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BEFORE THE
SURFACE TRANSPORTATION BOARD

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Docket No. EP 724 (Sub-No. 4)

UNITED STATES RAIL SERVICE ISSUES—PERFORMANCE DATA REPORTING

**UNION PACIFIC RAILROAD COMPANY
COMMENTS IN RESPONSE TO EX PARTE MEETING SUMMARIES**

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Union Pacific Railroad Company (“Union Pacific”) submits these comments in response to the summaries of meetings held with Board staff pursuant to the Board’s decision served on November 9, 2015. Given the broad participation by shippers, railroads and other interested parties, we believe that the Board’s decision to hold individual discussions with the opportunity to ask and answer questions has enriched the record and built understanding of the limitations and value of data. We appreciate the Board’s willingness to listen to our concerns and the opportunity to respond to concerns raised by other parties. In the interest of efficiency, we are limiting our comments to specific requests for additional or more detailed reporting that we believe should not be included in the permanent rules.

Response to Western Coal Traffic League (“WCTL”) Meeting Summary

Union Pacific disagrees with WCTL’s request for reporting of cycle times over 10 key coal corridors. First, WCTL’s criticism of train speed (aka velocity) relative to cycle time was either mistaken or misleading. Union Pacific coal train velocity does reflect stop and hold time between terminals. While velocity does not include unloading or loading time, and cycle time does, unloading and loading time are not the responsibility of a railroad and therefore do not reflect railroad performance. For the same reason, there can be no meaningful calculation of

cycle time by coal corridor. With perhaps one exception, no Union Pacific coal trains are loaded and unloaded on the same corridor. Most coal trains run from one segment to the next. The calculation of cycle time on a coal corridor could only be attempted when a coal train terminates and is unloaded along a corridor. However, if unloading time for such trains is excluded, then the result is transit time which does not satisfy WCTL's request for cycle time because the transit time would not reflect unloading. But if the unloading time for trains to that destination is included, the result will make it appear that the running time for all coal trains moving beyond that corridor are slower than reality. Second, coal customers already know their specific "all-in" cycle times for each of their plants which includes time spent loading and unloading a train. This number is typically more relevant to coal customers in planning because it provides the whole picture of equipment utilization. Third, Union Pacific does not have 10 key coal corridors that it could report on without potentially revealing sensitive customer information. Union Pacific's largest coal routes run between the Powder River Basin area of Wyoming to Kansas City and through Omaha/Council Bluffs to Chicago. As coal trains move beyond those points, they disperse often with only one or very few customers' trains moving over the next segment. If information on these lower density coal routes is publicly reported, it might be possible to determine commercially sensitive information about the customers whose trains operate over these routes.

WCTL's request for reporting of dwell times for loaded and empty coal train at the 10 largest interchange locations encounters this same issue. To the extent that WCTL is requesting reporting on dwell time at interchange for all commodities, not just coal, the issues associated with reporting interchange dwell were discussed in our written comments.

WCTL requests that railroads report on shipper-provided equipment, but it is not apparent how system-wide data will assist utilities in their individual planning. The owner of private equipment always knows whether its equipment is in use and whether its cycle times are increasing or decreasing. WCTL's suggestion that railroads could simply respond "yes" or "no" would not result in useful information. For example, if a railroad responds "yes" there is a restriction on shipper sets because one or more of its customers is conducting maintenance, that response provides no useful information to other customers but may cause unjustified anxiety by that railroad's other coal customers. Union Pacific already notifies its customers of track maintenance, weather alerts or track outages along their routes. This specific, real-time information is more useful for their planning purposes.

WCTL also asks for reporting on the availability of locomotives and crews for coal service. As the Board staff heard during its meeting with Union Pacific, locomotives are the most fungible resource on the railroad and are used to transport all commodities everywhere on the network. Union Pacific does not maintain a fleet of locomotives dedicated solely to coal service. While train crews also serve all commodities, they are based around specific geographic areas. With the exception of crews based near the Powder River Basin, there is no crew base that primarily serves the coal network. WCTL is asking for reporting of metrics that essentially do not exist.

Response to Freight Rail Customer Alliance ("FRCA") Meeting Summary

Union Pacific takes issue with statements made by FRCA concerning coal traffic. First, FRCA stated that coal loading plan information would be useful because it would provide insight

about whether railroads are meeting their own expectations.¹ We have not provided coal loading plan data under the temporary reporting order because, to the extent we have a “loading plan,” that plan is based on confidential information we receive from customers. Our customers tell us how much coal they would like to move and we plan resources based on their forecasts. Union Pacific does not set its own expectations and does not develop goals for daily or weekly coal loadings independent of these customer forecasts. FRCA also seems to assume that if railroad loadings fall below “plan” it is because of a failure by the railroad. However, rail service is just one link in the coal supply chain. Coal loadings below customer forecast may also be due to production issues at a mine or an outage at a power plant that are completely unrelated to rail service.

Second, in response to a question from Board staff, FRCA stated that customers rarely decrease their coal loading nominations. In Union Pacific’s experience, this is not true. During 2015, Union Pacific has had sufficient resources to meet or exceed customer demand for coal. However, monthly coal loadings have consistently been below customer forecasts. In 2015, and on many other occasions over the years, some of our customers have chosen to load fewer coal trains than originally nominated. When demand for coal is low, as it has been this year due, in part, to low natural gas prices, customers may choose not to stockpile coal because there are physical limits on the size of stockpiles. Also, maintaining large stockpiles increases customer costs. In the alternative, customers may not reduce their nomination, but instead slow their unloading time and hold on to their empty trains longer before releasing them. Such customer decisions increase cycle time and reduce loads relative to nominations. An inference that railroad performance caused the longer cycle times and shortfall in loadings would be incorrect.

