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March 2, 2015

The Honorable Debra Miller, Acting Chairman  
United States Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

The Honorable Ann D. Begeman, Vice Chairman  
United States Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

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Office of Proceedings  
March 2, 2015  
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Public Record

Re: STB Docket No. EP 724-4 – United States Rail Service Issues – Performance Data Reporting

Dear Chairman Miller and Vice Chairman Begeman:

I am writing to provide Canadian Pacific's<sup>1</sup> Comments to the Notice of Proposed Rulemaking dated December 30, 2014, in which the Board proposes to establish new regulations that would require all Class I railroads, including Canadian Pacific, and the Chicago Transportation Coordination Office (CTCO) through its Class I members, to report an extensive range of service metrics to the Board on a weekly basis. In our view, the proposed reporting requirements are at once overly broad and too narrow. They are overly broad in that they would require railroads to report data that is not useful but could be harmful. They are too narrow in that they do not require reporting of data that would provide the Board with sufficient information to monitor the health of the network effectively.

We urge the Board to step back and refrain from implementing the proposed permanent reporting requirements without first developing regulations that focus on the entire supply chain, not simply the rail component. This would result in a more meaningful process in our opinion, and hopefully would minimize the burden on carriers, avoid unintended consequences, and result in more helpful and complete information.

Should the Board move forward with the proposed regulations, notwithstanding these considerations, we urge the Board to adopt network specific rules, to refrain from issuing commodity or State by State rules, and require the Belt Railway Company of Chicago (BRC) and the Indiana Harbor Belt Railroad (IHB) to report operating data as described below. We also urge the Board to revise its proposed rule regarding major infrastructure projects.

**The Objective of the Proposed Regulations Cannot be Achieved Absent a Focus on the Entire Supply Chain**

At the outset, we would like to bring the Board's attention to a serious deficiency with the proposed regulations; namely, that the regulations are focused on only one portion of the supply chain, railroads.

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<sup>1</sup> Canadian Pacific is a trade name under which Canadian Pacific Railway Company and its United States subsidiaries, Soo Line Railroad Company, Dakota, Minnesota and Eastern Railroad Corporation, and Delaware and Hudson Railway Company, Inc. operate.

Absent an understanding of the entire supply chain, the Board's stated objective of greater transparency cannot be achieved, nor will the Board's ability to identify and respond to a service disruption be improved.

Network service disruptions do not occur in a vacuum. Rather, they are the product of multiple factors throughout the supply chain. Labor issues at ports, changes in commodity markets, shifts in traffic flows, and unexpected surges in demand are a few of the factors that contribute to network service issues. For the Board to understand and make use of the data it proposes to collect from railroads, it must be able to understand the operational decisions and market demand placed on the rail network by various components in the supply chain—the ports, terminals, factories and grain elevators served by rail. Without this information, we do not believe that the data the Board proposes to collect from railroads will enhance its regulatory effectiveness. Thus, we believe the proposed regulations should only be considered in the context of a larger, more holistic rulemaking that would require data reporting from across the entire supply chain.<sup>2</sup>

### **Any Data Regulations Should Focus on Network Specific Metrics**

To the extent the Board goes forward with data collection regulations, notwithstanding the regulations' failure to address the entire supply chain, we believe the Board would be better served to focus on network specific metrics rather than commodity or geographic, State by State, specific metrics. The proposed regulations' commodity and geographic data points, based on last winter's service disruptions, will not necessarily provide useful information regarding a future disruption, should one occur. In fact, a commodity and geographic centric focus may provide a distorted picture and misdirect the Board's attention from the cause of a future disruption. It could also potentially give rise to calls for consideration of one commodity over another.

The focus should be on the health of the network. When the rail network is fluid, all commodities move normally regardless of point of origin or destination. Network fluidity, or network health, is the key to rail transportation.

We believe that the Board already has real-time access to information that would help it monitor the health of the network. The first three data points contained in the proposed regulations –train speed, average terminal dwell, and average cars on line—are already made public each week by the railroads.<sup>3</sup> These three metrics, together with perhaps a fourth, seven-day car loadings, are useful to determine trends and changes in the operational health of the rail network. These metrics reveal line-haul movement between terminals, the inventory of rail cars on line, and the average number of hours rail cars spend in terminals. In addition, each Class I reports through-put data on a quarterly basis to the Board. Specifically, each Class I reports total tons and ton-miles moved by that railroad on the Quarterly Condensed Balance Sheet. Together with the dialogue the Board's staff conducts on a regular basis with the Class I's and with individual customers, these metrics and data position the Board well to monitor the rail network and react to potential disruptions proactively, should they occur.

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<sup>2</sup> The Notice of Proposed Rule Making neglects to articulate what specific use the Board will make of each of the proposed data points. Until the Board identifies with specificity the use it intends to make of each data point, the Board should refrain from issuing the proposed regulations for that reason as well.

