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VIA E-FILING

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

Re: Ex Parte 726: *On-Time Performance under Section 213 of the Passenger Rail Investment and Improvement Act of 2008*

Dear Ms. Brown:

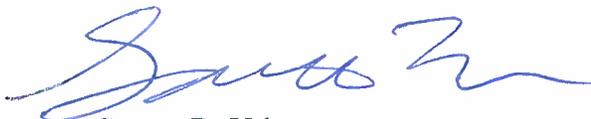
Norfolk Southern Railway Company ("NS") read with interest the Board's publication of its Notice of Proposed Rulemaking in *On-Time Performance under Section 213 of the Passenger Rail Investment and Improvement Act of 2008*, EP 726 (STB served Dec. 28, 2015) (hereinafter the "Notice"). As the Board knows, NS has been a strong proponent of addressing this issue through a rulemaking proceeding rather than in individual cases. *See, e.g., Reply of NS in Support of AAR's Petition for Rulemaking*, EP 726 (Feb. 3, 2015) (hereinafter "NS Reply").

NS plans to submit full opening comments in this proceeding by the February 8, 2016, deadline. The Board has encouraged parties to address the calculation of 'allowances' or 'thresholds' for determining if a train is on time. *See* Notice at 10. Such tolerances are one of two components necessary to craft a definition of on-time performance, and NS will certainly discuss them in its comments.

Importantly, NS will also spend a significant portion of its opening comments addressing the second requisite component of an on-time performance definition, the standard against which on-time performance is measured. NS suggested that the Board solicit comment on this specific issue when filing in support of AAR's Petition for Rulemaking. *See* NS Reply at 9 ("[T]he Board should solicit comment on the transit time expectations . . . that should be employed for individual routes in assessing whether a service is on time.").

Any on-time metric will only be as meaningful as the standard against which tolerances are measured. Indeed, the Interstate Commerce Commission recognized the crucial nature of the underlying schedule when setting the original on-time performance standard the Board has re-proposed in this rulemaking. *See Adequacy of Intercity Rail Passenger Serv.*, 344 I.C.C. 758, 776 (1973) (“We believe carriers should establish realistic schedules and make a determined effort to meet them.”); *id.* (“Moreover, where trains are late repeatedly, either operational efficiency is lacking, or the timetable needs revision.”). The Board’s proposed rule implicitly adopts Amtrak’s published timetable as this standard. NS’s opening comments will demonstrate that many, if not most, Amtrak schedules cannot and have not provided a meaningful or realistic standard for assessing on-time performance.

Sincerely

A handwritten signature in blue ink, appearing to read "Garrett D. Urban", with a stylized flourish at the end.

Garrett D. Urban