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

Re: *Application of the National Railroad Passenger Corporation under 49 U.S.C.*
§ 24308(a) — Canadian National Railway Company (Docket No. FD 35743)

Dear Ms. Brown:

Amtrak's Reply Brief filed March 2, 2018 in the above-captioned proceeding includes arguments concerning the short shunt issue that are based on recent baseline tests conducted in the field. While it is inappropriate for Amtrak to make arguments about factual information that is not in the record and the reply brief should not add new factual information, Amtrak's arguments about those recent tests are incorrect and misleading. Illinois Central Railroad Company and Grand Trunk Western Railroad Company (together, "CN") submit this brief letter in response to Amtrak's new arguments about the short shunt issue for the purpose of correcting the record. Alternatively, however, the Board should give no consideration to Amtrak's argument concerning the baseline short shunt tests in its Reply Brief.

CN's Opening Brief and evidence described an issue that has had an effect on the performance of Amtrak's Illini/Saluki service – the failure of Amtrak's single-level Horizon/Amfleet equipment to reliably "shunt" an electric circuit that activates grade crossing signals, which is a problem commonly referred to as a "short shunt." CN Opening Br. at 13-14. A failure to shunt reliably can similarly result in equipment failing to be detected by a traffic control system (such as CTC), creating additional safety concerns. As a result of the short shunt problem with Amtrak's equipment, CN has imposed operating restrictions, including a minimum axle requirement and speed restriction on trains using Horizon/Amfleet equipment. These operating restrictions are necessary to protect the safety of the public, Amtrak's passengers and employees, and CN employees. *Id.* at 14. CN explained in its Opening Brief that the parties disagree on responsibility for the short shunt problem and on the proper treatment under the Operating Agreement of resulting delays due to the speed restriction, but that CN is hopeful a solution can be found so that Amtrak's Illini/Saluki trains can operate safely at full speed. *Id.* CN argued that regardless of the cause of the short shunt issue

with Amtrak's equipment, until a solution is found, the schedules for the Illini-Saluki service should be adjusted to account for the speed restrictions in order to provide Amtrak's passengers' with accurate information about transit times. *Id.* at 41-42.

In its Reply Brief, Amtrak refers to recent joint testing related to the short shunt problem conducted by CN, {{ [REDACTED] }}, and Amtrak, in conjunction with the Federal Railroad Administration ("FRA"), that is ongoing. Amtrak claims that this joint testing has "confirmed" there is "no appreciable difference of the shunting performance of Amtrak's equipment compared to CN's freight trains." Amtrak Reply Br. at 94 n.292; *see also id.* at 98 ("More recent joint tests conducted by Amtrak and CN have confirmed that Amtrak's Horizon/Amfleet equipment (operating at normal track speed) properly activated the CN grade crossings in the relevant segment of the Illini/Saluki route to the same extent as CN freight trains."). It is premature to draw any conclusions from this initial data collection, which was intended to establish a baseline against which further testing under different conditions in the field will be compared. Moreover, the analysis of the data collected from these initial baseline tests is not complete. Further testing and analyses are necessary before any meaningful conclusions can be formed.

Amtrak makes a similar argument about its joint testing {{ [REDACTED] }}. Amtrak claims that {{ [REDACTED] }} Amtrak Reply Br. at 98 n.310. As with the joint testing on CN, the joint testing {{ [REDACTED] }} has only established the proper baseline for further testing. Moreover, CN understands that {{ [REDACTED] }} {{ [REDACTED] }}

Amtrak also claims that the {{ [REDACTED] }} {{ [REDACTED] }} *Id.* Amtrak's claim is incorrect. First, at an August 24, 2017 meeting attended by {{ [REDACTED] }} {{ [REDACTED] }}. Motion of Illinois Central Railroad Company and Grand Trunk Western Railroad Company to Strike, or, in the Alternative, for Leave to Supplement the Record, Exh. 1 (Verified Statement of Tom Hilliard) at 4 (Nov. 20, 2017). Second, as even Amtrak concedes, {{ [REDACTED] }} Whether losses of shunt have resulted in short activation times for grade crossing equipment, or {{ [REDACTED] }} or both, it underscores that operating restrictions on Amtrak's Horizon/Amfleet equipment are reasonable and necessary safety measures to protect the public, as well as Amtrak, CN, and {{ [REDACTED] }} employees. In our joint technical meetings, FRA personnel have stated that they support the use of added axles and speed restrictions as appropriate safety precautions to address these issues.

Amtrak has not shown, as it claims (*see* Amtrak Reply Br. at 98), that CN should be responsible under the Operating Agreement for delays related to speed restrictions imposed for safety due to the short shunt issue. More importantly, Amtrak has not and cannot justify its refusal to adjust

its schedules to account for this speed restriction. The interests of Amtrak's passengers in accurate schedule information should trump Amtrak's self-interest in denying that the short shunt issue is specific to Amtrak's equipment or that the resulting speed restriction is prudent and required for safety.

CN believes this brief correction of the record and response to Amtrak's arguments characterizing the baseline field tests will ensure a complete and accurate record for decision. In the alternative, however, CN requests the Board accord no weight to Amtrak's arguments in the Reply Brief about the short shunt on pages 94 and 98.

Very truly yours,

/s/ David A. Hirsh

Counsel for Illinois Central Railroad Company and
Grand Trunk Western Company

cc: Kevin M. Sheys
Edward J. Fishman