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Surface Transportation Board
Docket No. EP 724
United States Rail Service Issues
Docket No. EP 724 (Sub-No.2)
United States Rail Service Issues-Grain

ENTERED
Office of Proceedings
September 8, 2014
Part of
Public Record

September 4, 2014

Surface Transportation Board
Attn.: Docket No. EP 724
395 E. Street, S.W.
Washington, D.C. 20423

Subject: Testimony provided by Bob Zelenka, Executive Director, Minnesota Grain and Feed Association, September 4, 2014 at STB Rail Issues Hearing.

Mr. Chairman and Commissioners, my name is Bob Zelenka, Executive Director of the Minnesota Grain and Feed Association, which represents the interests of nearly 300 cooperative and independent country grain elevator and feed mill "firms", operating nearly 600 individual locations in Minnesota. There are approximately 150 grain elevators served by rail in Minnesota, with 50 of those locations being maximum capacity unit train loading facilities. In terms of storage capacity in Minnesota, there are approximately 700 million bushels of grain storage at commercial facilities (grain elevators) and another 1.5 billion bushels of grain storage located on-farm.

We want to thank you for your continued involvement in addressing the severe rail service delays we in the grain sector have been experiencing over the last 11 months. While previous and existing actions by the Surface Transportation Board (STB) have been appreciated, including the requirements that both carriers be more transparent about their operations, our industry continues to experience delays in service, resulting in lost revenue to both the grain elevator and our producer customers. A recent study commissioned by the Minnesota Department of Agriculture and conducted by the University of Minnesota, estimated that rail service delays have cost Minnesota soybean growers $18.8 million just from March to May and put the losses at $72 million for corn growers and $8.5 million for Minnesota spring wheat growers.

Minnesota country elevator rail users have also lost millions of dollars as a result of the poor service being provided by the Burlington Northern Santa Fe and Canadian Pacific Railroad. These losses have come in the form of penalties or discounts on contracts due to late delivery, high interest costs on borrowed money (buying farmer grain then being unable to move that grain in a timely fashion), grain quality losses from forced ground pile storage, lost grain dryer revenue, a loss in grain handling revenue and an unprecedented escalation in the cost of freight. **Grain shippers are not asking to receive preferential treatment but grain shippers don't want to be disadvantaged either!**

Congestion on the rail network of these two carriers has obviously been exasperated by the unprecedented growth of oil traffic coming out of the North Dakota oil fields. Whether perceived or real, oil traffic has appeared to be receiving priority from both carriers. While grain elevators have waited weeks and even months to receive service, with the severe winter being blamed by the rail carriers as the main culprit, oil trains seem to have been moving steadily throughout the winter and spring, unabated by weather or other constraints, such as, a shortage of crews and/or locomotives.

As was mentioned, we appreciate actions taken by the STB, requiring the BNSF and CP Railroad to be more transparent by providing general system metrics. While we have seen some improvement in service and can appreciate the move by both carriers to invest in infrastructure improvements to address the congestion problem, service delays continue and we still have an estimated 100-150 million bushels of commercially and farm stored grain to move in the next 30 days, to create space for new crop.

We commend the BNSF for their recent transparency and for developing a strategic plan addressing the past due issue and their performance. This plan seems to be paying off. However, concerns still exit about a congested network and the time it will take to make the necessary BNSF infrastructure improvements to speed up the system. The BNSF, which is proud of its ability lately to catch up with past dues, apparently has not been taking new orders for cars on a level compared to previous years so a continued backlog of grain inventory is a likely result. We also wonder how many shuttles will be running starting October 1 and will the power and crews stay dedicated to these shuttles? Will the BNSF be making more COT's available in both small units and singles and will power be dedicated to these as well? Another overriding issue with the BNSF is the car ordering system and cost, both direct through the BNSF and indirect through the "secondary market". Winners (those that can afford to pay the recent exorbitant prices for freight) and losers (those without the deep pockets) are being determined by these car ordering processes. We would urge the STB National Grain Car Council, to take a closer look at this primary and secondary car ordering market process, the impact this ordering process has had escalating cost of freight and possible implications on a railroads common carrier obligations.

