



ASSOCIATION OF AMERICAN RAILROADS

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Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

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Re: EP 724 (Sub-No. 4), *United States Rail Service Issues – Performance Data Reporting*

Dear Ms. Brown:

Pursuant to the Supplemental Notice of Proposed Rulemaking served on April 29, 2016, the Association of American Railroads hereby files the attached reply comments in the above docketed proceeding.

Sincerely,

Timothy J. Strafford
Counsel for the Association
of American Railroads

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Ex Parte No. 724 (Sub-No. 4)

UNITED STATES RAIL SERVICE ISSUES –
PERFORMANCE DATA REPORTING

REPLY COMMENTS OF THE ASSOCIATION
OF AMERICAN RAILROADS

Pursuant to the Supplemental Notice of Proposed Rulemaking (“SNPRM”) issued on April 29, 2016 by the Surface Transportation Board (“STB” or “Board”) in this proceeding, the Association of American Railroads (“AAR”) respectfully submits these reply comments in response to the opening comments filed by the National Grain and Feed Association (“NGFA”), National Industrial Transportation League (“NITL”), The Fertilizer Institute (“TFI”), and the joint comments filed by The Western Coal Traffic League, American Public Power Association, National Association of Regulatory Utility Commissioners, National Rural Electric Cooperative Association, and Freight Rail Customer Alliance (collectively, “Coal Shippers”).

In opening comments to the SNPRM filed on May 31, 2016, the AAR noted that the railroad industry has consistently maintained that a few important macro-level reporting metrics would best serve the Board’s goals of maintaining access to necessary information to fulfill its statutory functions, while balancing the burdens imposed on railroads. Such regulation would provide the most efficient and effective method to give the “Board and its stakeholders access to near real-time information about the operations and performance of the Class I railroads and the fluidity of the Chicago gateway.” SNPRM at 2. The AAR comments focused on issues

common to all Class I railroads and suggested changes to a number of areas where the proposal would raise technical problems if adopted. The AAR comments also explained recent steps taken by Class I freight railroads in the ongoing effort to keep Chicago fluid, including the sharing of data with city and state of Illinois stakeholders.

The opening comments to the SNPRM filed by trade associations advocating on behalf of shippers continue to support any and all reporting requirements on railroads regardless of burden without identifying any specific benefits that the data provide. The comments repeat general assertions of the benefits of data reporting, but offer no specific uses of the specific reported data elements. No shipper has explained how they have used any of the data collected in the past year and a half. Of course, as the information is not being requested from the shippers, they have no downside to insisting on production of every data point – real or imagined – regardless of its significance or practical utility. For example, NGFA can declare without consequence that it believes that it is “essential” that railroads report service date on Mondays rather than Wednesdays without offering any explanation of the basis of its belief or considering the burden and expense associated with railroads being required to bring in employees to compile and verify the data each and every weekend of the year. *See* NGFA Comments at 7.

Use of Data

The utility of railroad service data is limited to identifying changes and trends; the data cannot be reliably used to understand causality, to compare rail performance across different commodities, or to compare railroads. Contrary to Coal Shippers’ assertion that the reported data is “helpful for identifying the causes and effects of delays that may arise,” the reported data cannot reveal either the causes or the effects of delays. Coal Shippers at 3. The data are snapshots in time of specific metrics and nothing more. For example, weekly average dwell time

at origin for a loaded unit train will not reveal the cause of that delay. It will not reveal the effect of that delay on other trains or on customers. It will simply note the number of trains that meet the stated criteria for a given week. An increase or decline in the number may indicate a change in the rail carrier's service. Or it may not. It may indicate changes to external conditions independent of rail service, such as market changes or disruptions to other segments of the supply chain. Railroads are one link in a globalized supply chain that includes shippers, receivers, trucks, ports, ocean vessels, barges, and shipping intermediaries like warehouses. The presence of any single carload on a railroad at any given time is the result of the culmination of the complex, interdependent global economy.

Much of the data being collected by the Board is prone to misunderstanding. Despite the Board's confidence that "stakeholders recognize that there are significant differences between railroads as to geography, network, customer base, traffic volumes, resources, operating practices, and business philosophy," SNPRM at 22, shipper interest comments reveal a desire for the ability to use the data to attempt to compare railroad performance. For example, NGFA seeks "a more standardized and user-friendly format that allows for more comparative analysis of rail service performance metrics across all Class I carriers." NGFA Comments at 6. Should the Board go forward and promulgate regulations that require Class I railroads to report all of the data proposed for collection, it should be aware that this data inevitably will be used for inappropriate purposes and cited to the Board as evidence that one railroad is underperforming its peers regardless of whether that conclusion is correct.

Commodity-Specific Reporting

Granular focus on data regarding specific commodities can present a distorted view of overall operations and invite apples-to-oranges comparisons of traffic that moves in different

service and utilizes different equipment. For this reason, the AAR continues to question the utility and practicality of breaking out “fertilizer” for separate reporting.

Neither the NPRM nor the comments provide a workable definition of fertilizer. As indicated in the AAR’s opening comments, the SNPRM’s definition is overbroad and would include reporting of commodities that clearly are not fertilizer, such as STCC 28-188-35 (Tear Gas Solutions) and 28-197-10 (Nuclear Reactor Fuel Elements). *See* AAR Comments at 7-8. TFI’s comments do not provide any refinement of the NPRM’s proposal. *See* TFI Comments at 6. Even using this overbroad definition, fertilizer accounts for just 4.0% of rail carloads.

