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**UNITED STATES RAIL SERVICE ISSUES –
PERFORMANCE DATA REPORTING**

Reply Comments

of

National Grain and Feed Association

April 29, 2015

The National Grain and Feed Association (“NGFA”) submits these reply comments in this proceeding reiterating its strong support of the Surface Transportation Board’s (“Board” or “STB”) proposal to make permanent the reporting of rail service performance data by Class I rail carriers on a weekly basis.

The NGFA, established in 1896, consists of more than 1,050 grain, feed, processing, exporting and other grain-related companies that operate more than 7,000 facilities and handle more than 70 percent of all U.S. grains and oilseeds. Its membership includes grain elevators; feed and feed ingredient manufacturers; biofuels companies; grain and oilseed processors and millers; exporters; livestock and poultry integrators; and associated firms that provide goods and services to the nation's grain, feed and processing industry. The NGFA also consists of 26 affiliated State and Regional Grain and Feed Associations, has a joint operating and services agreement with the North American Export Grain Association, and has a strategic alliance with the Pet Food Institute.

The Board's proposal would amend and make permanent its October 8, 2014 order that imposed such reporting on an interim basis for Class I railroads and Class I railroads whose tracks transit or interchange through Chicago. This proceeding has immense importance to shippers and receivers of grains, oilseeds and processed agricultural products in serving domestic and export markets.

Rail Carrier Arguments Do Not Justify Abandoning Proposed Rule

The NGFA finds deficient and unpersuasive the comments submitted by the Association of American Railroads (AAR) and other railroad parties that argue that the Board should withdraw and abandon its proposal, and rely instead on rail service performance reporting made available by individual carriers and the AAR.

For instance, AAR argues that "only macro-level reporting metrics that the industry has long been providing voluntarily should be made permanent by regulation." (AAR at 1) Meanwhile, CSX Transportation Inc. (CSXT) proposes that a "flexible, voluntary reporting arrangement" be developed by the rail carriers and the Board's Office of Public Assistance, Governmental Affairs and Compliance. (CSXT at 3) Clearly, both approaches are grossly deficient and would not achieve the objectives clearly articulated by the Board and supported by rail customers in this rulemaking – namely, providing the Board with sufficiently precise, standardized and timely rail service performance data to perform its proper oversight functions and provide rail customers with sufficient actionable information on which to alter logistical plans in the event of a future

significant disruption in rail service. Indeed, the information suggested by the AAR proved to be a woefully inadequate barometer of the service meltdown that occurred in 2013-14.

Further, AAR argues that existing service reporting requirements ordered by the Board on October 8, 2014 should “sunset when service returns to normal levels because they will not be relevant or useful to a future service disruption.” (AAR at 2). To the contrary, the NGFA continues to strongly endorse the Board’s statement in this proceeding that “permanent collection of (rail service) performance data on a weekly basis would allow continuity of the current reporting and improve (the Board’s) ability to identify and help resolve future regional or national service disruptions more quickly, should they occur.” As the Board rightly observes, such reporting also will assist the Board in building a baseline of factual information on rail service performance that can be used as a barometer for comparative analysis by carriers, rail customers and the Board itself to evaluate future trends. There is no way to accomplish this core objective without having such data being collected and compiled on an ongoing, permanent and systematic basis.

Further, as the NGFA pointed out in its opening comments, the existence and transparency of such public data collection and reporting indeed does serve the extremely valuable role of providing an “early alert” to both rail customers and the government of impending service disruptions before they reach the kind of crisis proportions that occurred during 2013-14. Having access to regularly reported, more standardized information enables rail shippers with few or no other transportation alternatives to take steps to try to mitigate the business harm caused by having sporadic, or even no, rail service for an extended period of time. In addition, for other rail customers that have access to alternative transportation modes or other business options available, the ability to monitor railroad service performance data and to take preemptive action earlier in the process may have the benefit of reducing the overall adverse impact of such rail service disruptions in the future.

Further, the NGFA in particular supports and reaffirms the Board’s statement that such “transparency” in data reporting “would benefit rail shippers and other stakeholders by helping them to better plan operations and make informed decisions based on publicly available, near real-time data, and their own analysis of performance trends over time.”

