

BEFORE THE  
SURFACE TRANSPORTATION BOARD

236061

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Docket No. NOR 42134

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ENTERED  
Office of Proceedings  
May 19, 2014  
Part of  
Public Record

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

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**THIRD JOINT STATUS REPORT**

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Linda J. Morgan  
Kevin M. Sheys  
NOSSAMAN LLP  
1666 K Street, N.W., Suite 500  
Washington, D.C. 20006  
(202) 887-1400

*Counsel for National Railroad Passenger  
Corporation*

Paul A. Cunningham  
David A. Hirsh  
James M. Guinivan  
HARKINS CUNNINGHAM LLP  
1700 K Street, N.W., Suite 400  
Washington, D.C. 20006-3804  
(202) 973-7600

*Counsel for Canadian National Railway  
Company, Illinois Central Railroad  
Company, and Grand Trunk Western  
Railroad Company*

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**THIRD JOINT STATUS REPORT**

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 that the Board 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 Third Joint Status Report in order to inform the Board of any developments since our February 19, 2013 Joint Status Report.

The parties have been unable since the last status report to reach an agreement to settle their dispute.

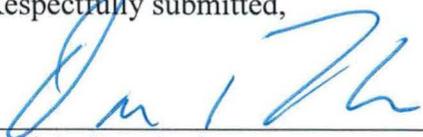
In addition, on March 10, 2014, the Solicitor General of the United States, on behalf of the U.S. Department of Transportation, filed a petition with the Supreme Court of the United States, seeking a writ of certiorari to review the decision of the United States Court of Appeals

for the District of Columbia in *Association of American Railroads v. United States Department of Transportation*,<sup>1</sup> which held Section 207(a) of PRIIA to be an unconstitutional delegation of regulatory authority to Amtrak.<sup>2</sup> On May 12, 2014, the Association of American Railroads filed a brief in opposition to the petition. The Court is expected to decide by June 16, 2014, if it will grant the petition and hear the case.

Linda J. Morgan  
Kevin M. Sheys  
NOSSAMAN LLP  
1666 K Street, N.W., Suite 500  
Washington, D.C. 20006  
(202) 887-1400  
  
*Counsel for National Railroad Passenger Corporation*

May 19, 2014

Respectfully submitted,

  
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Paul A. Cunningham  
David A. Hirsh  
James M. Guinivan  
HARKINS CUNNINGHAM LLP  
1700 K Street, N.W., Suite 400  
Washington, D.C. 20006-3804  
(202) 973-7600

*Counsel for Canadian National Railway Company, Illinois Central Railroad Company, and Grand Trunk Western Railroad Company*

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<sup>1</sup> 721 F. 3d 666 (D.C. Cir. 2013).

<sup>2</sup> 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").