¹ WCTL made a similar request for reporting of coal loading plans. Union Pacific’s response to FRCA on this point is equally applicable to WCTL’s request.

Third, FRCA indicated that reporting on utility coal stock pile data would be useful. But utilities, not the railroads, possess this information. While it is doubtful that the Board has jurisdiction to order railroads to report data they do not possess or to order coal shippers to report their stockpiles, the Board need not address that issue. Utilities already know the size of their stockpiles and other government agencies, such as the Energy Information Administration, compile and publish such information on a regional basis.

Response to National Grain and Feed Association (“NGFA”) Meeting Summary

As with its written comments, NGFA focused on requesting more granular reporting on additional commodities including oilseeds, grain-derived products, ethanol and fertilizer. Union Pacific addressed these requests by the NGFA in our written comments.² UP Reply Comments at pp. 8-10. Since filing our comments, we have examined car loading data for grain-derived oil and oilseed commodities. Based on the volume of car loadings, requiring state-by-state reporting of oil and oilseeds runs the risk of revealing sensitive commercial information in weeks with few car loadings. For example, in some states Union Pacific typically originates fewer than ten car loads per week. Even in states with more volume, there are weeks with as few as two or three car loadings. The Board previously exempted KCS from certain state-by-state reporting because of concerns like this regarding the small number of shipments and shippers served. The Board should not require this additional granular reporting when it has already determined that data of this type may reveal sensitive customer information.

² On December 22, 2015, the American Chemistry Council filed comments in this proceeding supporting NGFA’s request for more granular reporting. Union Pacific and the AAR have endorsed reporting commodity-specific data in the form of weekly carloadings for 20 commodity types and two intermodal service types. Requiring granular, commodity-specific reporting, beyond carloadings, virtually guarantees that the data will be inconsistent among railroads and less meaningful to shippers and the Board.

NGFA expressed a concern that the transit times do not necessarily capture delay at destination if a railroad considers a shipment to be delivered when it reaches a local serving yard. For Union Pacific, the transit time of a car or train will typically include all time until the car is actually placed at a customer facility. The only exception is if the customer is unable to receive the car and the car is placed in a “constructive placement” or CP status. The time a car spends in CP status should not be counted in total transit time because the car is being held at the customer’s request or due to an issue at the customer facility, not because of an issue with the railroad’s performance.³ Customers have access to car status and can find out in real time if a car is in CP status or if a car is dwelling for another reason.

Response to United States Department of Agriculture (“USDA”) Meeting Summary

USDA expressed an interest in data related to the secondary market for grain cars. Union Pacific does not manage or participate in the secondary market for grain cars. Any information we receive about the secondary market comes from those parties participating in that market or from third parties that collect and distribute market data. Leaving aside the question of whether the Board can require railroads to report on transactions between third parties, these sources of data are presumably more available to the USDA, as a government agency, than to private parties like railroads.

Response to Highroad Consulting, Ltd. (“HRC”) Meeting Summary

HRC’s request for reporting of “percent of car orders filled,” should be denied because it will provide little value to the Board or customers. First, there are no car orders for railroads to fill when the shipper supplies the car as happens for most Union Pacific traffic. Private cars

³ If Union Pacific holds a car to meet a customer unloading window or a slot at an export terminal the car is not placed in CP status and the time the car spends waiting for the window or slot is included in Union Pacific’s transit time for the car.

moved 2.77 times as many loaded miles on Union Pacific as railroad-supplied cars in 2014.⁴ All tank cars are supplied by the customers, not railroads. Similarly, most covered hoppers used for chemical movements are supplied by customers. Second, when Union Pacific does supply the cars, we offer many different types of service for many different commodities. Some services we provide, like grain shuttle trains, do not use any car order system. The shuttle customer directs the movement of the empty cars to the next loading point. Finally, when customers do order cars from Union Pacific, individual customers are able to track their car orders and know when an order is filled. Requiring a system-level metric of this type will not provide customers with information that would assist them in making planning decisions.

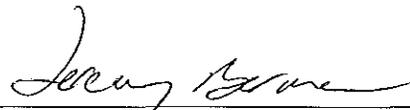
HRC suggested that rail customers use the public reporting to help predict turn times and make planning decisions. But HRC offers no reason to believe that such system average data is more useful than the actual transit time data Union Pacific customers already have full access to on our website. Our customer service and marketing and sales personnel are also available to assist customers in planning a new service or exploring changes to existing service.

Conclusion

We once again thank the Board for the continued opportunity to participate in this proceeding. We ask that the Board reject the proposals for additional and more detailed reporting and that the Board require only reporting of metrics that: (1) provide meaningful information; (2) are reasonably available from all railroads; and (3) do not reveal confidential or proprietary data.

⁴ 2014 Union Pacific R-1 Annual Report, Schedule 755. Compare Line 64 (Line Private Line Total Freight Car-Miles) to Line 30 (RR Owned and Leased Total Freight Car-Miles).

Respectfully submitted,



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