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July 12, 2022

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VIA E-FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E. Street, S.W., Room 1034
Washington, D.C. 20024

ENTERED
Office of Proceedings
July 12, 2022
Part of
Public Record

Re: Docket No. FD 36500: *Canadian Pacific Railway Limited; Canadian Pacific Railway Company; Soo Line Railroad Company, Central Maine & Quebec Railway US Inc.; Dakota, Minnesota & Eastern Railroad Corporation; and Delaware & Hudson Railway Company, Inc. Control–Kansas City Southern, The Kansas City Southern Railway Company, Gateway Eastern Railway Company, and the Texas Mexican Railway Company*

Docket No. FD 36500, Sub-No. 1: *Ill. Central R.R. Co.–Acquisition of a Line of R.R. Between Kansas City, MO, and Springfield and East St. Louis, IL – Kansas City Southern Railway Co.*

Docket No. FD 36500, Sub-No. 2: *Ill. Central R.R. Co. –Trackage Rights Between Airline Junction, MO, and Grandview, MO – Kansas City So. Railway Co.*

Docket No. FD 36500, Sub-No. 3: *Canadian National R.R. Co. and Ill. Central R.R. Co. – Control – Gateway Eastern Railway Co.*

Docket No. FD 36500, Sub-No. 4: *Ill. Central R.R. Co. – Assignment of KCS Trackage Rights Between Rock Creek Junction, MO, and Airline Junction, MO Union Pacific R.R. Co.*

Dear Ms. Brown:

We represent National Railroad Passenger Corporation (“Amtrak”) in the above-referenced proceeding. Enclosed please find National Railroad Passenger Corporation’s Opposition to CN’s Amended Responsive Application.

Thank you for your attention to this matter. Should you have any questions, please contact the undersigned.

Respectfully submitted,

/s/ Sophia Ree

Sophia Ree

Enclosure

cc: All Parties of Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. FD 36500

CANADIAN PACIFIC RAILWAY LIMITED; CANADIAN PACIFIC RAILWAY COMPANY; SOO LINE RAILROAD COMPANY; CENTRAL MAINE & QUEBEC RAILWAY US INC.; DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION; AND DELAWARE & HUDSON RAILWAY COMPANY, INC. – CONTROL – KANSAS CITY SOUTHERN, THE KANSAS CITY SOUTHERN RAILWAY COMPANY, GATEWAY EASTERN RAILWAY COMPANY, AND THE TEXAS MEXICAN RAILWAY COMPANY

**NATIONAL RAILROAD PASSENGER CORPORATION'S
OPPOSITION TO CN'S AMENDED RESPONSIVE APPLICATION**

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Dated: July 12, 2022

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BEFORE THE
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**NATIONAL RAILROAD PASSENGER CORPORATION'S
OPPOSITION TO CN'S AMENDED RESPONSIVE APPLICATION**

The National Railroad Passenger Corporation (Amtrak) submits the following comments in opposition to the amended responsive application (Responsive Application) filed on June 9, 2022 with the Surface Transportation Board (the Board) by Canadian National Railway Company and its affiliate, the Illinois Central Railroad Company (IC) (collectively, CN), in this proceeding.¹

Amtrak opposes the Responsive Application because it does not satisfy the Board's "operationally feasible" requirement for imposition of conditions and would harm the public interest by adversely affecting the provision of passenger rail service in the region. In particular, if the Responsive Application is granted, CN would operate additional freight trains over:

- CN's Homewood (Chicago), Illinois to Gilman, Illinois line (the Homewood-Gilman Line Segment), on which CN has repeatedly represented to the Board that it does not have adequate capacity to accommodate even existing Amtrak and CN operations; and

¹ Amtrak's Opposition is also being submitted for sub-proceeding nos. 1-4.

- The rail line jointly owned by Kansas City Southern Railway and its affiliates (collectively, KCS) and Union Pacific Railroad (UP) between East St. Louis, Illinois and Godfrey, Illinois (the East St. Louis-Godfrey Line Segment), on which Amtrak trains already experience high levels of freight train interference.

Amtrak therefore respectfully requests that the Board deny the Responsive Application.

I. BACKGROUND

CN asks that, if the Board approves the acquisition of control of KCS by Canadian Pacific Railway Ltd. and its affiliates (collectively, CP) for which approval is sought in the primary docket, the Board condition its approval upon the divestiture of a KCS rail line between East St. Louis, Illinois and Kansas City, Missouri (the Springfield Line), and the granting, assignment or conveyance of certain other related trackage rights and ownership interests.

As discussed in the Responsive Application² and described in the Verified Statement of Jim Blair, Amtrak's Assistant Vice President Host Railroads, appended to these comments (Blair V.S.), Amtrak operates over nine rail lines on which there would be more freight trains and/or longer freight trains if the Responsive Application is approved:

- The East St. Louis-Godfrey Line Segment that is part of the Springfield Line on which the Responsive Application indicates CN will operate 2.6 additional daily freight trains;
- Two CN lines – the Homewood-Gilman Line Segment and a short segment in Memphis – on which CN would operate two additional daily freight trains;

² While the descriptions of Amtrak operations over lines impacted by the proposed divestiture in the Responsive Application are for the most part accurate, they do not reflect the recent restoration of all of the Amtrak trains and frequencies operating over those lines that were suspended as a result of the COVID-19 pandemic other than one daily round trip between Chicago and Carbondale, Illinois, which remains temporarily suspended. (Blair V.S. at ¶ 5).

- An approximately 250-mile portion of CN's Chicago-New Orleans main line, and three CN lines in Michigan, on which CN would operate longer freight trains;
- A short segment on UP in Kansas City on which CN seeks assignment of KCS's trackage rights and would operate 1.7 additional daily trains; and
- A short segment on UP in Springfield, Illinois on which CN has trackage rights and would operate two additional daily freight trains.

(Blair V.S. at ¶ 4).

CN's Responsive Application makes no mention of the current performance of Amtrak trains operating over these lines. It provides no information (other than pre- and post-transaction train density and tonnage figures) that bears upon their capacity and how current rail operations, and in particular the on-time performance of Amtrak trains, would be impacted if the Responsive Application is approved. Although CN has committed to invest at least \$250 million for capital improvements on other rail line segments on which freight traffic will increase if its Responsive Application is granted (Responsive Application at p. 15), CN has no plans to make any investments to increase capacity on any of the lines over which Amtrak operates – and apparently has not even assessed whether investments are necessary.

A. The Homewood-Gilman Line Segment

Approval of CN's Responsive Application would add two freight trains per day on the approximately 57.6-mile Homewood-Gilman Line Segment, the portion of CN's Chicago-Carbondale-New Orleans main line immediately south of Chicago. (Operating Plan at pp. 68-69; Blair V.S. at ¶ 4). Six daily Amtrak trains operate over the CN line between Chicago and Carbondale: the *City of New Orleans*, a long-distance train that makes a daily round trip between Chicago and New Orleans, Louisiana, and the *Illini/Saluki*, state-supported trains funded primarily

by the State of Illinois that provide two daily round trips (including the one currently suspended) along the Chicago-Carbondale corridor. (Blair V.S. at ¶ 6).

CN's Chicago to New Orleans main line was formerly double track. However, in 1988, IC removed the second track, notwithstanding Amtrak's concerns, claiming that the accompanying installation of centralized traffic control would make the line more operationally efficient. However, following the removal of the second track, the on-time performance of Amtrak's Chicago-to-New Orleans *City of New Orleans* service declined to 15 percent.³

The discussion of impacts of the proposed transaction on Amtrak in the Operating Plan included in the Responsive Application as Exhibit 13 (Operating Plan) states that the Homewood-Gilman Line Segment has “[t]welve freight trains per day” (Operating Plan at p. 57). However, the train density tables in the Operating Plan (*Id.* at p. 87) indicate that figure is understated. CN clarified in its Responses and Objections to Amtrak's First Set of Discovery Requests (CN Discovery Responses)⁴ that it does not include “local trains that traverse shorter segments of the line, various unit trains, and activities around local terminals on the line[.]” (CN Discovery Responses at p. 7). A density table by train type included in CN's Discovery Responses (*Id.* at p. 8) indicates that there are more than 16 freight trains per day on nearly all of the Homewood-Gilman Line Segment, and some portions have more than 20.

CN's position here is at odds with its statements in other Board proceedings involving Amtrak service on the Chicago-Carbondale Line. Until now, CN's position has been that that line has insufficient capacity even to accommodate existing freight and passenger operations. For example, on August 29, 2014, Amtrak filed an Amended Complaint (Amended Complaint) with

³ Schneider, Paul, “The double-track dilemma: Is single-tracking a sound strategy?,” *Trains* (July 1991), p. 27 (appended hereto as Exhibit A).

⁴ CN Discovery Responses are appended hereto as Exhibit B.

the Board in Docket No. 42314 (CN Section 213 Preference Case) in which it asked the Board to investigate, under Section 213 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. § 24308(f)(1)), the substandard performance of Amtrak trains on the Chicago-Carbondale route, which Amtrak alleged was attributable to CN's failure to give preference to Amtrak trains over freight transportation as required by 49 U.S.C. § 24308(c).⁵ In its January 8, 2015 Answer to Amtrak's Amended Complaint (CN Answer),⁶ CN claimed that the on-time performance of Amtrak's trains was not due to CN's failure to give them priority, but rather to the inadequate capacity of the Chicago-Carbondale Line that includes the Homewood-Gilman Line Segment, which it characterized as "a frequently congested single track line, with only a limited number of locations for meets and passes." (CN Answer at pp. 7-8). CN told the Board that "the greatest issues by far affecting the performance of [Amtrak's Chicago-Carbondale] service are a lack of sufficient infrastructure to avoid traffic congestion and the perpetuation of unrealistic schedules that cannot be regularly met." (*Id.*). CN claimed that infrastructure investments on that line by Amtrak were necessary to "address persistent problems." (*Id.*)

Furthermore, in the pending proceeding before the Board under 49 U.S.C. § 24308(a) to determine compensation for Amtrak's operations over CN (CN Section 24308(a) Case),⁷ two CN witnesses – Anne Morehouse, Superintendent of the Regional Operations Center for CN's Southern Region, and Fiona Murphy, CN's Vice President, Corporate Marketing – made the same

⁵ The CN Section 213 Preference Case was ultimately dismissed without prejudice after regulations defining on-time performance for purposes of Section 213 issued by the Federal Railroad Administration (FRA) and the Board were declared invalid by courts. *See* Docket No. NOR 42134, *National Railroad Passenger Corp.—Section 213 Investigation of Substandard Performance on Rail Lines of Canadian National Ry.*, Decided Oct. 19, 2016 and April 12, 2018. The FRA has subsequently issued new regulations.

