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SERVICE DATE – JULY 1, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36844

COMMUTER RAIL DIVISION OF THE REGIONAL TRANSPORTATION AUTHORITY
D/B/A METRA—TERMINAL TRACKAGE RIGHTS—
UNION PACIFIC RAILROAD COMPANY

Digest:¹ The Board denies Metra’s request for a temporary injunction or emergency service order.

Decided: July 1, 2025

The Commuter Rail Division of the Regional Transportation Authority d/b/a Metra (Metra) has pending before the Board an application for terminal trackage rights under 49 U.S.C. § 11102(a) to continue commuter rail service over three rail lines owned by Union Pacific Railroad Company (UP) in the Chicago area. The parties have been working for several years to transition UP’s decades-long operation of Metra’s passenger trains over these lines to Metra, but despite their efforts—including Board-ordered mediation in 2024²—Metra and UP have been unable to negotiate a successor trackage rights agreement to allow Metra to operate over the UP lines.

BACKGROUND

Before today, July 1, 2025, the operation of Metra trains over UP’s lines had been governed by an agreement known as a “Purchase of Services Agreement” (or PSA). Metra and UP had agreed on a series of short-term extensions of the PSA while attempting to negotiate a new agreement. The most recent PSA extension ended on June 30, 2025. In lieu of agreeing to a further extension, however, UP has instead presented Metra with a document termed “Conditions of Entry” (COE) to govern Metra’s use of the lines, beginning July 1, 2025, pending the conclusion of this proceeding. Metra objects to the COE on multiple grounds.

On June 30, 2025, Metra filed an emergency request, styled “Petition for Temporary Injunction and/or Ex Parte Application for a Section 11123(a) Service Order” (Petition), to

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² See Appl. of Union Pac. R.R. for Mediation Under 49 U.S.C. § 28502, FD 36800, slip op. at 1-2 (STB served Aug. 14, 2024) (ordering Board-sponsored mediation).

which UP responded on the same date. The Petition requests expedited consideration by July 1, 2025.³

Metra contends that “because its historical agreement with UP is set to expire on June 30, 2025, and with no agreement or mechanism in place to ensure that Metra’s service on UP’s Lines continues after that date, immediate interim relief is required.” (Pet. 1.) Metra maintains that its situation “fits within both [49 U.S.C.] § 1321(b) and [49 U.S.C.] § 11123(a)” because “cessation of service would produce ‘irreparable harm’ to Metra and the public interest and create ‘an emergency situation’ with ‘substantial adverse effects on shippers or on rail service,’ because residents of and visitors to the Chicago region will be unable to commute to work or will be forced to take other transportation, leading to gridlock.” (*Id.* at 1-2.) Metra requests that the Board take action to maintain the status quo as it existed on June 30, 2025, until further notice, subject to a retroactive adjustment in favor of either party to July 1, 2025. (*Id.* at 2.)

More specifically, Metra argues “[p]rompt emergency service relief is essential,” (*id.* at 4), because UP “presents Metra with an impossible choice”—to stop commuter services on three widely used lines, or to continue to use the lines, allowing UP to “insist that Metra has agreed to” the many terms in the COE that Metra finds objectionable. (*Id.* at 5.; *see also id.* at 6 (stating that an emergency service order maintaining the status quo is therefore “critical for maintaining access to passenger service”).) Metra states in its Petition that it “has informed UP that it will continue to operate on the Lines after expiration of the existing agreement at midnight on June 30, 2025” but that it “does not agree to and will not consent to the terms of the COE.” (*Id.* at 5 n.4.) With respect to its request for injunctive relief under 49 U.S.C. § 1321(b)(4), Metra maintains that the four criteria in the governing standard is satisfied. (*Id.* at 7-9.)⁴ Regarding the element of irreparable harm, the Petition states:

Metra will suffer irreparable harm without an injunction. The COE substantially degrades Metra’s existing usage rights – including scheduling flexibility and alterations for public safety. For example, on May 16, 2025, Metra requested a schedule change to add additional trains to accommodate spectators for the NASCAR racing event over July 5-6, 2025, in downtown Chicago. UP did not grant the request because the parties’ historical agreement would no longer be in place after June 30, 2025. Absent emergency relief, Metra and the public will be harmed in a way that could not be rectified later via compensation or otherwise –

³ Separately, Metra and UP are litigating in federal district court various antitrust and contract claims brought by Metra regarding its access to UP’s lines. *See Compl., Commuter Rail Div. of the Reg’l Transp. Auth. v. Union Pac. R.R.*, 1:25-cv—2439 (N.D. Ill., Mar. 7, 2025). On June 27, 2025, the district court denied Metra’s request for preliminary injunctive relief that would have extended the PSA for lack of jurisdiction and failure to establish irreparable harm.

⁴ To obtain injunctive relief, the requesting party must show: (1) it is likely to prevail on the merits; (2) it will be irreparably harmed absent an injunction; (3) issuance of the injunction will not substantially harm other interested parties; and (4) granting the injunction is in the public interest. *Wash. Metro. Area Transit Comm’n v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977) (citing *Va. Petroleum Jobbers Ass’n v. Fed. Power Comm’n*, 259 F.2d 921, 925 (D.C. Cir. 1958)).

irreparable harm will have been done. The COE also provides that UP may exclude Metra from the UP Lines for non-performance. Any threat of exclusion warrants agency intervention.

(Id. at 8.)

