

**Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423**

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In the Matter of)	
Complaint and Petition of the)	Docket No. NOR 42175
National Railroad Passenger Corp.;)	
Substandard Performance of Amtrak's)	89 Fed. Reg. 68,233
Sunset Limited Trains 1 and 2)	
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COMMENTS OF REASON FOUNDATION

January 22, 2025

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Introduction

On behalf of Reason Foundation, I respectfully submit these comments in response to Amtrak's opening briefs and railroad parties' replies in the Surface Transportation Board's ("Board") ongoing investigation of the causes of substandard on-time performance of Amtrak's *Sunset Limited* service.¹

By way of background, I am a senior transportation policy analyst at Reason Foundation and regularly write about freight rail regulation.² Reason Foundation is a national 501(c)(3) public policy research and education organization with expertise across a range of policy areas, including transportation.³

These comments develop the following points:

1. Amtrak's complaint period is unrepresentative and should not be used to guide decisions with long-term impact; and
2. Granting absolute preference to Amtrak is not in the public interest.

Amtrak's Complaint Period Is Unrepresentative

Amtrak's 2022 complaint period coincides with global economic turmoil that followed the onset of the COVID-19 pandemic. The pandemic threw supply chains into chaos and freight rail in the United States was not spared. The impact was multifaceted with large shocks to both supply and demand.

One illustrative example is the interaction between the logistics sector-wide workforce contraction and the spike in consumer good demand that was observed in the United States. Total consumption remained on-trend during the worst of the pandemic due in part to generous government assistance that kept personal incomes high.⁴ Consumers

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1. Complaint and Petition of the National Railroad Passenger Corp.; Substandard Performance of Amtrak's Sunset Limited Trains 1 and 2, *Notice of filing schedule; opportunity for submissions by non-parties*, U.S. Surface Transportation Board, Docket No. NOR 42175, 89 Fed. Reg. 68,233 (Aug. 23, 2024).
 2. See, e.g., Marc Scribner, "Mandatory reciprocal switching won't enhance transportation competition," Reason Foundation (July 30, 2024), *available at* <https://reason.org/commentary/mandatory-reciprocal-switching-wont-enhance-transportation-competition/> (last visited Jan. 14, 2025).
 3. See About Reason Foundation, <https://reason.org/about-reason-foundation/> (last visited Jan. 14, 2025).
 4. U.S. Bureau of Economic Analysis, Real Personal Consumption Expenditures [PCEC96], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/PCEC96> (last visited Jan. 14, 2025).

instead shifted their spending from services⁵—many of which were shuttered to mitigate public health risks—to durable and nondurable goods.⁶ This shock was exemplified by the massive e-commerce boom.⁷

This sudden shift in consumption overwhelmed every segment of the logistics industry. Warehouses stocked with goods meant to cater to pre-pandemic consumer demand became extremely congested as businesses sought to reorient inventory around new demand patterns. The lack of warehouse capacity led to delays in unloading shipping containers, many of which remained full, sitting on truck chassis in parking lots and loading docks outside warehouses—essentially as overflow storage capacity.

With warehouse parking lots and loading docks at capacity, rail and maritime shipping customers were not picking up their full containers from or returning their empty containers to ports and rail ramps on time. Carriers could then not return empty containers and chassis to repeat this transportation cycle, increasing congestion and compounding delays. This situation generated headline-grabbing news coverage of container ships floating off the California shore, waiting for days or even weeks to unload their cargo.

None of these problems could be resolved quickly absent a major economic recession—only subsiding goods demand or long-term investment in additional logistics capacity (both capital and labor) to serve these “new normal” demand patterns could ease congestion. Indeed, a combination of increasing supply and decreasing demand has restored fluidity and stabilized inventories in the years that followed.

These types of interactions between supply and demand shocks played out across the transportation sector around the world. A recent literature review by two Australian academics highlights the broad scope of both the pandemic impacts on logistics and the ongoing research enterprise:

The impact of the COVID pandemic has been massive and felt over various supply chain and logistics areas. Due to businesses’ inability to efficiently manage freight transport, which resulted in cargo theft (Lianget al., 2022), loss of goods (Deng et al., 2022), interruptions associated with lockdowns (Ekinici et al., 2022; Fu et al.,

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5. U.S. Bureau of Economic Analysis, Real Personal Consumption Expenditures: Services [PCESC96], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/PCESC96> (last visited Jan. 14, 2025).
 6. U.S. Bureau of Economic Analysis, Real Personal Consumption Expenditures: Goods [DGDSRX1], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/DGDSRX1> (last visited Jan. 14, 2025).
 7. U.S. Census Bureau, E-Commerce Retail Sales as a Percent of Total Sales [ECOMPCTSA], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/ECOMPCTSA> (last visited Jan. 14, 2025).