⁶ Pertinent excerpts from the CN Answer are appended hereto as Exhibit C.

⁷ Docket No. FD 35743, *Application of the National Railroad Passenger Corp. Under 49 U.S.C. § 24308(a) – Canadian National Ry.* (CN 24308(a) Case).

claim. In their verified statements,⁸ both testified that CN has insufficient capacity to accommodate existing CN and Amtrak operations on what they referred to as “[the] congested single track IC main line south of Chicago” (Morehouse V.S. at p. 14) and “the congested single-track main line south of Chicago.” (Murphy V.S. at p. 9).

However, in this proceeding, CN’s position has changed. CN now claims that the Homewood-Gilman Line Segment has excess capacity that will enable it to accommodate two additional CN trains per day – which CN characterizes as a “minimal increase[]” – without “interfere[nce] with Amtrak service.” (Responsive Application at p. 68). When asked for the basis for this claim in discovery, CN stated that it is based upon “the knowledge and experience of CN witness Derek Taylor,” one of the witnesses who has verified the Operating Plan included in CN’s Responsive Application. (CN Discovery Responses at p. 6). CN also asserted that the two-train per day increase on the Homewood-Gilman Line Segment is “so minimal” that there would be no impact on Amtrak operations, and that it was “well within the demonstrated capacity of that line.” (*Id.*). However, CN acknowledged that it had not done any analysis to assess the impact of the additional trains on existing operations. (*Id.*).

CN also claims that, even with the additional trains that would result from approval of the Responsive Application, train volumes on the Homewood-Gilman Line Segment “still equate to less traffic than CN historically ran on that line.” (*Id.*). While historical train volumes (which CN has not provided) are a relevant consideration in assessing rail line capacity, what CN fails to mention is that, historically, the on-time performance of Amtrak trains operating over the Homewood-Gilman Line has been well below acceptable standards. It remains so today.

⁸ CN Section 24308(a) Case, Verified Statements of Anne Morehouse (Morehouse V.S.) and Fiona Murphy (Murphy V.S.) filed Sept. 4, 2015 (pertinent excerpts appended hereto as Exhibit D).

- As discussed above, the on-time performance of Amtrak’s *City of New Orleans* fell to 15% following the single-tracking of the Chicago-New Orleans line.
- As stated in the Amended Complaint that Amtrak filed in the CN Section 213 Case,⁹ the all-stations on-time performance of Amtrak’s four Chicago-Carbondale trains was below 65% in every quarter of the three-year period from the Fourth Quarter of FY 2011 through the Third Quarter of FY 2014.
- The table below shows customer on-time performance of the Chicago-Carbondale route since FY 2018, when Amtrak began using that metric, which the Federal Railroad Administration (FRA) has adopted to measure the on-time performance of Amtrak trains pursuant to Section 207 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA).¹⁰ Since FY 2018, the Chicago-Carbondale route has met the minimum standard of 80% only once: in FY 2021, during which two of the four daily Chicago-Carbondale trains were temporarily suspended, and freight train operations decreased, as a result of the COVID-19 pandemic. However, through the first eight months of FY 2022 (October 2021-May 2022), customer on-time performance on the Chicago-Carbondale route has fallen back to 57%. This was so even though two of the four Amtrak Chicago-Carbondale trains remain suspended, which has eliminated two scheduled meets each day between Amtrak trains operating in opposite directions and reduced the number of meets between Amtrak and freight trains. (Blair V.S. at ¶ 7).

Customer On-Time Performance: Chicago-Carbondale Route

FY18	FY19	FY20	FY21	FY22 YTD
21%	26%	54%	80%	57%

⁹ The pertinent portion of the Amended Complaint is appended hereto as Exhibit E.

¹⁰ 49 C.F.R. § 273.5(a)(1).

(*Id.*).

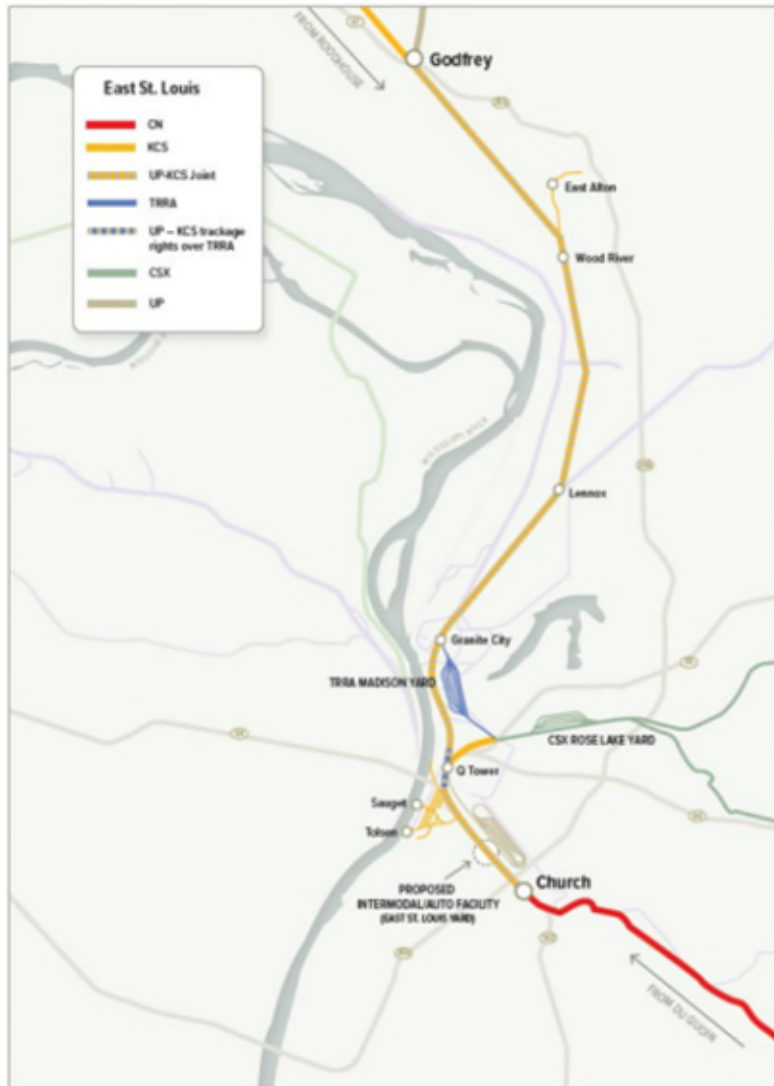
B. East St. Louis-Godfrey Line Segment

The approximately 28.8-mile East St. Louis-Godfrey Line Segment, the portion of the Springfield Line between those points, is jointly owned by UP and KCS and dispatched by UP. CN's Responsive Application seeks to acquire KCS's interest in the line and a KCS subsidiary that owns a portion of it. (Responsive Application at pp. 6-8, 47; Blair V.S. at ¶ 4).

The East St. Louis-Godfrey Line Segment is part of Amtrak's Chicago-to-St. Louis Corridor. Ten Amtrak trains operate over this line each day: four daily state-supported *Lincoln Service* round trips operating between Chicago and St. Louis that are funded primarily by the state of Illinois, and the *Texas Eagle*, a long-distance train that operates a daily roundtrip between Chicago, St. Louis and San Antonio, with connecting through cars continuing to Los Angeles three days per week on Amtrak's *Sunset Limited*. (Blair V.S. at ¶ 8).

All of these Amtrak trains operate over the 23-mile portion of the East St. Louis-Godfrey Line between Godfrey and WR Tower in Granite City, Illinois. Between WR Tower and Amtrak's station in St. Louis, Amtrak trains can use either of two routes depending upon operational considerations. Some trains operate over the Terminal Railroad Association of St. Louis (TRRA) and the Merchants Bridge; others continue over the East St. Louis-Godfrey Line Segment for the remaining 5.8 miles to Q Tower in East St. Louis, from which they operate into St. Louis over TRRA and the MacArthur Bridge. (Blair V.S. at ¶ 9).

East St. Louis-Godfrey Line Segment (Operating Plan, Figure 21, p. 59)



The Chicago-to-St. Louis Corridor is a federally designated high speed rail corridor. The United States Department of Transportation (USDOT) and the State of Illinois have invested over \$1.6 billion to upgrade the corridor and increase speeds to up to 90-110 miles per hour on portions of the corridor north of the East St. Louis-Godfrey Line Segment. USDOT and Illinois have also invested \$21.25 million to construct a new Multimodal Station for Amtrak trains, opened in 2017, in Alton, Illinois on the East St. Louis-Godfrey Line. (Blair V.S. at ¶ 10). In 2017 and 2019,

USDOT awarded \$36 million in Consolidated Railroad Infrastructure and Safety Improvements (CRISI) grants for replacement of components of the MacArthur Bridge. (Blair V.S. at ¶ 11).

Even with existing freight traffic levels, Amtrak trains operating over the East St. Louis-Godfrey Line experience significant freight train interference delays. During the 12-month period from June 2021 to May 2022, Amtrak trains operating over the 17.7 mile segment of the line traversed by all Amtrak trains between Alton (the closest point to Godfrey, which is 3.2 miles north, where Amtrak measures train performance) and WR Tower averaged 546 minutes of delay per 10,000 train miles due to freight train interference. (Blair V.S. at p. ¶ 12).

