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Surface Transportation Board
Dockets EP-726 & EP-728
395 E Street, S.W.
Washington, DC 20423-0001

Re: Dockets EP-726 & EP-728, submitted electronically to:
http://www.stb.dot.gov/stb/Other_Submissions.nsf/wCorrespondence?OpenForm

Dear Sir or Madam,

The National Disability Rights Network (NDRN) appreciates the opportunity to provide comments to Dockets EP-726 and EP-728.

NDRN is the voluntary membership association for the federally-mandated Protection and Advocacy (P&A) Systems and Client Assistance Programs (CAP) which are located in all 50 states, the District of Columbia, Puerto Rico, the U.S. territories (American Samoa, Guam, Northern Mariana Islands, and the U.S. Virgin Islands), and there is a P&A and CAP affiliated with the Native American Consortium, which includes the Hopi, Navaho and San Juan Southern Piute Nations in the Four Corners region of the Southwest. Collectively, the P&A/CAP Network is the largest provider of legally based advocacy services to people with disabilities in the United States.

The P&As and CAPs provide representation and other advocacy services to individuals with any type of disability. P&As work on numerous types of issues for people with disabilities including, but not limited to, education, public access, employment, healthcare, assistive technology, transportation as well as on protection from abuse and neglect.

NDRN supports the P&A/CAP Network through the provision of training and technical assistance and representing P&A/CAP interests in policy, legislative and administrative arenas.

NDRN and people with disabilities have a particular interest in Amtrak because it is the only national rail passenger entity. In 2013, NDRN and P&A Network undertook a survey of Amtrak stations regarding their compliance with the Americans with Disabilities Act (ADA). On October 16, 2013, NDRN released a report, *All Aboard (Except People with Disabilities); Amtrak's 23 Years of ADA*

Compliance Failure. Available at:

http://dadsupport.ndrn.org/pub/NDRN_Amtrak_Report.pdf. NDRN also filed the report as a complaint with the U.S. Department of Justice (DOJ), along with the supporting documentation that formed the basis for the report.

As a result, in part due to NDRN's report, on June 10, 2015 DOJ released a Letter of Findings regarding Amtrak's compliance with the ADA.

http://www.ada.gov/amtrak/amtrak_letter_of_findings.pdf.

While NDRN is concerned with access to stations and passenger rail cars, we are also concerned about on-time performance of Amtrak's trains. If Amtrak trains cannot meet its published schedules, individuals with disabilities will be among those most adversely affected. Individuals with mobility disabilities often rely on fixed route or paratransit transportation to get from train stations to their final destination. In many cities, these modes of public transportation do not operate 24 hours a day and a late arriving train may leave a passenger, particularly a wheelchair user stranded at the station, with no options since wheelchair accessible taxicabs in many cities are rare or non-existent. In some communities Amtrak is the only mode of accessible public transportation. For example, the Amtrak Empire Builder is the only mode of public transportation for individuals travelling from parts of Montana or North Dakota to receive specialized medical care at the Mayo Clinic in Rochester, Minnesota. For some of those individuals, late trains may result in missed medical appointments.

We find that the Surface Transportation Board's proposal in EP-726 defining "on-time" performance to just measure arrival at its final terminus especially for trips exceeding 200 miles to make no sense. Passengers boarding or alighting at intermediate stations have the same right to on-time performance as passengers at terminus stations.

Historically Amtrak's long distance trains have had significant problems with on-time performance and any rule to measure on-time performance needs to measure *on-time performance at each station*. Existing Amtrak long distance schedules incorporate some degree of cushion and just measuring on-time performance at the terminus station can distort the true performance of service for all the passengers at intermediate stations on long distance routes if the train "makes up" time near the end of its run.

Regarding EP-728, on the Preference Provisions, we are concerned that the Policy Statement waters down the 1973 statutory requirement that host railroads be given preference over freight trains. 49 U.S.C. § 24308(c), Amtrak Improvement Act of 1973, Pub. L. No. 93-146, § 10(2), 87 Stat 552 (initial version)

While the reality of dispatching passenger and freight trains over the same route is complicated and an absolute preference for every individual Amtrak train movement compared with a freight may not always be the best solution, we

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are concerned that the standards set out in the Policy Statement will have the effect of allowing freight railroads to provide preferences for its most lucrative traffic over Amtrak service especially in certain corridors.

We urge the Surface Transportation Board to revise its Policy Statement to more closely follow the intent of the statute which was to promote on-time performance by Amtrak passenger trains.

Again, thank you for the opportunity to comment on these issues of importance to people with disabilities. If you have any questions please contact Kenneth Shiotani, Senior Staff Attorney, at (202) 408-9514 ext. 126 or kenneth.shiotani@ndrn.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis L. Decker". The signature is fluid and cursive, with the first name "Curtis" and last name "Decker" clearly distinguishable.

Curtis L. Decker, JD
Executive Director