2022; Goel et al., 2021; Li, 2020; Schofer et al., 2022) and a surge in transport times and lead times delays (Denget al., 2022; Mishrif & Khan, 2022; Mitreḡa & Choi, 2021).

Panic buying and consumer behavioural changes in lockdowns increased the variability of freight transport demand (Chowdhury et al., 2021), with a spike in essential goods and medical supplies (Burgos & Ivanov, 2021; Caballini et al., 2022; Dablanc et al., 2022; Ivanov, 2020; Sun et al., 2020) and a decline in non-essential goods such as stationary (Mishrif & Khan, 2022) and difficulty in product returns and reverse logistics activities (Gultekin et al., 2022). Also, due to movement restrictions, the production sector recorded disruptions with backlogs of orders (Matthews et al., 2022) (Zahraee et al., 2022) as the skilled workforce was unavailable (Ambrogio et al., 2022). Production capacity (Matthews et al., 2022) was reduced because of COVID prevention measures implemented across a wide range of industries (Ambrogio et al., 2022), and storage, conversion and final products were impacted (Fu et al., 2022; Matthews et al., 2022; Rusakova & Saychenko, 2022). Several research articles suggested solutions to overcome these disruptions, such as using automated and mechanized methods for logistics and field operation, an open-air work environment for safety, and transportation integration with long-term contracts across critical first-tier and second-tier supply chain partners (Gatenholm & Halldórsson, 2022; Ivanov, 2020; Raj et al., 2022).⁸

Despite the unprecedented chaos and uncertainty introduced into the transportation system within the last five years, Amtrak's opening statement omits any mention of the COVID-19 pandemic. While Amtrak is hardly the first entity attempting to exploit the pandemic for its own benefit, reasonable regulators should consider the unique economic circumstances and avoid drawing overbroad conclusions.

The bottom line is that it is unreasonable to assume the service quality experienced during the complaint period is representative of core features of the rail network or carriers' operating practices. And it is unreasonable to expect that Union Pacific—or any other actor—could avoid the numerous negative operational impacts caused by the pandemic.

Granting Absolute Preference to Amtrak Is Not in the Public Interest

Other commenters have highlighted that Amtrak's interpretation of its statutory "preference over freight transportation" at 49 U.S.C. § 24308(c) is dubious, noting that neither a plain reading of the text nor the legislative history support an interpretation of

8. Kesewa Opoku Agyemang and Elnaz Irannezhad, "The Impact of the COVID-19 Pandemic on Global Freight Movement and Logistics," *Transportation Research Procedia* 82 (Jan. 2025) at 3614.

“preference” that is analogous to a presidential motorcade moving through closed-off city streets.⁹

Setting aside the debates over the meaning of “preference,” Congress has established a national rail transportation policy that sets “minimize[ing] the need for Federal regulatory control,” “promot[ing] a safe and efficient rail transportation system,” “ensur[ing] effective competition and coordination between rail carriers and other modes,” and “encourag[ing] and promot[ing] energy conservation” as guiding principles.¹⁰ If the Board adopts Amtrak’s extreme “absolute right to preference” interpretation, this regulatory action would have negative impacts on the transportation system’s efficiency, safety, competitiveness, and energy and environmental outcomes.

With respect to efficiency, the *Sunset Limited* has long been the most subsidized route on Amtrak’s network. Amtrak’s most recent December 2024 performance report shows that the *Sunset Limited* generated \$136.36 in operating revenue per passenger and had operating expenses of \$655.84 per passenger, amounting to a loss (subsidy) of \$519.48 per passenger.¹¹ Amtrak’s latest Five-Year Plan forecasts annual per-passenger losses will increase to \$601.70 by FY 2029.¹²

The magnitude of Amtrak’s losses on the *Sunset Limited* is so great that there are likely no service changes that could reduce Amtrak’s losses on this route to generate a net benefits finding in a social cost-benefit analysis. For comparison, the most recent city-pair data from the U.S. Department of Transportation shows that the average airfare in the first half of 2024 between Los Angeles and New Orleans was \$265.99.¹³ To make the contrast even starker, for the same city-pair passenger travel market, Amtrak’s average per-passenger expenses exceed by a factor of 2.47 the average price air carriers charge passengers to earn a profit.

9. Complaint and Petition of the National Railroad Passenger Corp.; Substandard Performance of Amtrak’s Sunset Limited Trains 1 and 2, *CPKC Reply Statement*, U.S. Surface Transportation Board, Docket No. NOR 42175 (Dec. 23, 2025) at 12–13.

10. 9 U.S.C. § 10101.

11. *Monthly Performance Report: YTD November FY 2025*, Amtrak (Dec. 27, 2024) at 7, available at <https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/corporate/monthlyperformancereports/2024/Amtrak-Monthly-Performance-Report-November-2024.pdf>.