In this regard, several rail carriers argue that they already endeavor to provide “meaningful, real-time information about (their rail networks) and impacts on...specific shipments.” (BNSF Railway Co. at 3; Union Pacific Railroad Co. at 16; CSXT at 7) The NGFA commends carriers that have developed and implemented robust, ongoing communications outreach and specific tools for use by their customers in monitoring rail service performance. But these systems are far from universal across all carriers, and have varying levels of capability. Indeed, one of the major problems during the severe service disruption of 2013-14 was the lack of systematic, ongoing, accurate communication from some Class I carriers with their customers – a frequent complaint of NGFA-member companies. Nor do these railroad carrier-specific systems provide the type of standardized, uniform reporting of service performance metrics that allow for comparisons and monitoring by the Board or rail customers.

As the NGFA articulated in its statement presented at the Board’s April 10, 2014 public hearing on U.S. rail service issues, as well as in statements submitted subsequently to the Board in this proceeding, having access to accurate rail service performance metrics provided in a timely and uniform format are crucial for the agricultural industry to be able to make necessary adjustments to business and logistical plans, storage and marketing strategies, and customer-service responses (including to farmer-customers) if there are disruptions in reliable, predictable rail service. The ability to do so is critical to minimizing as much as possible the economic harm to the operations and revenues of our industry, and to the upstream and downstream customers it serves. The same applies to other industries – be they within or outside the agricultural sector. These needs cannot be satisfied by relying on carrier-specific service reporting or the AAR’s proposal to require only “macro-level” reporting metrics limited to cars-on-line, train speed and terminal dwell (AAR at 2).

In this regard, the NGFA reiterates its objection to statements made by several rail carriers (AAR at 15, BNSF at 4, and UP at 4) arguing that the Board should no longer require commodity-specific reporting of service performance, with some (again) inaccurately implying that such requests “from trade associations and other shipper groups” represent “mistaken attempts to skew service in their favor at the expense of other commodities.” (BNSF at 5) The NGFA has repeatedly refuted this unfounded allegation, and reiterates its opening comments that requiring commodity-specific reporting of service metrics is essential to the core purpose of this rulemaking in facilitating the ability of the Board and rail customers to monitor basic

performance for their respective commodity segment. Generic, non-commodity-specific reporting that focuses only on the “fluidity of the national system” (AAR at 15, UP at 3) would not meet the needs of the Board or rail customers. Nor would it permit the monitoring of significant regional disruptions in rail service for specific commodities that can dramatically affect logistics and marketing of agricultural products.

Other rail parties argue for only reporting of generic, non-commodity-specific reporting by alleging that rail customers, the Board and other policymakers seemingly lack the sophistication to correctly interpret changes in metrics that signal a service disruption versus a normal variation (UP at 3) caused by fluctuations in demand for service. This argument is a red herring, and should be rejected on its face. Rail customers in the grain, feed and processing industry are fully aware of the fluctuations in crop size and market demand that can influence rail service demand – indeed, such knowledge is the very foundation of their businesses. In short, they know the difference between data indicative of a severe service disruption compared to variabilities in grain loadings attributable to crop production, market demand and other factors.

The NGFA does encourage the Board to examine ways to modify its proposed rule to address the following concerns raised by rail carriers:

- The timing of the weekly reporting period (BNSF at 9, UP at 8-9, CSXT at 4). What is important to rail customers is that the reports be accurate, timely and submitted on a regularly scheduled weekly basis.
- Definition of unit trains (BNSF at 10, UP at 9). Several carriers argue that the STB should not define a unit train as 50 or more cars, but instead accommodate carriers’ existing practices of distinguish trainload from manifest service. We encourage the Board to explore ways to resolve this issue in a way that still maintains the distinction in service performance between unit train and carload traffic.

Reiterating NGFA’s Overarching Recommendations on Rail Service Performance Data

The NGFA wishes to reiterate its belief that the modifications proposed by the Board to its existing rail service performance data requirements represent a significant improvement. We believe such data exist and are readily available and impose minimum burdens on rail carriers.

