

SURFACE TRANSPORTATION BOARD DIRECTS UP/SP TO CONTINUE TO MAKE TRACKS AND FACILITIES AVAILABLE TO AMTRAK; INSTITUTES PROCEEDING TO DETERMINE THE NATURE AND EXTENT OF UP/SP'S DUTY TO ALLOW AMTRAK TO USE UP/SP'S TRACKS FOR THE CARRIAGE OF EXPRESS

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Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has instituted a proceeding to determine under the law the nature and extent of the duty of the Union Pacific Railroad Company (UP) and its affiliate, Southern Pacific Transportation Company (SP) (collectively, UP/SP), to allow the National Railroad Passenger Corporation (Amtrak) to use UP/SP's tracks and facilities for the carriage of express. Chairman Morgan noted that the Board has ordered UP/SP to continue to make its tracks and facilities available to Amtrak while this proceeding is pending. The case raises questions about the definition of "express" transportation and the extent to which freight railroads are required to allow Amtrak to use their facilities to carry express. Freight railroads must permit Amtrak to operate over their lines. Amtrak is authorized by law to operate intercity and commuter rail passenger transportation and to transport mail and express, and the law directs Amtrak to seek to increase its revenues from the transportation of mail and express. The law, however, does not define "express."

Historically, in addition to its passenger service, Amtrak has carried what it and UP/SP appear to agree is express traffic. In recent months, however, Amtrak has attempted to carry additional volumes of freight that, it argues, the law permits it to carry under its express authority. UP/SP has resisted Amtrak's efforts to expand its freight operations in this manner, arguing that the type of traffic that Amtrak contemplates now handling falls into the category of general freight rather than express as intended by the law. UP/SP has also argued that the expanded freight operations that Amtrak contemplates would create operational and logistical problems for the railroads over whose tracks Amtrak operates, as well as the towns and cities through which Amtrak operates.

Because Amtrak and UP/SP could not resolve the issue privately, Amtrak asked the Board to intervene. The Board has instituted a

proceeding on the issue of express, in which it has sought comments from other railroads and railroad employees, potential users, and, particularly insofar as operational matters are concerned, cities and towns and the Secretary of Transportation. As an interim measure, the Board has established a numerical equipment limitation on what UP/SP must allow while the proceeding is pending, which it found was consistent with the representations of both parties. Except where it is operationally infeasible, the Board held, UP/SP generally may not limit Amtrak's access to fewer than 18 cars. Consistent with Amtrak's representation that it does not need to operate more than 600 feet of express cars during the interim period, however, the Board accepted UP/SP's suggestion that it be permitted to limit Amtrak to a maximum of 9 express cars per train. Thus, the Board's order provided, trains that UP/SP must permit Amtrak to operate over UP/SP's lines may be as long as 18 cars, and may contain as many as 9 express cars. The Board stressed that its interim order is not intended to prejudge, in any way, the matters on which it has sought comment, but is simply designed as a practical solution while the case is pending. Consistent with the expedited procedural schedule that it has set, the Board will resolve the express issue promptly.

The Board's decision was issued today in STB Docket Finance Docket No. 33469, Application of the National Railroad Passenger Corp. Under 49 U.S.C. 24308(a)--Union Pacific Railroad Company and Southern Pacific Transportation Company.

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