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Supplementary Comment

Norfolk Southern (NS) has said it will file comments. It seems plain that they will file on the last date allowed, so as to limit rebuttals. Taking into consideration their language of their initial filing, I anticipate the following points will be made:

1. That the STB's definition of on-time performance are "rules," the constitutionality of which The American Association of Railroads (AAR) has questioned in a in a federal lawsuit. A rule or regulation has consequences if violated. The on-time definition proposed by the STB does not carry consequences for violations such as a fine, hearing or trial. Instead, the rules merely acts as a trigger in which Amtrak, the host railroad, the states or other passenger service providers, *may* (permissive, not mandatory) request and investigation. To avoid even that, the host railroads need only keep their word on their agreements 80% of the time.
2. The second main point is that they made these agreements with Amtrak. If the agreements are so onerous, why did they make them in the first place?
3. If Amtrak conductor reports are "unreliable" why hasn't NS cited its own dispatcher records to rebut the Amtrak on-time reports?
4. The STB should be aware that for decades, host railroads have asked for more time in the schedules. If given more time, they run on time for about 60-90 days, then go back to their old ways, eventually saying they need more time in the schedule.
5. Finally these schedules are not in the least bit unrealistic. It is noteworthy that every time an NS business car is attached to an Amtrak train, that train will arrive and depart each station precisely on schedule. They can do it if they want to.