The NGFA also wishes to reiterate the following points in its opening comments that are fundamentally important if the rail service performance data being reported is to have utility and value to agricultural shippers and receivers, as well as to rail customers and policymakers as a whole.

- First, the NGFA believes it is extremely important that the data being submitted be very specific in terms of how it is to be reported so it is applied consistently across all affected rail carriers. In that regard, we continue to suggest that the Board consider modifying the required format of the reporting so that the data can be viewed and compared relative to other previous reporting periods (e.g., the previous week, previous month and the week/month year-over-year). Doing so in a bar graph or other standardized graphic format indicating service performance trends – whether they be improvements or degradations – would be particularly useful to rail customers, particularly smaller shipper and receivers.
- Second, the NGFA believes that the rail service performance data required to be reported needs to encompass all significant business segments served by rail, including grains, oilseeds and products derived therefrom; coal; chemicals; crude oil; intermodal; automotive ; and other relevant categories of traffic. As has been communicated previously to the Board, the NGFA believes it is unwise and counterproductive for any segment of rail traffic – including agriculture – to seek a general regulatory preference or priority designation over other industry sectors. But neither does the NGFA believe rail service for agricultural commodities or processed products should be disadvantaged at the expense of other industry sectors, particularly those that may be more profitable for rail carriers to serve.
- Third, the NGFA strongly urges the Board to modify its website to make the required rail service performance data much easier to locate, and to provide such data in much more user-friendly formats. Further, the NGFA recommends strongly that the format in which the rail service performance data is provided be standardized in comprehensive Excel spreadsheets versus the current hodge-podge of differing spreadsheet formats and basic PDF files, the latter of which are impractical for extracting, analyzing and comparing data in a useful format.

- Fourth, what matters most to companies storing, handling, processing and shipping and receiving agricultural commodities is the quality and consistency of service they are receiving at the facility level. To our knowledge, all of the Class I railroads already measure local service, which they often refer to as an “Industry Spot and Pull (ISP) Reports.” The NGFA requests that this new data element be added to the Board’s reporting requirements.
- Finally, the NGFA reiterates its recommendation that the Canadian National Railway Co. (“CN”) and Canadian Pacific Railway Ltd. (“CP”) be required to delineate separately (if not submit separately), to the maximum degree possible, their respective rail performance data associated with their U.S. and Canadian rail operations. In that regard, our concern is that past – and any future – Canadian government-imposed mandates on service performance for Canadian agricultural shipments may well contribute to service disruptions associated with these carriers’ U.S. operations through their reallocation of available locomotives, crews and cars to Canada. We submit that data requirements imposed on the CN and CP should be designed to enable the Board and industry stakeholders to recognize if Canadian governmental actions are having an adverse effect on the ability of CP and CN to fulfill their common-carrier obligations to U.S. rail shippers and receivers, so that the Board and other policymakers may take corrective action, if necessary.

Rail Service Performance Data Proposed by the Board

In this section, the NGFA reiterates and reinforces its opening comments generally supporting the Board’s proposed new regulations to be codified at 49 CFR §1250.1 through 1250.3 concerning each of the proposed weekly railroad performance data reporting requirements proposed in §1250.3:

- §1250.3(a)(1): The NGFA continues to believe that the weekly reporting of system-average train speeds delineated by the business segment categories proposed by the Board (“intermodal,” “grain unit,” “coal unit,” “automotive unit,” “crude oil unit,” “ethanol unit,” “manifest” and “all other”) is appropriate, extremely important and should be required. However, within the “grain unit” category, the NGFA recommends that

“soybeans,” “other oilseeds,” “oilseed meal,” “vegetable oil” and “fertilizer” be added as subcategories to the business segment data to be reported.

