BEFORE THE
SURFACE TRANSPORTATION BOARD

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UNITED STATES RAIL SERVICE ISSUES

WRITTEN COMMENTS OF
UNITED SUGARS CORPORATION

United Sugars Corporation ("United Sugars") submits these written comments in response to the Notice of Public Hearing served by the Surface Transportation Board ("STB" or "Board") on April 1, 2014. In addition to these written comments, United Sugars will testify at the April 10th Hearing through its President, John Doxsie.[1] Because United Sugars is dependent upon BNSF Railway Company ("BNSF") for 80% of its transportation needs from sugar refineries in North Dakota and Minnesota, it has been severely injured by BNSF's service problems. United Sugars estimates that BNSF's service failures will cost tens of millions of dollars this year. The Board can and should take steps to ensure that BNSF's problems are resolved as quickly as possible and do not recur in the future. The institution of this proceeding is but an important first step.

I. **Statement of Interest.**

United Sugars is a marketing cooperative that is the sales and distribution arm of its three members, American Crystal Sugar Company ("American Crystal"), Minn-Dak Farmers Cooperative ("Minn-Dak"), and United States Sugar Corporation. American Crystal is an agricultural cooperative based in Minnesota that operates six factories to refine sugar beets into

[1] United Sugars filed its Notice of Intent on April 3, 2014.

sugar. It is owned by approximately 2,850 sugar beet growers and has 1,800 employees. Minn-Dak is an agricultural cooperative located in North Dakota, where it operates a single factory. It is owned by approximately 430 sugar beet growers and has 450 employees. United States Sugar Corporation grows sugar cane in Florida where it operates a single factory, but it is not impacted by BNSF's service issues because of its location. Collectively, the members of United Sugars supply one-fourth of the total U.S. sugar demand.

United Sugars relies upon BNSF to transport 80% of its refined sugar from its members' sugar refineries in North Dakota and Minnesota to customers throughout the country. As a consequence of BNSF's service problems, cycle times for rail cars have increased by over 40%, which effectively has reduced BNSF's capacity to transport much of the sugar that has been produced from the 2013 sugar beet harvest. This has made it much more difficult and costly for United Sugars to transport its sugar to customers, resulting in lost sales, higher transportation costs, storage problems, and production reductions. Furthermore, these effects on the 2013 harvest have the potential to cascade into the 2014 harvest with even more devastating effects if not corrected in a prompt and timely manner.

II. The Important Role of Rail Transportation to United Sugars.

The farmers that own American Crystal and Minn-Dak grow sugar beets in the Red River Valley of Minnesota and North Dakota. They plant sugar beets in April and harvest them in September and October. The harvested beets are piled on the ground where the long cold winters in that region of the country provide a natural outdoor freezer that preserves the beets until they can be processed into sugar. Throughout the winter (approximately through May), the frozen sugar beets are processed by one of several refineries owned by American Crystal and Minn-Dak. At the refineries, the sugar beets are processed into refined sugar and stored until transported to a customer. The entire harvesting and processing of sugar beets is a 9-month process referred to as a "campaign."

United Sugars, as the marketing and distribution arm of its three members, sells its refined sugar to customers, which include large and small food processors, soft drink producers, candy makers, and grocery chains across the United States. The refined sugar is sold and shipped to these customers throughout the year. Sugar inventory typically peaks in May when the last of the previous year's sugar beet crop is processed, and that inventory is drawn down through the summer months until a new harvest begins in September.

Because there is limited storage capacity at each refinery, there must be a steady outflow of sugar from storage silos throughout the year. During each 9 month campaign, it is especially critical to maintain a steady outflow in order to free up storage capacity at each refinery for newly-processed sugar, as more sugar beets are continuously trucked from the piles to refineries. Even during the three summer months, it is essential to deplete the sugar inventory to make room for the next year's harvest beginning in September. But it is not enough just to sell the sugar; there must be a means to transport the sugar from the refineries to the purchasers. When transportation service is adversely affected, silos cannot be emptied fast enough for new production and refineries are forced to process fewer sugar beets. If refineries cannot process all of the sugar beets on the ground before the Spring thaw, what remains on the ground will spoil and rot, resulting in lost sales.