In reply, UP asserts that “there is no emergency and no prospect of imminent irreparable harm.” (Reply to Pet. 1.) UP states that Metra’s Petition rests on a claim of irreparable harm because the COE will allegedly degrade service. (Id. at 2 (citing Pet. 6).) However, UP underscores that Metra may “continue[] operating” and that UP “will not exclude Metra.” (Reply to Pet. 2-3.) UP also notes that “if the COE is not enforceable, then Metra will suffer no serious harm because it was never subject to the COE’s terms.” (Id. at 2.) Citing an earlier pleading in this case, UP reiterates that “there is no basis to conclude that Metra will not be able to access the UP Lines once the PSA expires.” (Id. at 3.)

DISCUSSION AND CONCLUSIONS

“The threshold consideration in deciding whether injunctive relief is appropriate is whether the petitioning party will be irreparably harmed.” Norfolk S. Ry.—Aban. Exemption—in the City of Balt., AB 290 (Sub-No. 412X), slip op. at 6 (STB served Apr. 14, 2025). “A preliminary injunction is an extraordinary remedy and will generally not be granted unless the requesting party can show that it faces unredressable actual and imminent harm.” Richard Best Transfer, Inc. v. Union Pac. R.R., NOR 42149, slip op. at 4 (STB served Dec. 22, 2016). To show irreparable harm, “the requesting party must demonstrate both the imminence and the irreparable nature” of the harm alleged. Id.; accord Norfolk S. Ry., AB 290 (Sub-No. 412X), slip op. at 6 (party must demonstrate that the injury claimed is “imminent, certain and great”).

The Board may issue an order pursuant to 49 U.S.C. § 11123(a) when it determines that circumstances, such as the unauthorized cessation of operations or other failure of traffic movement, exist that create “an emergency situation of such magnitude as to have substantial adverse effects on shippers, or on rail service in a region of the United States, or that a rail carrier providing transportation subject to the jurisdiction of the Board . . . cannot transport the traffic offered to it in a manner that properly serves the public.” The Board “will [direct action by an incumbent carrier] under 49 U.S.C. [§] 11123(a) if the Board determines that, over an identified period of time, there has been a substantial, measurable deterioration or other demonstrated inadequacy in rail service provided by the incumbent carrier.” 49 C.F.R. § 1146.1(a); Okla.—Alt. Rail Serv.—Line of Blackwell N. Gateway R.R., FD 36762 (STB served Mar 1, 2024).

The Board finds that Metra has not shown that the standard required for either avenue of relief it seeks is met here.⁵ As noted above, UP has said it will not exclude Metra trains from its

⁵ Because Metra has not shown irreparable harm in this Petition, the Board need not address the other requirements for injunctive relief. See Ark. Elec. Coop. Corp.—Pet. for Declaratory Ord., FD 35305, slip op. at 3 (STB served Nov. 5, 2010). Moreover, the Board takes no position in this decision on the enforceability of the COE or any issues raised by the parties with respect to Metra’s pending application for terminal trackage rights.

lines, and Metra has told UP it intends to continue operating without accepting the terms of the COE. And, as UP points out, if Metra were to choose to stop service over the UP lines, the claimed harms⁶ from the cessation of Metra's service would be based on Metra's choice to stop service. (Reply to Pet. 1.) Metra expresses concern that if it continues to use the lines, "UP will insist that Metra has agreed to [the objectionable terms of the COE]" and will "claim that Metra has forever waived essential legal rights it holds for the protection of its customers and the region's taxpayers." (Pet. 5.) But even if UP were to take either of those positions, the enforceability of the COE—a document created by UP to which Metra has not consented—remains to be determined, as UP itself acknowledges. (Reply to Pet. 2.) In these circumstances, based on the record before the Board,⁷ Metra has shown neither the irreparable harm needed for injunctive relief nor the emergency circumstances under which the Board may order service under § 11123. Metra's petition therefore will be denied.

It is ordered:

1. Metra's petition for injunctive relief and application for an emergency service order are denied as discussed above.
2. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz. Board Member Primus concurred with a separate expression.

BOARD MEMBER PRIMUS, concurring:

I strongly question UP's tactics in presenting the COE to Metra and claiming that Metra's access to UP's Lines will be governed by the terms of the COE beginning July 1, 2025. I note, however, that there is no immediate threat of irreparable harm to Metra, as UP has not attempted

⁶ As described in the Petition, "Metra will lose 40% of its business overnight, irretrievably lose customers, and be forced to furlough employees. The public, too, would suffer, as tens of thousands of daily riders would be left stranded." (Pet. 5.)

⁷ Metra asserts that it will suffer irreparable harm, for example, from UP's denial of its May 16, 2025 request for a schedule change to add trains to accommodate spectators for the NASCAR event on July 5-6 in downtown Chicago. (Pet. 8.) According to Metra, UP did not grant the request because the PSA would no longer be in effect after June 30, 2025. (*Id.*) Metra argues that both Metra and the public would be irreparably harmed without emergency relief. (*Id.*) Although UP's reply does not address Metra's specific request for event-related additional trains, UP has represented that it will not exclude Metra from providing its service over the lines and Metra has indicated that it will continue to provide service. Although the Board finds that Metra has not satisfied its burden of showing irreparable harm absent continued operations under the PSA and Metra has not provided details regarding the harm it alleges would occur regarding the NASCAR event, the Board expects the parties to work together collaboratively and in good faith when Metra makes requests for additional trains to accommodate attendees for special events, including the NASCAR event.

to enforce the COE, and Metra has said it will continue to provide service on the UP Lines while UP has said it will not prevent Metra from accessing the UP's Lines. That said, it is my hope that both parties respectfully work to resolve their differences and move forward together in service to the thousands of Metra passengers who commute along the three critical UP Lines.