- §1250.3(a)(2): The NGFA continues to believe that reporting of weekly average terminal dwell time as proposed by the Board is appropriate, has great value and should be required. We further recommend requiring that such dwell times be reported by traffic category as recommended in §1250.3(a)(1) above, expanded to include “oilseeds,” “oilseed meal,” “vegetable oil” and “fertilizer.”
- §1250.3(a)(3): While of lesser importance to the grain and grain processing sector, reporting weekly average cars on line (i.e., in service) by the car types listed by the Board [“box,” “covered hopper,” “gondola,” “intermodal,” “multilevel (automotive),” open hopper,” “tank,” “other” and “total”] may be appropriate and important to some sectors. If this category of reporting is required, the NGFA does recommend that “tank cars” be delineated further in a business segment subcategory by specifying the number of cars used to haul hazmat and non-hazmat materials. Further, we recommend that this element of the reporting also provide a weekly summary of cars that are “on-line,” as well as “industry/constructively-placed.”
- §1250.3(a)(4): The NGFA continues to believe that reporting weekly average dwell time at origin or interchange location for loaded unit train shipments for “grain,” “coal,” “automotive,” “crude oil,” “ethanol” and “all other unit trains” is appropriate, important and should be required. However, we recommend that additional business segment categories, such as “oilseeds,” “oilseed meal,” and “fertilizer,” should be added, as should “manifest” traffic. Further, we continue to recommend that “destination dwell time” post-billing be added to this requirement as a reporting metric for each of the specified business segment categories, in addition to “dwell time at origin” and “interchange location.”

In addition, pursuant to one of the overarching recommendations made previously regarding “Industry Spot and Pull (ISP) Reports,” it is our understand that most rail carriers already have local service plans for the industries they serve, and the carriers measure their performance in terms of the percent of the plan they fulfill. For this reason, and because such information would be particularly useful to shippers of single cars and

manifest traffic, the NGFA recommends that data reporting should be expanded to require reporting of the weekly percentage of a rail carrier's local service design plan that has been fulfilled for all manifest traffic, broken down by business traffic category. This service performance metric should capture the percent of local industry switches (manifest traffic) that actually occurred during the time window in the local operating plan for the pertinent reporting week. As an example, if "Company A" had a local service design that indicated the facility will be switched between 2 p.m. and 8 p.m., and the rail carrier only spots and pulls cars within this time frame for 20 of the 30 days of a monthly period, the ISP performance would be 67 percent for that month. It is this percentage figure that would be reported under the NGFA's proposal.

- §1250.3(a)(5): Despite the objection of carriers, the NGFA believes that reporting the weekly total number of loaded and empty trains held short of destination or scheduled interchange for longer than six consecutive hours, sorted by train type is an appropriate and important metric, and should be required. Another approach may be the one proposed by UP, indicating the percentage of active trains held more than six hours. (UP at 15) We again believe this proposed requirement should be expanded to include the business traffic categories previously cited, and also should include unit train service.
- §1250.3(a)(6): Despite the objection of several rail carriers, the NGFA believes that reporting the daily average of loaded and empty cars operating currently in service, including those loaded and billed to an origin or destination is a good performance metric and should be required. The NGFA believes the Board should apply this service performance reporting requirement to include each of the business segment categories previously cited.
- §1250.3(a)(7): While recognizing that these data are influenced by geographical factors (e.g., weather, crop production, etc.), the NGFA believes that reporting the weekly total number of grain cars loaded and billed, reported by state and aggregated by the Standard Transportation Commodity Codes, as proposed by the Board, is relevant and is an important performance metric for reporting. We reject the argument of several rail carriers that commodity-specific reporting is irrelevant or somehow harmful; indeed, it is essential to the relevance of the data to rail customers and to the Board. Further, the

NGFA recommends that these data be further delineated by car type – specifically “covered hopper car” and “tank car.” We also recommend that consideration be given to expanding the listing of STCCs covered to include “other oilseeds.”

- §1250.3(a)(8): The NGFA believes that reporting the total number of overdue orders, average number of days late, total number of new orders received during the past week, total number of orders filled during the past week, and number of orders canceled by the shipper and carrier, respectively, aggregated by the STCCs proposed in subsection (7), also is appropriate, important and should be required. In this regard, given what we believe are different practices by rail carriers on how and when car orders are deemed to have been “received,” the NGFA recommends that the Board examine ways to provide a more standardized approach as to how this data metric is defined so that the data are more directly comparable. Further, we believe the Board also should require rail carriers to report whether the railroad placed or pulled the cars that were ordered or canceled. This would help capture instances in which railroads spot more cars at a facility than requested, which affects facility efficiency and traffic congestion.