12. *FY24-29 Five Year Service and Asset Line Plans*, Amtrak (Apr. 2024) at 168, available at <https://www.amtrak.com/content/dam/projects/dotcom/english/public/documents/corporate/businessplanning/Amtrak-Service-Asset-Line-Plans-FY24-29.pdf>.

13. Author’s calculations using the “Consumer Airfare Report: Table 6 - Contiguous State City-Pair Markets That Average At Least 10 Passengers Per Day” dataset provided by the Office of the Secretary of Transportation (last updated Oct. 22, 2024), available at https://data.transportation.gov/Aviation/Consumer-Airfare-Report-Table-6-Contiguous-State-C/yj5y-b2ir/about_data.

Turning to delays, rail economist Jim Blaze estimated in 2019 the cost of an hour of delay per Amtrak passenger to be \$30, compared to \$1,000 for express intermodal trains.¹⁴ Amtrak is not required to pay for the cost of delays it causes freight customers, which have been increasing as rail carriers have rationalized away excess capacity that characterized their networks five decades ago.¹⁵

Shippers can typically save more than 20% by using intermodal rail in lieu of truckload shipping,¹⁶ but declining service quality in the form of more delays and less predictability reduces the value of transportation offered and can be expected to reduce the quantity of service demanded at a given price. We can thus expect that imposing Amtrak's absolute preference standard would increase freight train delays and cause more time-sensitive shippers of higher-value goods—such as those making use of intermodal express service—to shift their traffic to long-haul trucks.

A shift of freight traffic from rail to truck would worsen public safety outcomes. According to a Government Accountability Office analysis, truck accident fatality rates are six times greater than rail's, and injury rates are 17 times higher.¹⁷

Trucks also use several times more diesel fuel to operate on a ton-mile basis, which in turn increases air pollution emissions to move the same volume of freight. According to Environmental Protection Agency data, when compared to freight rail, trucks produce approximately 10 times as much carbon dioxide (CO₂), more than three times as much fine particulate matter (PM_{2.5}), and two-and-a-half times as much nitrogen oxides (NO_x) per ton-mile.¹⁸ Table 1 provides a breakdown of pollutant emissions intensity by mode.

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14. Jim Blaze, "Amtrak vs. Freight Railroads: Shippers, You Are Impacted!" *Railway Age* (Nov. 26, 2019), available at <https://www.railwayage.com/regulatory/amtrak-vs-freight-railroads-shippers-you-are-impacted/> (last visited Jan. 16, 2025).
 15. Elizabeth Pinkston, "The Past and Future of U.S. Passenger Rail Service," *Congressional Budget Office* (Sept. 2003) at 39, available at <https://www.cbo.gov/sites/default/files/108th-congress-2003-2004/reports/09-26-passengerrail.pdf>.
 16. Ari Ashe, "US spot intermodal savings dipped in Q3 but remained above historical norms," *Journal of Commerce* (Nov. 15, 2024), available at <https://www.joc.com/article/us-spot-intermodal-savings-dipped-in-q3-but-remained-above-historical-norms-5818307> (last visited Jan. 16, 2025).
 17. Phillip R. Herr and James R. White, "Surface Freight Transportation: A Comparison of the Costs of Road, Rail, and Waterways Freight Shipments That Are Not Passed on to Consumers," U.S. Government Accountability Office, GAO-11-134 (Jan. 2011) at 27, available at <https://www.gao.gov/assets/gao-11-134.pdf>.
 18. *2024 SmartWay Online Shipper Tool: Technical Documentation*, U.S. Environmental Protection Agency (Nov. 2024), Tables 12 and A-1, available at <https://www.epa.gov/system/files/documents/2024-11/420b24048.pdf>.

Table 1: U.S. Freight Transportation Emissions, Rail vs. Truck

Freight Mode	CO₂ (grams/ton-mile)	NO_x (g/ton-mi)	PM_{2.5} (g/ton-mi)
Rail	20.7	0.29	0.0082
Truck	210.0	0.74	0.0270

Source: U.S. Environmental Protection Agency, *2024 SmartWay Online Shipper Tool: Technical Documentation*, Tables 12 and A-1 (Nov. 2024).

Given these facts, we believe that adopting Amtrak's dubious absolute preference standard runs counter to the public interest by violating key principles of Congress's national rail transportation policy on efficiency, safety, and energy conservation.

Conclusion

For the reasons given above, we believe Amtrak's complaint period is unrepresentative and should not be used to guide decisions with long-term impact, and that granting absolute preference to Amtrak is not in the public interest. Thank you for the opportunity to comment as a non-party to the Board's investigation.

Respectfully submitted,

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