If the Responsive Application is approved, CN plans to operate 2.6 additional freight trains per day over the East St. Louis-Godfrey Line Segment. (Responsive Application at pp. 85-86, 99). CN's application does not address the impact that these additional trains will have on the performance, of Amtrak trains operating over the line. In its responses to Amtrak's discovery requests, CN asserted that the additional trains "will not interfere with Amtrak service[.]" (CN Discovery Responses at p. 6). As with the Homewood-Chicago Line Segment, CN did not perform any analysis of how those trains will impact operations on the line. (CN Discovery Responses at pp. 5-6, 10). Rather, CN admits that the only bases for its claim are:

- "[T]he knowledge and experience of Mr. Taylor" (CN Discovery Responses at p. 6), whose Statement of Qualifications (Operating Plan at pp. 12-13) indicates that he has spent his entire railroad career with CN, which does not operate over the East St. Louis-Godfrey Line Segment; and
- CN's view that an increase of 2.6 trains per day is "so minimal" that it could not negatively impact Amtrak performance on the line. (CN Discovery Responses at p. 6).

II. ARGUMENT

As the Board stated in its decision accepting CN's Responsive Application, the key issue when the Board is asked to impose conditions on approval of a railroad control transaction under 49 USC §11324(c) is whether the conditions "would or would not be in the public interest." Decision No. 20, served June 30, 2022 at p. 7. Conditions imposed by the Board on its approval of railroad mergers "must be operationally feasible, and produce net public benefits." *Canadian National Ry., Grand Trunk Corp., and Grand Trunk Western R.R.-Control-Illinois Central Corp., Illinois Central R.R., Chicago, Central and Pacific R.R. and Cedar River R.R.*, 4 S.T.B. 122, 141 (1999). Even when the need for a condition is identified, the Board disfavors conditions that require divestitures. "We have often said that divestiture is an extreme remedy not to be imposed lightly[.]" *Id.* at 157. Because the additional CN train operations on the Homewood-Gilman and East St. Louis-Godfrey Line Segments that would result from approval of the Responsive Application could not be accommodated without materially worsening the on-time performance of Amtrak trains operating over those lines, the Divestiture Condition fails to meet the Board's standards.

As CN acknowledges in its responses to Amtrak's discovery requests, it has not performed *any* sort of analysis of whether there is capacity to accommodate its additional trains on these lines, whether any capital investments to increase capacity might be required, and how the currently poor on-time performance of Amtrak trains operating over these lines would be impacted by the addition of more freight trains. The only bases it offers for its assertions that Amtrak services will not be harmed are the general "knowledge and experience" of one of its operating officials and its belief that the increase in train operations – two to 2.6 trains a day – is "so minimal" that it could not impact existing train operations. Moreover, CN's position in this proceeding contradicts its

claims in the CN Section 213 Case, and the sworn testimony of two its witnesses in the pending CN 24308(a) Case, that the Chicago-Carbondale Line (which includes the Homewood-Gilman Line Segment) has insufficient capacity to accommodate *existing* freight and Amtrak operations.

Amtrak recognizes that many rail lines could accommodate the number of additional trains that CN is proposing to add on existing infrastructure. But the Chicago-Carbondale Line Segment, which has suffered from chronic freight train interference leading to poor Amtrak performance, is clearly not one of them. Nor is the East St. Louis-Godfrey Line Segment, on which Amtrak trains continue to experience unacceptably high levels of freight train interference today. Increased Amtrak delays on that line could nullify or substantially diminish the public benefits from the over \$1.6 billion in public investment in the Chicago-St. Louis High Speed Rail Corridor of which it is part.

The public interest considerations that the Board must weigh require rejection of the Responsive Application. Moreover, the Executive Order on Promoting Competition that President Biden issued last year¹¹ urged the Board to ensure that Amtrak service was “not subject to unwarranted delays and interruptions in service” due to host railroads’ failure to give Amtrak trains preference, and in rail merger proceedings to “consider a [rail] carrier’s fulfillment” of its statutory obligations to Amtrak under 49 U.S.C. § 24308. Even if there were competitive harms resulting from CP-KCS merger that expansion of CN’s rail network might remedy, the harm that CN’s requested condition would cause to the public interest in maintaining and improving Amtrak’s operations would require its rejection.

¹¹ Executive Order on Promoting Competition in the American Economy, July 9, 2021 (<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>).

III. CONCLUSION

For the reasons set forth above, Amtrak respectfully requests that the Board deny the Responsive Application.

Dated: July 12, 2022

Respectfully submitted:

/s/ Mark S. Landman

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EXHIBIT A

The double-track dilemma

Is single-tracking a sound strategy?

PAUL D. SCHNEIDER

1. NOT all railroad main lines are created equal. Certainly that's obvious to anyone who ever compared, say, the side-by-side main lines of the Milwaukee Road and Burlington Northern in Montana back in the 1970's. But there is more than just the appearance of good track (BN) and bad track (MILW) to consider. Also pertinent is the traffic capacity of a particular main line and how efficiently that traffic is managed.

At first glance, double track would seem to be the ideal way of moving the maximum number of trains. Single track requires opposing trains to meet at "passing sidings" located at intervals along the line, an operation that involves careful timing of train movements by a dispatcher and time-consuming "meets," in which one train "holds" (waits in) the siding until the opposing train "clears" (passes). Double track, on the other hand, means that traffic flowing in opposite directions has its own track.

When in 1988 Illinois Central and Soo Line revealed decisions to single-track their principal double-track main lines, some people were skeptical of the railroads' motives. If double track is more efficient than single track in handling large amounts of traffic, then did IC's decision to slim down its Chicago-New Orleans main and Soo's its ex-Milwaukee Road Milwaukee-St. Paul route imply that both roads were forsaking the long-term benefit of double track's efficiency and speed for the short-term benefits of track salvage and reduced maintenance-of-way costs? Further, were IC's and Soo's decisions to single-track their mains reflective of a downward spiral of traffic and a bleak future for both railroads? You could almost hear the voice of former TRAINS "Professional Iconoclast" columnist John G. Knelling snarling that IC and Soo should just rip up both mains, get scrap value for the track material, and concede the traffic to truckers, barge lines, or anyone else who truly cared about making a buck in the transportation business.

On the other hand, consider the Florida East Coast Railway. After the Florida real estate boom in 1924, FEC launched a major expansion program, the centerpiece of which was the double-tracking of its Jacksonville-Miami main. Seven years later the boom collapsed and the Depression bumped the railroad into receivership. When the 685-mile railroad was reorganized in 1960, FEC decided to modernize its physical plant by reducing its main to a single track and replacing the old Automatic Block Signal (ABS) system with Centralized Traffic Control (CTC). With ABS, traffic on a particular track is controlled by signals governed by the presence or absence of a train on that track segment (called a "block"). CTC, on the other hand, relies on a dispatcher who remotely controls switches and signals from a machine in his or her office.

Current FEC President R.W. Wyckoff shrugs off the notion that the company's decision to single-track the railroad foreshadowed the beginning of the end for the railroad. "We certainly had no idea of going out of business when we went from double track to single track," he says. "We did it because of the savings to be realized from the standpoint of maintenance and taxes." Indeed, FEC today is a 541-mile railroad boasting some 24 through freights per day, mainly manufactured goods, intermodal traffic, and northbound aggregates. Its single-track main line boasts 132-lb. continuous welded rail, concrete ties, 3-mile-long sidings placed every 10 miles or so the entire length of the line, and a CTC system based at New Smyrna Beach. Operating revenues in 1990 topped \$159 million, and everything FEC buys—from paper clips to remanufactured EMD GP40-2's—is paid for with cash. If this was a preview of Soo's and IC's fates, you have to wonder if single-tracking was synonymous with success.

NOT that Soo Line and IC seem to be fretting over their decision to follow FEC's lead. Soo is single-tracking almost 300 miles of former Milwaukee Road Chicago-Twin Cities double-track ABS main line between Hastings, Minn., 25 miles east of St. Paul, and Duplainville, Wis.,



Mike Abalos

ROLLING south on Illinois Central's newly single-tracked CTC main is train CHG at South Rantoul, Ill., on April 6, 1990.

17 miles west of Milwaukee. "What triggered our initial approach to the project," said Warren Peterson, Soo's former vice president-production (recently retired), "was the fact that the existing two mains were in such a condition that we were faced with a substantial capital outlay to improve both lines to bring them up to what we felt was an acceptable standard." Rather than maintain the existing double-track plant (which previously carried 18 to 25 million gross tons per mile per year on the westward track), Soo consolidated all traffic on one track of 132-lb. continuous welded rail with remotely controlled power switches and new CTC. Rail from the abandoned main (a mix of welded and jointed rail) will continue to be cropped and welded as replacement rail (known as "relay rail"). Cross-ties, too, will be salvaged for reuse elsewhere.

According to Peterson, a single-track, CTC-controlled main line affords Soo Line direct economics in transportation by giving the railroad much more effective control of train operations. Amtrak runs on this line at 79 mph, intermodal trains at 55, and general freight trains between 40 and 50 mph. "With that kind of variety in speed," he said, "you have overtaking problems on double track, mainly because that particular configuration doesn't lend itself to fast trains passing slow trains." Soo's single track, though, will enable its dispatchers in Milwaukee to alter the priority of trains by allowing, say, an eastbound unit grain train to hold in a siding while a faster eastbound general freight train slips past on the main. With ABS, such a move involved running on the "wrong main" with specific permission, without benefit of lineside signals, and sometimes at restricted speeds.

Illinois Central found itself faced with a similar situation on its 921-mile Chicago-New Orleans main, a double-track ABS railroad primarily signaled, like Soo's, for traffic in one direction on each track. "Traditionally, on double track, what happened was that the high-priority trains generally got excellent handling and the slower, secondary trains got butchered," says IC's V.P.-Chief Transportation Officer E. Hunter Harrison. "The secondary train would be at an intermediate point on the railroad like Jackson, Mississippi, ready to go, but two hours later here comes Amtrak at 79 [mph] that will overtake him down the line. So the secondary train is held until he can follow the faster train."