In addition, concerning this reporting requirement, the NGFA believes the Board should consider the appropriateness of requiring a modicum of reporting of these categories of car-order data by shortline railroads that supply equipment, particularly those hauling significant quantities of commodities and products. Our concern is that the total absence of any such reporting by shortline carriers could lead to erroneous conclusions when evaluating the data reported by the Class I carriers with which shortlines interchange traffic.

- §1250.3(a)(9): The NGFA believes that reporting weekly total coal unit train loadings or car loadings for the reporting week by coal-production region is appropriate, important and should be required. However, we believe this reporting requirement, for comparison purposes, should be expanded to grains, oilseeds and other business traffic categories that ship commodities or products by unit train. In addition, the NGFA recommends that the Board add a requirement for weekly reporting on velocity and cycle times by shipping corridor (e.g., Pacific Northwest, Texas Gulf, etc.) for grains and oilseeds shipped by unit

train, as well as appropriate corridors for other business segment categories that ship by unit train.

Concerning the Board's proposed reporting requirements applying to Class I railroads operating at the Chicago gateway, the NGFA observes that the only service performance data appear to involve "trains being held" and "car volume inventories" in Chicago-area yards. We believe it would more valuable to have reporting of performance metrics concerning traffic that: 1) originates in the Chicago gateway; 2) is destined for the Chicago gateway; and 3) arrives to and subsequently departs from the Chicago gateway for further destinations.

For these reasons, we recommend that the Board in §1250.3(b) require reporting of data on:

- Origin Chicago Traffic: The number of cars idled for more than 48 hours in a Chicago-area yard.
- Destination Chicago Traffic: The number of cars idled for more than 48 hours in a Chicago-area yard.
- Chicago Beyond Traffic: The number of cars idled for more than 48 hours awaiting interchange (to capture the number of cars arriving to and subsequently departing from the Chicago gateway for further destinations).

Finally, the NGFA strongly supports the Board's proposed requirement in §1250.3(d) that Class I rail carriers report on a quarterly basis all rail project work-in-progress, major rail infrastructure projects (including project location by state), the planned completion date for each project, the percent to which the project is completed at the time of reporting, and a description of the project and its purpose. We do not object to the Board's proposal to define "work-in-progress" as projects on which ground-breaking has occurred, as well as its proposed definition of "major rail infrastructure projects" as referring to projects designed to expand or enhance capacity (excluding maintenance-of-way projects) that are budgeted to cost \$25 million or more over the life of the project. However, we also do not object to the Board exploring other approaches to capture such relevant information to achieve this objective, including weighing the proposals from BNSF and UP to provide narrative descriptions of their capital improvement projects,

provided such reporting is comprehensive, is updated quarterly, and achieves the substantive intent expressed by the Board in this section (BNSF at 10-11; UP at 19-20, AAR at 17-18).

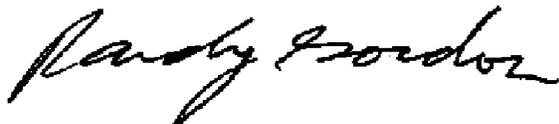
The NGFA does continue to believe there is merit in the Board also requiring carriers, as part of this infrastructure reporting requirement, to also report any scheduled curfew hours on traffic movement that could cause stoppages in traffic and thereby reduce the volume of rail movements across affected tracks.

Conclusion

In conclusion, the NGFA believes strongly that the Board's proposal to require a more standardized, timely, user-friendly and permanent reporting of rail service performance data will be invaluable to rail users and their customers, as well as to the Board and other relevant policymakers. Such service metrics would facilitate shippers' and receivers' ability to better manage rail-dependent business obligations and operations in a more market-based and anticipatory manner than occurred during the severe rail service disruptions of 2013-14, when rail carriers clearly did not anticipate, communicate or respond well to service degradation.

The NGFA strongly supports the Board's proposal to make rail service performance data reporting permanent, and appreciates the opportunity to convey these reply comments. We commend the Board for its proactive efforts in this proceeding, and would be pleased to respond to any questions the Board may have.

Sincerely yours,



Randall C. Gordon
President