



ASSOCIATION OF
AMERICAN RAILROADS

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ENTERED
Office of Proceedings
December 21, 2012
Part of
Public Record

December 21, 2012

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

Re: STB Docket No. 42134, *National Railroad Passenger Corporation—Section 213 Investigation of Substandard Performance on Rail Lines of Canadian National Railway Company*

Dear Ms. Brown:

The Association of American Railroads (“AAR”) on behalf of its freight railroad members supports procedures outlined by Canadian National Railway Company (“CN”) in its filings on November 26 and December 12, 2012, that would allow for third-party participation by rail carriers and other parties at appropriate stages of the proceedings in the above-captioned docket.

This proceeding marks the first implementation of Section 213 of the Passenger Rail Investment and Improvement Act of 2008 (“PRIIA”). Section 213 of PRIIA amended 49 U.S.C. § 24308 to give the Board authority to investigate, in certain circumstances, failures by National Railroad Passenger Corporation (“Amtrak”) trains to meet on-time performance metrics and standards established in 49 U.S.C. § 24308(f) and pursuant to Section 207 of the Act. Those metrics and standards developed jointly by Amtrak and the Federal Railroad Administration are themselves the subject of an ongoing constitutional challenge brought by the AAR on behalf of its freight member railroads.

Though the Board solicited public comment on general issues related to PRIIA and conducted an informational hearing on February 11, 2009 in STB Ex Parte No. 683, *Passenger Rail Investment and Improvement Act*, the Board has not proposed or adopted any rules implementing the provisions of PRIIA or procedures for section 213 investigations.

Accordingly, decisions and interpretations made in this proceeding are likely to establish precedents for subsequent proceedings that could have wide ranging impacts on all host freight carriers as well as other stakeholders. As such, public participation would be appropriate and consistent with the Board's established practice of inviting public comment on issues of broad industry concern. *See, e.g., American Chemistry Council, et al. v. Alabama Gulf Coast and RailAmerica, Inc.*, NOR 42129 (STB served Sept. 30, 2011); *M&G Polymers USA LLC v. CSX Transportation, Inc.*, NOR 42123 (STB served Sept. 27, 2012).

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Louis P. Warchot".

Louis P. Warchot
*Counsel for the Association
of American Railroads*