Moreover, there is little justification for adding a separate line item for fertilizer unit trains in Requirement 1 and 5. According to waybill data, only approximately 32% of fertilizer shipments (using the SNPRM’s overbroad definition of fertilizer) move in unit trains.¹ That accounts for 399,681 carloads originated – just 1.3% of all rail carloads and just 4.3% of all unit trains. In contrast, other commodities with separate unit train line items move much more often in unit trains. For example, 98% of coal and 60% of grain move in unit train shipments.²

Similarly, there is no justification for requiring separate reporting for vegetable oils and vegetable meals, as suggested by NGFA. NGFA Comments at 6. NGFA provides absolutely no explanation why the Board should require granular, weekly reporting of this traffic.³ The AAR

¹ TFI’s survey indicates that even less fertilizer moved in unit train service. *See* TFI Comments at 6 (reporting that 21.5% of respondents’ traffic moved in unit train service).

² For the purposes of this calculation, the AAR relied on waybill designations of trainload as a surrogate for unit trains. While this definition is problematic for service metrics as explained in previous AAR filings, it is useful here to provide a relatively simple comparison of the percentage of different commodities moving in large units.

³ NGFA attempts to cloak its request for granular data in selective quotations from the 2008 Christensen Associates report and the 2015 Transportation Research Board study. NGFA’s reliance is misplaced. The Christensen Report reviewed and restated the results of a survey of shippers and used the available AAR Railroad Performance Measures data to assess shipper claims that intermodal service received preferential service. The report found no basis for that claim. The TRB likewise restated shipper claims

notes that the STCC codes that NGFA proposes for this report do not match its description of vegetable oils. STCC 20111 is carcasses of meat, obviously not a vegetable oil. Nonetheless, vegetable oils as defined by NGFA account for just 1.3 percent of carloads. Of that traffic, just 14% move in unit trains. Requiring the railroads to derive and report insignificant statistics is unwarranted and unfair.

Grain Shuttle Reporting

As detailed in the AAR opening comments, it makes little sense to create a rule of general applicability regarding grain shuttle service that requires an immediate waiver to be issued for most carriers. It would be more straightforward to promulgate a rule that is phrased in the alternative: carriers that offer shuttle service would report trips per month and those that do not would report system-wide grain unit train trips per month, if any. The last thing the Board should do is establish a protracted administrative process for waivers with Federal Register notice and public comment, as suggested by NGFA. *See* NGFA Comments at 12.

Infrastructure Reports

The Board should reject NGFA's and Coal Shippers' calls to require extensive reporting of smaller infrastructure projects of less than \$75 million. NGFA Comments at 14; Coal Shippers Comments at 5-6. The SNPRM proposal strikes a balance of keeping the Board apprised on the progress of significant infrastructure improvements without unduly burdening the railroads with reporting requirements. Unlike service and volume reporting, infrastructure reporting will be more narrative. The reports cannot be automated and will draw on the time and effort of railroad personnel to write reports. Increasing that burden is not warranted, as NITL notes that information regarding infrastructure projects is already available from a variety of

from survey results and STB hearing transcripts and noted that in order to compare common carrier service with contract service, individual shipment level data would be necessary. *See* TRB Report at 76.

sources. NITL Comments at 4. Coal Shippers' motivations for expanding this report is apparent as they seek to seize on this report to place the Board in the role of central planner, reviewing projects "with an eye toward whether the carriers will be able to meet their common carrier obligation." Coal Shippers Comments at 6. The Board should reject such a role as beyond its statutory purview.

The Board should also reject NGFA's request for additional reporting on time frames when freight traffic may be interrupted due to larger infrastructure projects. Such a requirement would be inefficient and could lead to conflicting information being publically available. By requiring Class I railroads to report on large infrastructure projects with six month updates, the Board will be focusing public and stakeholder attention on parts of the network where work will be ongoing. But such reports do not lend themselves to granular components that change day-by-day and week-by-week. Instead, as the Board correctly notes in the SNPRM, customers are typically made aware of planned disruptions through e-mail and the railroad's websites, which describe maintenance and capital projects in real or near real time. SNPRM at 18.

Chicago

Finally, freight railroads continue to work with city and state stakeholders to keep the important Chicago rail hub fluid. In its opening comments, the AAR reported successful cooperation on Chicago data with the Chicago Metropolitan Agency for Planning ("CMAP"), which was echoed in CMAP's comments. CMAP went on to suggest that the performance of "intermodal trains, such as on-time performance by intermodal yard would provide a fuller, clearer picture." CMAP Comments at 2. The railroads were able to share other data elements with CMAP because the data were generally collected by railroads in the ordinary course of business (or otherwise required by the STB) and could be shared without imposing additional

burdens. In contrast, intermodal information is not readily available because it is not tied to rail car information collected by Railinc. *See* AAR Comments at 16-17 (filed March 2, 2015) (describing Railinc's collection of rail car data). Similarly, the other data elements requested are not easily generated and would necessarily vary by carrier, creating consistency problems. The Board should also reject as unsupported NGFA's renewed request to impose a reporting requirement of cars idled more than 48 hours in Chicago yards broken out by whether the car originates, terminates or is interchanged in Chicago. NGFA offers no justification for its belief that these reports would convey additional information regarding congestion in Chicago.

Conclusion

Based on the foregoing and previous AAR submissions, the Board should issue final rules making permanent reporting requirements only those data items that measure overall system fluidity. The AAR continues to believe that there is no public interest or regulatory justification for requiring railroads to permanently report all of the granular data elements in the SNPRM.

Respectfully Submitted,



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