropriate relief.

² *Id.* at 6 (4/24/2022; 74-minute delay) (explaining that { [REDACTED] })).

³ *Id.* at 11 (9/9/2022; 18-minute delay) (explaining that { [REDACTED] })).

⁴ *Id.* at 9 (9/20/2022; 8-minute delay) (confirming that Amtrak passengers were delayed while waiting for a maintenance team to clear). UP's supplemental analysis also illustrates disregard for Amtrak's right to preference over freight transportation in another respect. In not one but two instances, Amtrak was denied priority access to rail lines because UP, BNSF, or both host railroads failed to plan adequately for the arrival of Train 2 at Iowa Junction, forcing Amtrak passengers to endure lengthy delays while { [REDACTED] }. *Id.* at 12 (4/3/2022; 59-minute delay); *id.* at 13 (9/25/2022; 20-minute delay).

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William Herrmann
Executive Vice President and General
Counsel
NATIONAL RAILROAD PASSENGER
CORPORATION
1 Massachusetts Avenue, NW
Washington, DC 20001
(202) 253-2763

Respectfully submitted,

/s/ Jessica Ring Amunson
Jessica Ring Amunson
Alex Trepp
Eleanor R. Slota
JENNER & BLOCK LLP
1099 New York Avenue, NW
Suite 900
Washington, DC 20001
(202) 639-6000
jamunson@jenner.com

Andrew L. Osborne
Jocelyn A. Sitton
JENNER & BLOCK LLP
353 N. Clark Street
Chicago, IL 60654
(312) 222-9350

*Counsel for National Railroad Passenger
Corporation*

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.

October 24, 2024

/s/ Jessica Ring Amunson
Jessica Ring Amunson