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SERVICE DATE – FEBRUARY 23, 2016
SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 724 (Sub-No. 3)

UNITED STATES RAIL SERVICE ISSUES—DATA COLLECTION

Digest:¹ The Board grants the unopposed motion by the Canadian Pacific Railway Company to discontinue reporting data related to the Rapid City, Pierre & Eastern Railroad, Inc.

Decided: February 19, 2016

On April 10, 2014, in Docket No. EP 724, the Board held a public hearing at its offices in Washington, D.C., in response to rail service issues occurring across significant portions of the nation's rail network. Problems resulting from backlogged grain car orders and grain shipping delays were particularly acute on the Canadian Pacific Railway Company (CP) and BNSF Railway Company (BNSF) systems. Following the hearing, the Board required CP and BNSF to publicly file weekly status reports pertaining to grain car service, as well as each carrier's plan to resolve backlogs of grain car orders on its own system. See U.S. Rail Serv. Issues—Grain, EP 724 (Sub-No. 2) (STB served June 20, 2014). The Board also directed CP to report its plan for ensuring fluid and reliable interchange of loaded and empty grain cars with the Rapid City, Pierre & Eastern Railroad, Inc. (RCP&E),² the number of grain cars requested from CP by RCP&E each week, and the number of grain cars furnished to RCP&E by CP each week. Id. at 3.

On August 18, 2014, the Board issued a decision in Docket Nos. EP 724 and EP 724 (Sub-No. 2) announcing a second public hearing to be held in Fargo, N.D., and requiring additional reporting by BNSF and CP. See U.S. Rail Serv. Issues, EP 724 et al., slip op. at 1 (STB served Aug. 18, 2014). The Board expressed concern about CP's progress towards resolving the backlog of grain car orders and providing adequate service to its grain customers. The Board also noted that RCP&E, the primary carrier for much of South Dakota's grain, was

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. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² RCP&E became the new operator of the western portion of the Dakota, Minnesota & Eastern Railroad Corporation, which was sold by CP through an agreement executed May 31, 2014. See RCP&E Consummation Notice, June 2, 2014, Rapid City, Pierre & E. R.R.—Acquis. & Operation Exemption Including Interchange Commitment—Dakota, Minn. & E. R.R., FD 35799.

heavily dependent on CP for locomotive power, cars, interchanges, and through service for its customers. Accordingly, in addition to its weekly RCP&E grain car reporting, the Board directed CP to, among other things, report the number of locomotives moving outbound from RCP&E onto the CP system and the number of locomotives moving inbound from CP onto the RCP&E system. Id. at 4-5.

On October 8, 2014, the Board issued an order (Interim Data Order) requiring all Class I railroads to report certain performance data on a weekly basis. See U.S. Rail Serv. Issues—Data Collection, EP 724 (Sub-No. 3), slip op. at 2-4 (STB served Oct. 8, 2014). The data requests set forth in the Interim Data Order superseded the requests previously directed to CP and BNSF, but the Board retained the CP-specific requirements related to RCP&E. Id. at 2 n.7.

On November 16, 2015, CP filed a motion requesting that the Board amend the Interim Data Order to permit CP to discontinue reporting data related to RCP&E. In its motion, CP explains that when the Board first required CP to submit data related to its interchange with RCP&E, RCP&E was a newly operational railroad that relied heavily on CP to supplement its grain car fleet and locomotives. (CP Mot. 2.) CP asserts that, at that time, RCP&E was concerned about a potential imbalance of RCP&E locomotives on CP compared to available CP locomotives on RCP&E, but that both the grain car and the locomotive situations have been resolved as RCP&E has become operationally mature. (Id. at 3.) CP concludes that continued reporting of the RCP&E data no longer serves a regulatory purpose and that the reporting imposes an unnecessary regulatory burden because it must be tracked and assembled manually. (Id.) The Board received no replies to CP's motion.

The Board will grant CP's motion to amend the Interim Data Order. The data shows that operating conditions have been favorable on the RCP&E system for many months. There is no indication of a sustained imbalance of locomotives between RCP&E and CP, and, more generally, no indication of a shortage of locomotive power on the RCP&E system. Similarly, we have no reason to believe that RCP&E lacks a sufficient supply of grain cars. Indeed, RCP&E has not ordered grain cars from CP for several months. Therefore, CP may discontinue the CP-specific reporting requirements related to RCP&E under the Interim Data Order.

It is ordered:

1. CP's motion to amend the Interim Data Order is granted, and CP's reporting of RCP&E data is discontinued.
2. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.