IC's single-tracking project is transforming what Harrison calls "two one-way streets" into a single-track CTC-controlled main line with 2-

mile-long sidings (with power switches at both ends) placed strategically every 15 miles or so, as well as some 4- and 5-mile-long stretches of double track. Fast trains on the IC continue to get top priority, but the railroad, says Harrison, won't have to work out a self-defense for secondary freights and locals. "We'll operate a secondary freight out to a point where we can head him through a power switch and hold him until the faster train passes."

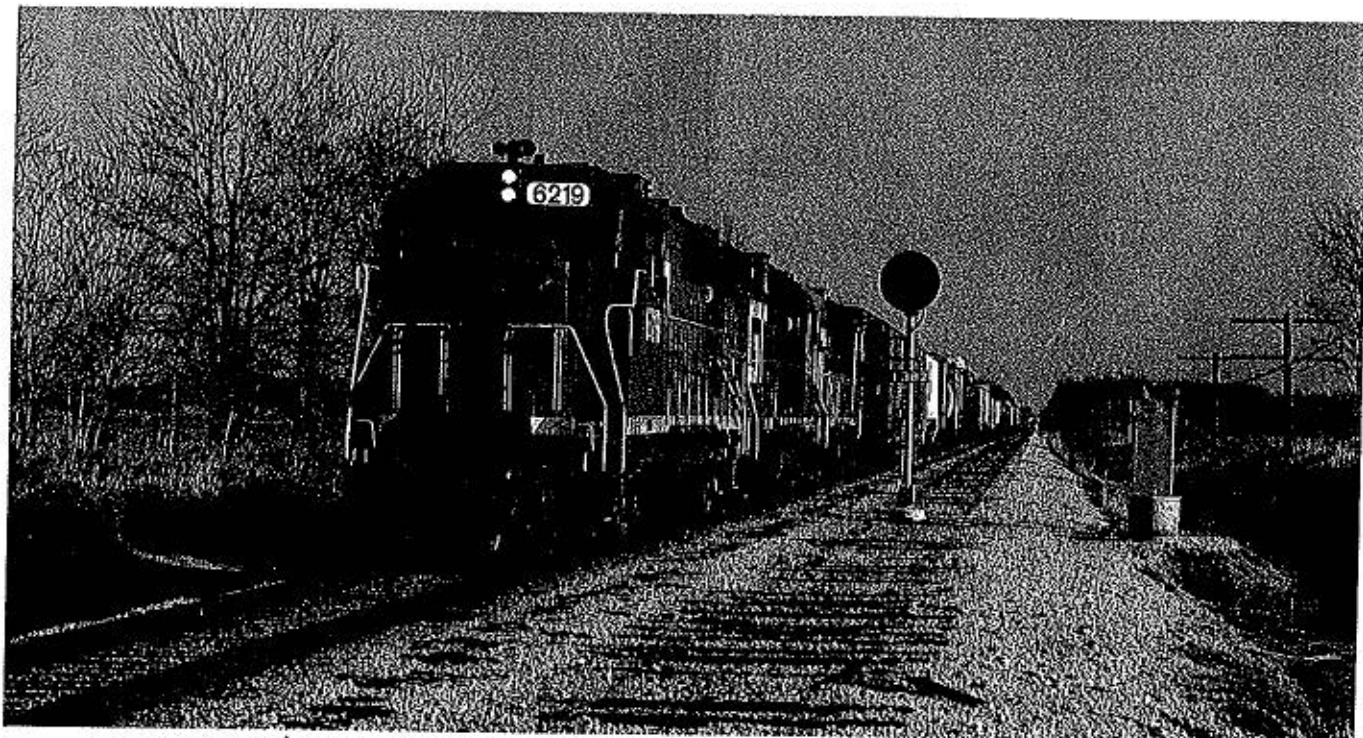
IC's goal, says Harrison, is to do a good job of moving both priority traffic and those "butchered" secondary freights. "We've lost market share in freight-all-kinds," Harrison says, referring to merchandise "FAK" freight that does not move in unit or intermodal trains. "This traffic, which did not get priority treatment previously, will now get better service." Locals will now be able to serve customers on both sides of the main on the same day instead of IC's previous out-one-day, back-the-next schedule.

Neither Harrison nor Peterson see much merit in adding CTC to

existing double-track physical plants. "It's counterproductive," said Peterson. "You continue to have the cost of maintaining two tracks plus the cost of installing and maintaining the CTC." By single-tracking, the railroad eliminates roughly 80 percent of the second main, thereby reducing track maintenance costs.

Harrison says IC ruled out the idea of adding CTC to the double-track Chicago-New Orleans route because of the volume of business on the line and the capital investment required to CTC two main tracks. And by slashing track maintenance costs, single-tracking frees up assets to be used more efficiently. "In my view, it's better to put tonnage on two pieces of iron and maintain that compared to maintaining four pieces of iron," says Harrison in reference to the number of steel rails. Both Harrison and Soo's Peterson claim that their single-tracking projects allow for growth in traffic and train speeds.

Reaction to Soo's project, said Peterson, has been positive. "People see us striving to improve the quality of our service. The sense is



GRAND TRUNK WESTERN train 393 hammers along next to abandoned westbound main near Marcellus, Mich., January 27, 1989.

Mike Abalos.

UNION PACIFIC GE and EMD diesels converge at meet on soon-to-be-double-track UP main at Hanover, Kan., on February 25, 1991.



that by investing this kind of money we're attaining a far more effective railroad." Harrison, on the other hand, candidly admits that IC's project has met with a firestorm of criticism and doubt. Amtrak in particular has been less than thrilled with IC's decision; its *City of New Orleans* between the train's namesake city and Chicago was on time only 15 percent of the time during the early stages of IC's project (April 1989-February 1990). "Paul Getty once said that in changing times, experience is your worst enemy," Harrison says. "Some people have a hard time comprehending the fact that a one-way street is not conducive to operating trains of varying speeds with reduced crews and no cabooses. For people who've always worked with double-track ABS, it's a change, and people are always uncomfortable with change. And with all the line sales IC undertook in the last few years, people see the single-tracking as rationalization, a sign the IC is on the verge of going out of business." Illinois Central discussed the project with other railroads and followed up with traffic studies and computer simulations before finally judging that single-tracking was the way to go. "There may be flaws in the plan," concedes Harrison. "But when they surface we're ready to deal with them."

BUT single-tracking isn't always the way to go. Consider Grand Trunk Western, whose Vice President-Operations David Wilson describes GTW's decision several years ago to single-track what was essentially a 203-mile double-track ABS railroad between Chicago and Durand, Mich., as "a logical step to take." GTW single-tracked 18 miles of main line on the west end, between Penn and Schoolcraft, Mich., on the South Bend Subdivision, in 1988. But since then, GTW has had a change of heart.

"We were looking for a reduction in maintenance costs," says Wilson, "and an improvement in track usage by increasing tonnage over the remaining track." The eastbound main was relaid with 132-lb. welded rail; the interlocking at Penn was reconfigured; and 16 miles of the westbound main was torn up and used as relay rail at other locations. Two miles of the old westbound main were left in the middle of the segment at Marcellus, Mich., for use as a storage track.

Wilson claims GTW achieved what it wanted from a cost standpoint and is pleased with the project, but he doubts the company will undertake any more single-tracking projects soon. "Our traffic volume is just too great to support a single-track CTC railroad and still maintain our service commitments," he says. "That project was done out of the synergy at the time when we were going to longer trains that weren't particularly time-sensitive." A similar plan to single-track 9 additional miles between Stillwell and Wellsboro, Ind., was subsequently shelved when GTW's business surged. (The railroad now hauls about 32 million gross ton-miles per year between Chicago and Durand.)

According to Wilson, all of GTW's traffic today is time-sensitive. "We don't have the luxury of running heavy tonnage trains. Our operating philosophy is driven by the customers and the connections." The way GTW operates, traffic is released from eastern Michigan terminals in the afternoon and evening, and trains are "fleeted" to Western rail-

road connections in Chicago. Eastbound traffic, on the other hand, is spaced out throughout the night, which leaves the railroad with an uneven traffic flow.

Although Wilson says delays to trains on the single-track Penn-Schoolcraft segment have been minimal, he allows that time-sensitive eastbound trains on what would have been a single-track railroad all the way from Chicago to Durand could have been delayed as they battled a river of equally "hot" westbounds. From Wilson's point of view, scheduling track maintenance on single track was also a problem. "On double track you can run trains on the track adjacent to the maintenance work. But on single track you either have to clear the maintenance equipment out of the way or set 'windows' when you can't operate trains."

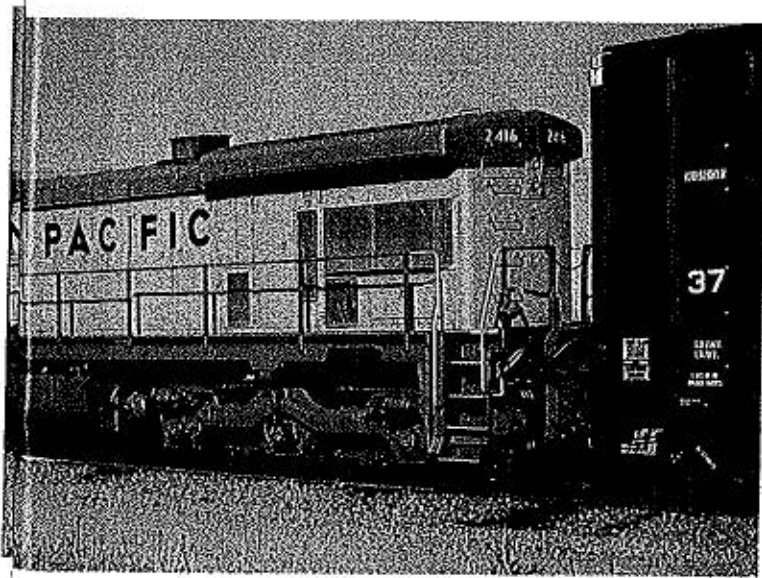
Grand Trunk will continue to monitor its single-track CTC installation, but Wilson says the railroad is looking at installing double-track CTC on certain segments. "With our volumes and schedule requirements," he concludes, "we'll have to stay with double track."

