

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. NOR 42134

235093

NATIONAL RAILROAD PASSENGER CORPORATION –
SECTION 213 INVESTIGATION OF SUBSTANDARD
PERFORMANCE ON RAIL LINES OF CN

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JOINT STATUS REPORT

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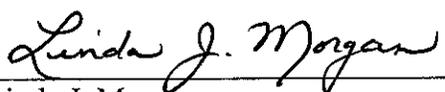
On August 9, 2013, National Railroad Passenger Corporation (“Amtrak”) and Canadian National Railway Company, on behalf of its indirect subsidiaries, Grand Trunk Western Railroad Company and Illinois Central Railroad Company (together, “CN”) jointly moved the Board to hold this proceeding in abeyance until July 31, 2014, in order to facilitate continued discussions aimed at settlement of the parties’ dispute and provide additional time that may be necessary for final resolution of the constitutionality of Section 207(a) of the Passenger Rail Investment and Improvement Act of 2008 (“PRIIA”). By its order served August 19, 2013, the Board granted the parties’ joint motion and directed the parties to file joint quarterly status reports beginning on November 19, 2013. Accordingly, CN and Amtrak hereby submit this Joint Status Report in order to inform the Board of subsequent developments.

Since issuance of the Board’s order on August 19, the parties have held further discussions, but they have not reached an agreement that would settle their dispute.

In addition, on October 11, 2003, the United States Court of Appeals for the District of Columbia denied rehearing and rehearing *en banc* of its decision in *Association of American*

Railroads v. United States Department of Transportation,¹ which held Section 207(a) of PRIIA to be an unconstitutional delegation of regulatory authority to Amtrak.² The Court then issued its mandate in that case on October 22, 2013. The Court of Appeals' ruling is now subject to a possible future petition to the U.S. Supreme Court for a writ of certiorari, which could further delay final resolution of the constitutionality of Section 207(a) and the Metrics and Standards.

Respectfully submitted,



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¹ 721 F.3d 666 (D.C. Cir. 2013).

² It was under authority of Section 207(a) that the Federal Railroad Administration and Amtrak issued the Metrics and Standards that are directly related to Amtrak's Petition in this case. *See* Metrics and Standards for Intercity Passenger Rail Service under Section 207 of PRIIA, 75 Fed. Reg. 26,839 (May 12, 2010) ("Metrics and Standards").