The Canadian Pacific Railroad (CP), on the other hand, has been less than forthcoming, compared to the BNSF, in its service metrics and their grain shipper customers continue to be frustrated by this lack of transparency and left with a lot of uncertainty about how to proceed in dealing with the railroad. The CP seemed to be on the right track in late winter but all of a sudden, grain shippers found themselves again waiting for timely service on their car orders. The CP blamed this service setback on the congestion problems moving freight through Chicago. The problem with that excuse is that at the time, grain freight was moving to the PNW and not through Chicago. A more likely culprit was the Canadian governments' intervention, which apparently forced the CP to reallocate locomotives and grain hopper cars to the Canadian side of the business, again at the expense of CP grain shippers in Minnesota and North Dakota.

Grain shippers on the Canadian Pacific Railroad continue to be dissatisfied with the level of communication coming from the railroad. The CP has shippers calling an unmanned service desk to try and locate trains. Earlier this year, the CP raised their rates to help pay for a new communication system for grain shippers between Portal North Dakota and Glenwood Minnesota but apparently the system has yet to be installed.

The CP unveiled its new service program in June with little to no detail and the actual service contracts didn't come out until last week. In order to sign up for a new contract, a grain shipper had to cancel old orders, which would make it look like a shipper was "on time" again. This new program also contained some hidden surprises. Effective September 1, the CP cancelled the O.E.P. Program, which offered a financial incentive to load a train in a timely fashion, up to $150/car OEP if loaded within 10 hours. Apparently, the CP thinking is that why provide a financial incentive when the shipper needs to load the train anyway and will do so as fast as possible. The unfortunate part about the O.E.P Program is that the financial incentives being offered forced many grain shippers to invest in higher speed loading capabilities and adding storage, to take advantage of the related cost savings over time. Not only will it be impossible for shippers to now realize a return on investment related to the O.E.P. Program, CP shippers will also be losing a valuable source of revenue that could run as high as a million dollars in revenue loss for a large CP grain shipper.

The CP operates under an "Expected Guidance" system, where the CP allows a shipper to order cars in a car management system, up to a level indicated at the beginning of the year. Expected guidance is a number established by looking at a shipper's past performance and grain car loading history. The problem is that the level of service promised by the CP at the beginning of the year, based on previous shipper performance metrics, is ending up being much less than promised. In one case, a CP grain shipper experienced a reduction of 20 unit trains from what was promised at the beginning of the year, resulting in nearly 8 million bushels of capacity not being able to move out of the elevator or out of farm storage into the marketplace.

Propane availability is another concern we have, relative to rail service. A major pipeline that brought a substantial quantity of propane into Minnesota has discontinued bringing propane into Minnesota, leaving a major terminal located in Benson Minnesota to be converted to a less efficient rail unload facility. Last fall and winter, Minnesota experienced a severe shortage in available supplies of propane, due to poor inventory management when facing a bumper crop of high moisture corn needing to be dried and the early onset of a very harsh winter. We hope to avoid a repeat of this "perfect storm" but due to this growing dependence on rail service, we ask that the STB require the railroads to provide service metrics concerning the vital availability of propane in the State. Another propane issue that has surfaced was the move by the CP Railroad, to require a firm pursuing construction of rail propane unload facilities, to have a general liability policy in the amount of $100 million (it had been at $25 million recently). It was impossible for a firm to consider constructing such a facility when figuring in the estimated $80-90,000 annual premium, in addition to the construction costs. Is the CP Railroad making this excessive insurance requirement to discourage competition in this critical area of need?

Since early in the fall of 2013, we have debated the issue and reasons behind the lengthy delays in service to the grain sector. As a result of this hearing, we would like the STB to continue requiring the BNSF and Canadian Pacific Railroad to provide greater transparency through service metrics (including a consideration to add service metrics on the movement of oil as well). In addition, we urge the STB to consider investigating unreasonable rail practices on its own initiative, require rail carriers to publish reasonable service expectations for customers, establish a binding arbitration system to resolve rail rate, rail practice and common-carrier service complaints, address so-called paper barriers that Class 1 rail carriers can use to restrict or preclude the ability of a tenant or purchaser railroad to interchange traffic with railroads other than the seller or landlord carrier and enhance the efficiency of STB operations by allowing direct communication among STB commissioners, including providing status reports of STB proceedings. These steps would create a more balanced environment that would encourage railroad/shipper dialog to resolve business issues directly, thereby enhancing efficient transport of agricultural commodities.

As I mentioned earlier, grain shippers on rail are not looking to receive preferential treatment but we don't want to be disadvantaged either. Thank you again for your keen interest in these on-going rail service issues and for your continued vigilance as we move into the 2014 harvest and shipping season. The continued active involvement by the STB should provide the incentive for both the BNSF and the CP Railroad to allocate and position resources necessary in meeting the rail transportation needs of our grain shippers.