THE Monongahela Railway isn't concerned with single-tracking its railroad, mainly because it can't add double track fast enough. The 136-mile Monongahela (MGA) is a "dark" (i.e., unswitched) mostly single-track railroad tied to one commodity: coal. MGA loads about 17 million tons of Pennsylvania and West Virginia bituminous annually, and according to the company's Rail Transportation and Coal Mine Directory, that tonnage continues to grow as on-line mine operators increase production. In 1989 MGA decided to improve service by adding 1 1/4 miles of double track at Clarksville, Pa., on its busy Ten Mile Run Branch between Brownsville and Waynesburg, a 2-mile segment that handles 26 million gross ton-miles per year. Says MGA President Paul Reistrup (yes, the same man who was Amtrak's president 1975-1978): "Before we double-tracked, we had a 2-mile stretch here where we couldn't meet trains. They'd all follow each other in a fleet." For example, an empty train headed up the Manor Branch from the Ten Mile Run Branch would wind up pulling onto the Waynesburg Southern branch to let a loaded train off the Manor Branch, then back up the Ten Mile Run Branch again so it could finally head up the Manor Branch. "This is common in the streetcar business," Reistrup points out dryly, "but not with unit coal trains."

For the time being, MGA's double-track segment (called the "Clarksville Double Main" in MGA's current timetable) remains under computer-assisted block clearance control, essentially a track warrant control system managed by MGA dispatchers in Brownsville. Next year, though, MGA will double-track and CTC 1.3 miles of main line near Waynesburg, and Reistrup expects the Clarksville Double Main to be signalled for CTC by 1993. The Clarksville project rang up a bill of \$1.25 million, money that Reistrup considers well spent considering the subsequent reduction in train delays. "The mines like to have trains at the beginning of their shifts," says Reistrup. "We plan to have an empty train waiting at the mine when a load pulls out."

Union Pacific also has coal trains and double track on its mind these days. The railroad is shelling out \$250 million over the next five years for capacity expansion to protect its profitable unit coal business out of Wyoming's Powder River Basin ("Powder River Country," pages 40-63, November 1989 TRAINS). This year alone UP will spend \$70 million on projects involving the Marysville Subdivision, a single-track mainline segment on the North Platte (Nebr.)-Kansas City route. It links the eastern end of the North Platte Division transcontinental main line at Gibbon, Nebr., with an existing double-track portion between Kenefick, Kans. (near Topeka), and Kansas City. Central to the project is 30 miles of new double track and completion of 14 miles of CTC. By 1995, 200 of the Marysville Sub's 285 miles are to be double-tracked; UP expects virtually all its Powder River coal corridors to be under CTC control by 1993. When asked why UP is embracing double-track CTC at a time when railroads such as IC and Soo Line are choosing single-tracking, UP spokesman John Bromley chuckles. "Maybe they don't have enough business," he says. "But we do."

Its projects like Monongahela's and UP's, not to mention Grand Trunk Western's change of heart, that raise questions about the motives behind Soo's and IC's single-tracking projects. You can even argue that the success of Florida East Coast's single-tracking project hinges on the fact that FEC's traffic is 24 trains a day, about equal to the number IC and Soo each will be operating over their newly single-tracked lines. In the final analysis, you too may find yourself asking: Is single-tracking a sound strategy for success or simply a short-sighted view of a railroad's future? I



Dan Munson.

EXHIBIT B

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 36500 (SUB-NO. 1)

**ILLINOIS CENTRAL RAILROAD COMPANY – ACQUISITION OF A LINE
OF RAILROAD BETWEEN KANSAS CITY, MO, AND SPRINGFIELD AND
EAST ST. LOUIS, IL – KANSAS CITY SOUTHERN RAILWAY COMPANY**

STB FINANCE DOCKET NO. 36500 (SUB-NO. 2)

**ILLINOIS CENTRAL RAILROAD COMPANY – TRACKAGE RIGHTS
BETWEEN AIRLINE JUNCTION, MO, AND GRANDVIEW, MO – KANSAS
CITY SOUTHERN RAILWAY COMPANY**

STB FINANCE DOCKET NO. 36500 (SUB-NO. 3)

**CANADIAN NATIONAL RAILWAY COMPANY AND ILLINOIS CENTRAL
RAILROAD COMPANY – CONTROL – GATEWAY EASTERN RAILWAY
COMPANY**

STB FINANCE DOCKET NO. 36500 (SUB-NO. 4)

**ILLINOIS CENTRAL RAILROAD COMPANY – ASSIGNMENT OF KCS
TRACKAGE RIGHTS BETWEEN ROCK CREEK JUNCTION, MO, AND
AIRLINE JUNCTION, MO – UNION PACIFIC RAILROAD COMPANY**

**RESPONSES AND OBJECTIONS OF CANADIAN NATIONAL
RAILWAY COMPANY AND ILLINOIS CENTRAL RAILROAD COMPANY TO
NATIONAL RAILROAD PASSENGER CORPORATION’S FIRST SET OF
DISCOVERY REQUESTS**

Pursuant to 49 C.F.R. Part 1114, Subpart B, Canadian National Railway
Company and Illinois Central Railroad Company (collectively, “CN”) hereby respond

and object as follows to National Railroad Passenger Corporation's First Set of Discovery Requests ("Requests," and each a "Request") served on June 16, 2022, in connection with the above-captioned proceedings. CN reserves the right to supplement or amend these Responses and Objections as circumstances may require.

General Objections

CN makes the following General Objections to the Requests and incorporates them, as well as the Objections to Definitions below, into its responses to each and every Request (including subparts), whether or not specifically stated in the individual response. An assertion of the same, similar, or additional objections in response to a specific Request does not waive any of these General Objections as to that or any Request. CN's failure to object to a specific Request on a particular ground shall not be construed as a waiver of its right to object on any ground.

1. CN objects to the Requests, including the Definitions and Instructions, to the extent they impose burdens, obligations, or requirements which are greater than the requirements or permissible scope of discovery under 49 C.F.R. Part 1114, Subpart B, or under other Surface Transportation Board ("Board") rules or precedents.

2. CN objects to the Requests to the extent they seek identification of "all" documents or a category of information where the production of a subset of documents would be sufficient to respond to the Request on the basis that such Requests are unduly burdensome.

3. CN objects to the Requests, including the Definitions and Instructions, to the extent they seek information that is cumulative or duplicative, already in the National Railroad Passenger Corporation's possession, custody, or control, or that is obtainable from publicly available sources, or from another source that is more convenient, less burdensome, or less expensive, including, without limitation, by other means of discovery.

4. CN objects to the Requests to the extent the Requests seek information that is protected by the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege, exemption, or protection from discovery or disclosure. In the event CN inadvertently produces or provides any such information, and such information is the proper subject of the attorney-client privilege, the attorney work product doctrine, and/or any other applicable privilege, exemption, or protection, such disclosure is not to be construed as a waiver of any of these privileges, exemptions, or protections. CN reserves the right to demand that such inadvertently produced privileged information be returned to it and that all copies in Applicants' possession, and that of its counsel, consultants, subsidiaries, or other agents, be destroyed.

5. CN objects to the Requests, Instructions, and Definitions, to the extent they seek information or documents that contains confidential, proprietary, or commercially sensitive information. CN will only produce such information subject to the Board's Protective Order issued in the above-captioned proceedings on April 2, 2021.

6. CN reserves all rights to supplement, amend, revise, correct, or clarify these objections and/or responses, and CN reserves its rights to assert any applicable objection, privilege, or other protection in connection with such supplement or amendment.

7. CN does not concede the relevance, materiality, competency, or admissibility as evidence of documents or information requested in the Requests or the Responses or productions thereto provided by CN. CN reserves its right to object on any ground to the use of the Responses herein, or its related productions, in this proceeding or in any subsequent appeal, proceeding, action, or trial.

Specific Objections and Responses

In addition to its General Objections (which apply in full to each and every Request, without further enumeration), CN sets forth below Specific Objections and Responses to each Request. CN preserves all of its General Objections set forth above, and none of the following Specific Objections shall waive its General Objections. Nor shall any of CN's Specific Objections limit the scope, breadth, generality, or applicability of those General Objections.

INTERROGATORY NO. 1

Identify each person who supplied information for, who was consulted in connection with, or who participated in preparation of the answers to these interrogatories. As to each such person, identify the answer(s) for (or in which) he or she was consulted, supplied information, or participated.

Response

CN objects to the Request to the extent that it seeks information protected from discovery by the attorney-client privilege or attorney work product doctrine.

Subject to and without waiving these objections or the General Objections, CN states that the sponsors of the Operating Plan to the Responsive Application were consulted in preparation of the answers to these interrogatories. Those individuals are Derek Taylor, Vice-President, Southern Region, for CN, and Carl Van Dyke of Oliver Wyman, an outside consultant for CN. CN also consulted with the following: Greg Hartley, Director, Asset Planning and Quality, Network Operations; and Michael Matteucci, Senior Director, Interline Services, Network Operations.

INTERROGATORY NO. 2

Describe in detail all studies or analyses, including but not limited to any analyses utilizing the Rail Traffic Controller (“RTC”) capacity modeling software or other rail line capacity modeling tools, that support or pertain to the statements on pages [66 and 104 and 105] of the Revised Application that there will be no impact on, interference with, or disruption of Amtrak service from the additional trains CN would operate if its application is approved between (i) Chicago and Gilman, Illinois, (ii) Godfrey and Q Tower (East St. Louis), Illinois, and (iii) KC Junction and Iles/Hazel Dell in Springfield, Illinois. Include in Your description (i) the reason the studies or analyses were performed; (ii) the names of the entities and of each person who performed them; (iii) the line segments examined, (iv) the dates on which the studies or analyses were completed; (v) the conclusions of the studies or analyses with respect to the performance of Amtrak trains and freight trains operating over those line segments; and (vi) all actions that CN has taken or considered taking as a result of the studies or analyses, including but not limited to making investments to increase track capacity on these line segments.