<sup>3</sup> At CP we use a definition for train speed and average terminal dwell that differs from the Association of American Railroads definition used by other Class I railroads. However, we report these two data points, train speed and average terminal dwell, publically to the Board under the Board's interim October 8 order using the AAR definitions. We use the AAR definition for average cars on line.

### **Chicago Terminal**

In our view, the Board is rightly concerned with the operational importance of the Chicago Terminal to the national rail network. Chicago is a network, not a geographic, issue. All Class I railroads, except Kansas City Southern, meet at Chicago and interchange traffic with one another every day. This interchange normally takes place at BRC and IHB. If either of these terminal railroads, in particular BRC, becomes congested the Chicago Terminal becomes congested. Depending on its severity, congestion at the Chicago Terminal can cascade throughout the network. To understand the health of the Chicago Terminal, the Board should understand the health of its heart, BRC and IHB.

The proposed regulations would continue the interim October 8 order's requirement that CTCO report average daily car volume at key Chicago rail yards, including BRC's Clearing Yard and IHB's Blue Island and Gibson Yards. We believe that additional metrics are necessary for the Board to have a more complete picture. Helpful operating metrics would include weekly reports by BRC and IHB of the following: number of cars arrived per day, number of cars humped or processed per day, number of cars re-humped or re-processed per day, number of cars pulled per day, number of trains departed each day by railroad, average terminal dwell, average departure yard dwell, and percentage of trains departed on-time each day by railroad.<sup>4</sup> These metrics will provide the Board with a picture of operational fluidity at the Terminal's heart, which is necessary to understand the health of the network.

We would also like to take this opportunity to comment on progress at CTCO, and our participation in the daily coordination among Class I's at Chicago. CTCO has become more effective because, in our view, of CP's insistence that the metrics, action items and countermeasures used to identify and react to congestion be meaningful. As a result of the participation of all Class I railroads that serve Chicago, including CP, these metrics, responses, and countermeasures have been re-worked and improved. The Operating Conditions Plan (formerly the Alert Level Plan) is no longer discretionary, and it now has operational teeth. As a result, the OPCON Plan is more effective as evidenced by the Terminal's reasonably prompt return to normal operating condition following the February 1-2 snow storm, one of the heaviest on record at Chicago.

CP is committed to doing its part to keep the Chicago Terminal fluid for the benefit of our railroad and the industry. Our operations personnel participate in the daily conference call with each Class I railroad regarding interchange at the Chicago Terminal. On these calls specific train counts are discussed, problems are raised, and solutions worked out. We exchange operational data every day with each of the other Class I's regarding Chicago as well. Importantly, CP actively participated in the development of the OPCON Plan, and has agreed to be bound by it. We continue to be involved in rail coordination at Chicago even though CP no longer has an employee sitting at the CTCO office. In view of the foregoing we do not believe such staffing is necessary at this time.

### **Major Infrastructure Projects**

The proposed rules would require Class I railroads to report quarterly on work in progress for rail

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<sup>4</sup> On-time pulling performance of each Class I railroad that interchanges at BRC is measured by the number of trains pulled from the bowl within two hours of their scheduled departure time. As a result of our commitment to keep BRC fluid, CP had the best on-time pulling percentage of the Class I's in 2014, and posted an 80% mark for the two most recent months, December, 2014 and January, 2015. We are proud of this performance, but recognize we have more work to do. We also note that there has been an effort by all Class I's to improve on-time pulling percentage at BRC.

Chairman Miller  
Vice Chairman Begeman  
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infrastructure projects in excess of \$25 million, including location by State, planned completion date, percentage of completion, and project description and purpose.

To the extent the Board requires infrastructure investment information beyond that now provided by the Class I's in their fall peak submissions, the Board might collect an annual statement by each Class I railroad describing its plans for the year and receive an update on status with the following year's report. The Board should not, however, require project specific information, and should not require information by State as this will only invite unintended consequences. The health of the network demands that railroads have the flexibility to adjust capital investment plans in order to respond to changes in market demand and consequent operational needs. We are concerned that the proposed regulations could have the unintended consequences of locking in spending decisions, encouraging narrow geographic bound interests to claim some sort of stake in capital projects, or otherwise inhibiting the ability to adjust capital investment to align with constantly changing needs of customers and the market.

We appreciate the opportunity to make these Comments and share our thoughts with the Board regarding the matters contained in the proposed regulations. Rest assured we will continue to update and share information in our regular calls with the Board's staff. We believe that this dialogue, together with ongoing dialogue with our customers, is productive.

Sincerely,

A handwritten signature in cursive script that reads "Keith Creel". The signature is written in black ink and is positioned above the printed name and title.

Keith Creel  
President and Chief Operating Officer