Response

CN objects to the overbroad and unduly burdensome request to “[d]escribe in detail all studies or analyses” related to passenger rail. CN objects to this Request to the extent that it seeks documents protected from discovery by the attorney-client privilege or attorney work product doctrine.

Subject to and without waiving these objections or the General Objections, CN responds that, as CN explained in the Operating Plan and on the basis of the knowledge and experience of CN witness Derek Taylor, the increase in trains on the Springfield Line will not interfere with Amtrak service because the increase is so minimal (*i.e.*, one additional daily local train assignment and two additional through train round trips per week on the UP/Amtrak corridor between Godfrey, Illinois and Q Tower in East St. Louis, Illinois; two new trains per day where Amtrak crosses the Springfield Line for approximately 0.1 miles in Springfield, Illinois). Dispatching is not controlled at either location by the owner of the Springfield Line.

Also on the basis of the knowledge and experience of Mr. Taylor and on available freight capacity studies performed by CN in the ordinary course of business, the increase in freight train traffic on the Chicago subdivision between Chicago and Gilman, Illinois under the Operating Plan is well within the demonstrated capacity of that line and will still equate to less traffic than CN historically ran on that line. As stated in the Operating Plan, CN is committed to working with Amtrak to address any issues of concern arising from the divestiture of the Springfield Line to CN.

INTERROGATORY NO. 3

Page [54] of the Revised Application states that there are “Twelve freight trains . . . per day” between Chicago and Gilman, Illinois. Figure 30 on page [83] indicates that there are 18.0 “Pre-Transaction Trains Per Day” between Kensington and Homewood; 25.6 trains per day between Homewood and Stuenkel; and 23.1 trains per day between Stuenkel and Gilman. Please

explain the discrepancies in these figures and indicate which of them is correct.

Response

Subject to and without waiving any General Objection, CN explains that pre-transaction there are 12 core scheduled freight trains from the Markham Yard near Chicago to Gilman, Illinois plus an additional six passenger trains per day. The narrative description on page 54 of the Revised Application refers to these scheduled freight trains on the Chicago to Gilman segment and does not include local trains that traverse shorter segments of the line, various unit trains, and activities around local terminals on the line that increase the volume of trains in those particular areas.

As explanation, Figure 1 below is a histogram generated from the CN provided MultiRail files available in CN's workpapers and other information CN relied upon in its filing that shows the highest level of detail capable from MultiRail for the pre-transaction train counts between Kensington, Illinois and Gilman, Illinois including the scheduled trains, local trains, unit trains, and passenger trains. CN is producing a link density table by train type from Kensington, Illinois to Gilman, Illinois that was relied upon to generate the histograms.

Figure 1

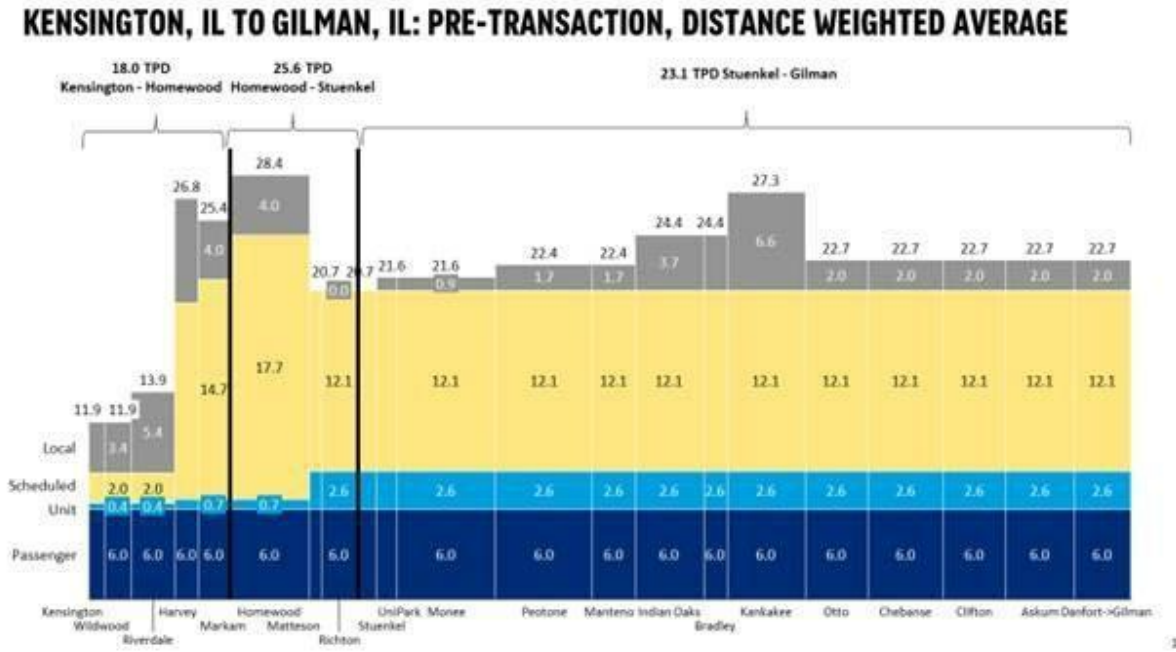
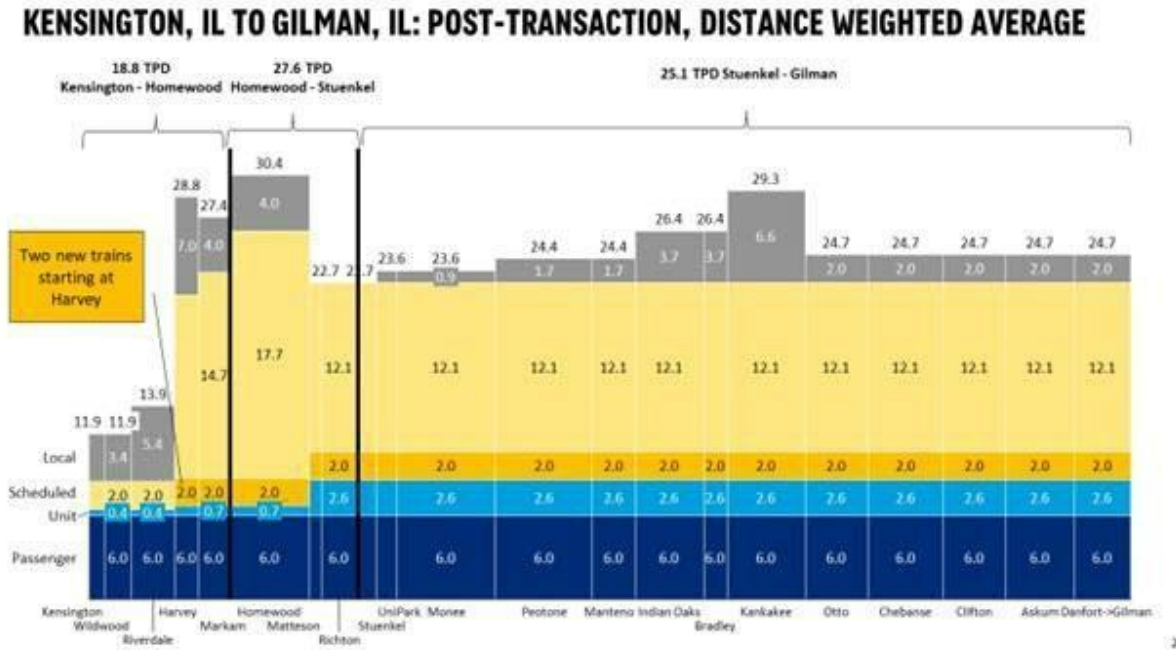


Figure 2 is another histogram from MultiRail that shows the train count in CN’s proposed Operating Plan. It includes the pre-transaction trains in Figure 1 plus the addition of two new daily through trains from CN’s Markham Yard in Harvey, Illinois to Gilman and beyond to the Springfield Line.

Figure 2



INTERROGATORY NO. 4

Page [104] of the Revised Application states that if the Revised Application is approved there will only be “one additional local train on the UP/Amtrak corridor between Godfrey, IL and Q Tower.” The map depicted in Figure 2 on page [3] of Exhibit 13 indicates that there will be 2.6 additional trains per day between Godfrey and East St. Louis, where Q Tower is located, if the Revised Application is approved. Please explain the discrepancies in these figures and indicate which of them is correct.

Response

Subject to and without waiving any General Objection, CN explains that one daily local transfer train assignment between East St. Louis, Illinois and Roodhouse, Illinois is added in the Operating Plan, as quoted by the Interrogatory on page 104. But because it is a turn train, it would actually generate two trains per day (one in each direction). In addition, the Operating Plan increases through trains between East St. Louis and Kansas City from four times per week to six times per

week, which averages to an additional 0.6 trains per day. Together, that yields the 2.6 additional trains per day between Godfrey and East St. Louis indicated in Figure 2 of the Operating Plan.

REQUEST NO. 1

All documents related to the capacity studies or analyses referenced in CN's responses to Interrogatory No. 2.

Response

CN objects to this Request on the basis that it is overly broad and unduly burdensome in that it requests "[a]ll documents." Subject to and without waiving these objections or the General Objections, in response to Amtrak's request, CN is producing two pages relating to available freight train capacity on the Chicago subdivision between Chicago and Gilman. CN also refers to the histograms provided in response to Interrogatory No. 3, which were generated using the MultiRail workpapers that were submitted with the Responsive Application, and the additional density table being produced.

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Dated: July 1, 2022

Respectfully submitted,

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Certificate of Service

I hereby certify that, on this 1st day of July, 2022, a copy of the foregoing Responses and Objections of Canadian National Railway Company and Illinois Central Railroad Company to National Railroad Passenger Corporation's First Set of Discovery Requests was served by email or first class mail on:

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EXHIBIT C

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. NOR 42134

**NATIONAL RAILROAD PASSENGER CORPORATION –
SECTION 213 INVESTIGATION OF SUBSTANDARD PERFORMANCE
ON RAIL LINES OF CANADIAN NATIONAL RAILWAY COMPANY**

CN'S ANSWER TO AMTRAK'S AMENDED COMPLAINT

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*Counsel for Canadian National Railway Company, Grand Trunk
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January 8, 2015

OTP has only been below the 80% threshold for one quarter in the past three years. *See supra*, Section II.B.

CN admits that the All-stations OTP figures and Endpoint OTP figures referenced in Section I on pages 3-4 of the Amended Complaint are those published in the quarterly reports prepared by Amtrak for publication by the Federal Railroad Administration (“FRA”). However, CN denies that those figures are “below” the “investigation threshold” or otherwise demonstrate that the Board must initiate an investigation or has authority to do so.

IV. ISSUES AFFECTING THE ON-TIME PERFORMANCE OF AMTRAK’S ILLINI/SALUKI SERVICE

CN understands that Amtrak wishes to improve OTP for the Illini/Saluki service,¹¹ and CN remains, as it has always been, willing to work with Amtrak to address its concerns and help develop and achieve realistic schedules. The level of OTP (as measured by Amtrak) of Illini/Saluki is not unusual, however, and CN rejects Amtrak’s claim that its longstanding and systemic operating problems and failure to achieve consistently high OTP on this service are in any way attributable to a failure by CN to properly dispatch the line or to afford Amtrak’s trains preference. CN’s dispatchers accord Amtrak’s trains preference, regularly holding other traffic

¹¹ Amtrak does not achieve its goal of 80% OTP (measured by Amtrak’s preferred definition of OTP) on most of its routes. In neither of the first two quarters of 2014 did Amtrak’s premium Acela service achieve an Endpoint OTP of 80%. In one of those quarters, only 4 out of Amtrak’s 24 corridor (*i.e.*, short- and middle-distance) services (17%) achieved an endpoint OTP of 80% or greater; in the other quarter, it was 5 out of 24 (21%). In those same two quarters, none of Amtrak’s 15 long-distance services achieved an 80% Endpoint OTP. Amtrak’s OTP varies among routes and route segments in response to a complex array of factors including the levels of capital investment by Amtrak, the nature of Amtrak’s schedules, the level of congestion on the routes, the mix of traffic moving at different speeds along the route, the number of host carriers on the route, the number of interlockings along the route, maintenance and weather issues, and other route- and track-specific characteristics.

in favor of Amtrak and expediting Amtrak's trains ahead of other traffic on what is a frequently congested single-track line, with only a limited number of locations for meets and passes.

There are ways in which delays to the Illini/Saluki service might be reduced, for example, through improved communication and collaboration between Amtrak and CN, but the greatest issues by far affecting the performance of that service are a lack of sufficient infrastructure to avoid traffic congestion and the perpetuation of unrealistic schedules that cannot be regularly met given Amtrak's failure to contribute to any infrastructure improvements for the line. CN has proposed that Amtrak consider a number of infrastructure improvements to address Amtrak's concerns in areas where Amtrak's service is experiencing significant delays, including delay Amtrak categorizes as FTI ("freight train interference").¹² Amtrak has declined to consider such investments, even though they would address persistent problems and significantly improve Amtrak performance.

Amtrak has also refused to adopt realistic schedules that could both make the service more reliable and reduce delay. Amtrak's Illini/Saluki schedules are based on theoretical "pure run time" ("PRT") between points, which does not account for differences in weight and horsepower among various consists, wheel slip, less-than-ideal engine performance, train handling techniques among train crews, weather, and other real-world occurrences that can cause an otherwise un-delayed train to fail to make its PRT.¹³ And the total trip times for these

¹² See CN Response at 25-26; *id.* Exhibit I.

¹³ In Amtrak's delay reports, this is reflected in delays categorized as "OTH" and described as "insufficient run time" or something similar. For some trains on the Illini/Saluki service, such delays can account for over a quarter of the delay minutes on a segment. For example, from January through November 2014, 619 of the 2,425 delay minutes (25.5%) incurred by train 391 between Champaign and Mattoon were coded as OTH. For this train during this period, delays coded as OTH represented 9.0% of all delays. These delays strongly

EXHIBIT D

PUBLIC VERSION – REDACTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 35743

**APPLICATION OF THE NATIONAL RAILROAD PASSENGER CORPORATION UNDER
49 U.S.C. § 24308(a) – CANADIAN NATIONAL RAILWAY COMPANY**

**OPENING EVIDENCE OF OF ILLINOIS CENTRAL RAILROAD COMPANY
AND GRAND TRUNK WESTERN RAILROAD**

Volume 1

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September 4, 2015

PUBLIC VERSION

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 35743

APPLICATION OF THE NATIONAL RAILROAD PASSENGER CORPORATION UNDER
49 U.S.C. § 24308(a) – CANADIAN NATIONAL RAILWAY COMPANY

VERIFIED STATEMENT OF ANNE MOREHOUSE

My name is Anne Morehouse. I am Superintendent of the Regional Operations Center for CN's Southern Region. I have held this position since May 1, 2014. Previously I have held the positions of Rail Traffic Controller, Asst. Chief Train Dispatcher, Chief Train Dispatcher, Senior Chief Dispatcher and Senior Manager Bulk, Southern Region. In my current position, I am responsible for overseeing, coordinating and dispatching freight and passenger rail operations on all of CN's U.S. lines, with the exception of certain lines adjacent to the Canadian border that are unrelated to this proceeding. As such, I am familiar with both freight and passenger operations on the CN lines used by Amtrak, including the challenges faced and measures taken by CN as it strives to accommodate the increasing and oftentimes competing demand of freight and passenger rail customers, including Amtrak.

Successful rail operations depend on the efficient use of available capacity. In this statement, I first describe the importance of network capacity to CN's freight operations and the operational problems that arise when capacity is constrained. I then discuss more specifically Amtrak's effects on CN's operations and the costs imposed on CN by Amtrak's consumption of CN's rail line capacity. Finally, I discuss how the Performance Payments CN earns under the

One example of such practical restrictions impacts CN's local/"last-mile" service to shippers with facilities adjacent to CN's main line. Particularly along its congested single track IC main line south of Chicago, CN frequently encounters situations in which, in order to provide local service, it must cross the main line between switching yards and customer sidings, and/or temporarily block the main line. In order to avoid conflicts with Amtrak, and with higher priority freight trains that must be scheduled around Amtrak or delayed to allow Amtrak to pass, CN operates some of those local trains only during certain hours of the night. Even then, main line congestion involving Amtrak – sometimes directly (the City of New Orleans runs through the night on the IC main line), and sometimes indirectly (for example, when Amtrak delays intermodal trains that delay lower priority freight trains) – frequently disrupts both the last mile service for those customers and the movement of their cars further along CN's lines. Amtrak trains are responsible for significant delays to local trains and road switchers that operate on CN's [REDACTED]. Moreover, as Fiona Murray explains in her V.S. discussing CN customers [REDACTED], on some days, restrictions and congestion on the main line during the limited windows of operational time available to local trains and switchers lead to service exceptions, meaning that local customers are not served at all, or are only served in one direction (inbound or outbound).⁸

Another example of inefficiencies created by CN's need to accommodate Amtrak's inflexible schedule requirements involves CN's operations and maintenance of its Bluford and Centralia Subdivisions, which run parallel to each other north of the Amtrak station in Carbondale, IL, which is located on the Centralia Sub. Were it not for Amtrak's requirements,

⁸ Similar examples occur in and around Effingham, where CN must regularly hold a local train, L551, in the yard in order to avoid delays to Amtrak, and on CN's Yazoo Subdivision between Memphis and Jackson (at locations such as Greenwood and Yazoo City).

PUBLIC VERSION – REDACTED
BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. FD 35743

APPLICATION OF THE NATIONAL RAILROAD PASSENGER CORPORATION UNDER
49 U.S.C. § 24308(a) – CANADIAN NATIONAL RAILWAY COMPANY

VERIFIED STATEMENT OF FIONA MURRAY

My name is Fiona Murray. I am the Vice President, Corporate Marketing, for Canadian National Railway Company and its subsidiaries (collectively, “CN”), a position I have held since May 2012. I oversee corporate marketing, planning, e-business innovations, and strategic account activities, and I lead the regional sales groups that focus on business growth. Before assuming my current position, I was CN’s Assistant Vice-President, Sales and Marketing (Industrial Products). I am familiar with CN’s current business, including its customers, destinations, and volumes of traffic, as well as the potential for growth in that business and the effects of capacity constraints on CN’s marketing efforts and growth potential. I am also familiar with the terms on which CN contracts with customers, with non-contractual customer expectations and demands, and with the effects of traffic delays on CN’s relations with its customers and on its ability to attract additional traffic.

In this Verified Statement, I describe some of the adverse effects Amtrak’s use of CN’s lines has on CN and its customers. As Anne Morehouse explains in her Verified Statement, in order to accommodate Amtrak and give Amtrak priority, CN adjusts and limits its freight schedules, and it restricts and delays its freight trains to let Amtrak pass. This results in a loss of

negotiations, and a failure by CN to deliver on time and reliably can lead customers to switch their business to rail or truck competitors or threaten to do so. Delays thus impair our pricing ability and our ability to compete for customer commitments.

2. Manufacturers and Distribution Facilities Served by CN Local Trains

CN's need to accommodate Amtrak's operations also adversely affects CN's ability to serve manufacturers and distributors at particular locations served by CN local trains. These issues are serious along single-track main-line sections of the IC spine, on which Amtrak runs six trains per day. Local trains are particularly susceptible to Amtrak-caused delays, because the network effects of delays snowball on their way down the dispatching priority list of trains: Amtrak, with the highest priority, delays intermodal trains, with the next highest priority, which delay regular through trains, with the next highest priority, which delay local trains, and at each point down the priority list, delays tend to increase. In some instances, the result is a "service exception," *i.e.*, a day when a local train does not run, and so CN does not serve certain local customers at all, because the local train cannot obtain the time it needs to run on and/or cross the mainline.

This problem is exemplified by the service disruptions suffered by three important CN customers on the congested single-track main line south of Chicago: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] CN is supposed to provide [REDACTED]

daily service, but until last year, CN was generally able to serve it only once or twice a week,

EXHIBIT E

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. NOR 42134

**NATIONAL RAILROAD PASSENGER CORPORATION--SECTION 213
INVESTIGATION OF SUBSTANDARD PERFORMANCE ON RAIL LINES OF
CANADIAN NATIONAL RAILWAY COMPANY**

AMENDED COMPLAINT

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Counsel for National Railroad Passenger Corporation

August 29, 2014

EXHIBIT A

OTP for Illini/Saluki Service

	FY 11 Q4	FY 12 Q1	FY 12 Q2	FY 12 Q3	FY 12 Q4	FY 13 Q1	FY 13 Q2	FY 13 Q3	FY 13 Q4	FY 14 Q1	FY 14 Q2	FY 14 Q3
	Jul – Sep 2011	Oct – Dec 2011	Jan – Mar 2012	Apr – Jun 2012	Jul – Sep 2012	Oct – Dec 2012	Jan – Mar 2013	Apr – Jun 2013	Jul – Sep 2013	Oct – Dec 2013	Jan – Mar 2014	Apr – Jun 2014
All- Stations OTP	54.3%	59.4%	58.6%	56.6%	48.7%	54.8%	61.4%	60.5%	55.7%	55.7%	42.1%	49.2%
Endpoint OTP	66.0%	74.7%	76.4%	75.5%	58.7%	70.4%	80.5%	78.6%	75.0%	64.1%	41.6%	57.7%



BEFORE THE SURFACE TRANSPORTATION BOARD

Docket No. FD 36500

CANADIAN PACIFIC RAILWAY LIMITED; CANADIAN PACIFIC RAILWAY COMPANY; SOO LINE RAILROAD COMPANY; CENTRAL MAINE & QUEBEC RAILWAY US INC.; DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION; AND DELAWARE & HUDSON RAILWAY COMPANY, INC. – CONTROL – KANSAS CITY SOUTHERN, THE KANSAS CITY SOUTHERN RAILWAY COMPANY, GATEWAY EASTERN RAILWAY COMPANY, AND THE TEXAS MEXICAN RAILWAY COMPANY

**VERIFIED STATEMENT OF JAMES A. BLAIR
ON BEHALF OF NATIONAL RAILROAD PASSENGER CORPORATION**

1. I submit this Verified Statement in support of the National Railroad Passenger Corporation's opposition to the amended responsive application (Responsive Application) filed on June 9, 2022 with the Surface Transportation Board (the Board) by Canadian National Railway Company and its affiliate, the Illinois Central Railroad Company (collectively, CN) in this proceeding.

2. I am presently employed by the National Railroad Passenger Corporation (Amtrak) as Assistant Vice President - Host Railroads. In this role, I oversee Amtrak's relationships with its host railroads on all the non-Amtrak lines on which Amtrak runs throughout the country. I joined Amtrak in March 2008 as a Principal Host Railroads.

3. For nine years prior to joining Amtrak, I worked in a variety of capacities for transportation consulting firms. Among other things, I performed network and merger analyses for Class 1 railroads, and assisted in the development of a strategic route network plan for a Class 1 railroad. Prior to that, from 1987-1998, I was employed by the Consolidated Rail Corporation

(Conrail), where I held positions that included Senior Director-Strategic Planning and Director-Planning and Logistics.

4. The Responsive Application indicates that Amtrak operates over nine rail lines on which, according to the Responsive Application, there would be more freight trains and/or longer freight trains if the Responsive Application is approved:

- The approximately 28.8 mile rail line jointly owned by Union Pacific Railroad and Kansas City Southern Railway and its affiliates (collectively, KCS) between East St. Louis, Illinois and Godfrey, Illinois (East St. Louis-Godfrey Line Segment) that is part of the KCS line for which CN seeks divestiture (referred to in the Responsive Application as the Springfield Line) on which the Responsive Application indicates CN will operate an additional 2.6 daily freight trains;
- Two CN lines – the approximately 57.6 mile portion of CN’s Chicago-New Orleans main line between Homewood, Illinois and Gilman, Illinois (the Homewood-Gilman Line Segment) and a short segment in Memphis – on which CN would operate two additional freight trains per day;
- An approximately 250-mile portion of CN’s Chicago-New Orleans main line, and three CN lines in Michigan, on which CN would operate longer freight trains;
- A short segment on UP in Kansas City on which CN seeks assignment of KCS’s trackage rights and would operate 1.7 additional daily trains; and
- A short segment on UP in Springfield, Illinois on which CN has trackage rights and would operate two additional daily freight trains.

5. While the descriptions of Amtrak operations over lines impacted by the proposed divestiture in the Responsive Application are for the most part accurate, they do not reflect the

recent restoration of all of the Amtrak trains and frequencies operating over those lines that were suspended as a result of the COVID-19 pandemic other than one daily round trip between Chicago and Carbondale, Illinois, which remains temporarily suspended.

6. Six daily Amtrak trains operate over the CN line between Chicago and Carbondale: the *City of New Orleans*, a long-distance train that makes a daily round trip between Chicago and New Orleans, Louisiana, and the *Illini/Saluki*, state-supported trains funded primarily by the State of Illinois that provide two daily round trips (including the one currently suspended) along the Chicago-Carbondale corridor.

7. The table below shows customer on-time performance of the Chicago-Carbondale route since FY 2018, when Amtrak began using that metric, which the Federal Railroad Administration (FRA) has adopted to measure the on-time performance of Amtrak trains pursuant to Section 207 of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). Since FY 2018, the Chicago-Carbondale route has met the minimum standard of 80% only once: in FY 2021, during which two of the four daily Chicago-Carbondale trains were temporarily suspended, and freight train operations decreased, as a result of the COVID-19 pandemic. However, through the first eight months of FY 2022 (October 2021-May 2022), customer on-time performance on the Chicago-Carbondale route has fallen back to 57%. This was so even though two of the four Amtrak Chicago-Carbondale trains remain suspended, which has eliminated two scheduled meets each day between Amtrak trains operating in opposite directions and reduced the number of meets between Amtrak and freight trains.

Customer On-Time Performance: Chicago-Carbondale Route

FY18	FY19	FY20	FY21	FY22 YTD
21%	26%	54%	80%	57%

8. The East St. Louis-Godfrey Line Segment is part of Amtrak's Chicago-to-St. Louis Corridor. Ten Amtrak trains operate over this line each day: four daily state-supported *Lincoln Service* round trips operating between Chicago and St. Louis that are funded primarily by the state of Illinois, and the *Texas Eagle*, a long-distance train that operates a daily round trip between Chicago, St. Louis and San Antonio, with connecting through cars continuing to Los Angeles three days per week on Amtrak's *Sunset Limited*.

9. All of these Amtrak trains operate over the 23-mile portion of the East St. Louis-Godfrey Line between Godfrey and WR Tower in Granite City, Illinois. Between WR Tower and Amtrak's station in St. Louis, Amtrak trains can use either of two routes depending upon operational considerations. Some trains operate over the Terminal Railroad Association of St. Louis (TRRA) and the Merchants Bridge; others continue over East St. Louis-Godfrey Line for the remaining 5.8 miles to Q Tower in East St. Louis, from which they operate into St. Louis over TRRA and the MacArthur Bridge.

10. The Chicago-to-St. Louis Corridor is a federally designated high speed rail corridor. The United States Department of Transportation (USDOT) and the State of Illinois have invested over \$1.6 billion to upgrade the corridor and increase speeds to up to 90-110 miles per hour on portions of the corridor north of the East St. Louis-Godfrey Line.¹ USDOT and Illinois have also invested \$21.25 million to construct a new Multimodal Station for Amtrak trains, opened in 2017, in Alton, Illinois on the East St. Louis-Godfrey Line.²

¹ <https://www.idothsr.org/>

² <https://media.amtrak.com/2017/09/new-amtrak-station-alton-serves-river-bend-region/>

11. In 2017 and 2019, USDOT awarded \$36 million in Consolidated Railroad Infrastructure and Safety Improvements (CRISI) grants for replacement of components of the MacArthur Bridge.³

12. Even with existing freight traffic levels, Amtrak trains operating over the East St. Louis-Godfrey Line experience significant freight train interference delays. During the 12-month period from June 2021 to May 2022, Amtrak trains operating over the 17.7 mile segment of the line traversed by all Amtrak trains between Alton (the closest point to Godfrey, which is 3.2 miles north, where Amtrak measures train performance) and WR Tower averaged 546 minutes of delay per 10,000 train miles due to freight train interference.

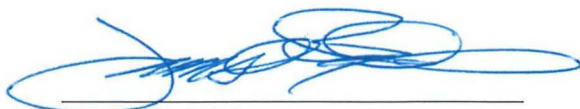
³ <https://railroads.dot.gov/press-releases/federal-railroad-administration-announces-more-326-million-grants-support-railroad>

VERIFICATION

I, James A. Blair, declare under penalty of perjury that the foregoing is true and correct.

Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed on July 12, 2022

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a horizontal line.

James A. Blair

CERTIFICATE OF SERVICE

I, Sophia Ree, declare under penalty of perjury that the foregoing is true and correct.

Pursuant to 49 § 1104.12, I hereby certify that on the 12th day of July, 2022 I have caused to be served a copy of the foregoing National Railroad Passenger Corporation's Opposition to CN's Amended Responsive Application upon all parties of record via electronic mail.

Executed on: July 12, 2022

By: /s/ Sophia Ree
Sophia Ree