United Sugars is dependent upon BNSF to transport 80% of its members' sugar from North Dakota and Minnesota processing plants. Every single refinery belonging to United Sugars' members in North Dakota and Minnesota is captive to BNSF for rail service. Trucks typically transport the remaining 20% to destinations within approximately 500 miles. As part of its transportation service, BNSF provides a semi-dedicated fleet of approximately 1600 hopper cars modified to transport sugar. BNSF assigns approximately1500 of those cars to United Sugars and the remainder are assigned to another sugar producer. This fleet has been sized to handle all of United Sugars' traffic under normal transportation conditions. But with the significant degradation in BNSF transit times, BNSF has been unable to supply enough empty hopper cars to fulfill ordinary demand. In addition, United Sugars' customers have not received the reliable sugar supplies that they expect.

III. <u>The Impact of BNSF Rail Service on United Sugars.</u>

United Sugars has felt the impact of BNSF service problems in multiple ways. Most significantly, cycle times have increased dramatically. The 1500 hopper car fleet assigned to United Sugars typically has an average cycle time of 32 days. This year, that average has increased to 45 days. This 40% increase in cycle time requires a corresponding increase in hopper cars—600 additional cars—just to transport the same amount of sugar as in prior years. Without these additional rail cars, however, United Sugars has experienced a multitude of problems.

First, United Sugars has resorted to alternative modes to the maximum extent possible. This means using every available truck that it can find. Trucking, however, is more costly than rail beyond the 500 mile radius within which United Sugars ordinarily uses trucks. Furthermore, using trucks for longer distance transportation reduces their utilization factor because longer distances require longer cycle times, which reduces the number of trips a truck can make. There simply is not enough truck capacity to make much of a dent in in the void created by BNSF's service problems. The increased demand for trucks also means that an already more costly alternative than rail has become even more expensive. Consequently, increased use of trucks has increased United Sugars' transportation costs while only addressing a fraction of the problem.

Second, United Sugars is losing customers. Because sugar is a commodity, many companies can offer the type and quality of product United Sugars markets; the value United Sugars provides its customers is reliability of supply. BNSF's service problems have severely damaged United Sugars' reputation as a reliable supplier of sugar. United Sugars has lost customers who are able to purchase sugar from alternative suppliers who are not dependent on the BNSF. Third, United Sugars was forced to advise its members' refineries to curtail production due to a shortage of empty rail cars. Without empty rail cars, sugar cannot be unloaded from storage silos. When the storage silos are full, there is no place to store newly-refined sugar. American Crystal was forced to reduce its production capacity by 25% over three weeks at three of its factories due to an empty rail car shortage.

Fourth, it is likely that some of the sugar beet crop will simply rot on the ground and become unusable with the first Spring thaw. Lost sugar beets equates to lost revenue. As part of the sugar production process the members of United Sugars also produce sugar beet pellets. molasses and other liquid co-products. These co-products are sold to customers in the animal feed and fermentation industries. Approximately 90% of the volume of these co-products is shipped by rail from the North Dakota and Minnesota facilities which are served exclusively by the BNSF. Just as with sugar, poor rail service is causing significant additional storage and transportation costs for co-products and is adversely impacting customers who buy these co-products.

Finally, from a different perspective, the refineries are short on coal to run their coal-fired boilers. BNSF deliveries of coal unit trains for use by the refineries also have been adversely impacted. The coal piles are currently down to less than 10 days supply, which puts the refineries at risk of shutting down if there is a single missed delivery. If the refineries shut down, they are not processing beets, which will leave even more beets to rot on the ground.

BNSF's on-going service problems are estimated to cost United Sugars and its members tens of millions of dollars for the 2013 campaign.

IV. Requested Actions

Although BNSF has mostly attributed its service problems to a harsh winter, United Sugars believes there is a more fundamental cause. Average train speeds on the BNSF have been declining for more than one year. Average dwell time at BNSF terminals has been increasing since last summer. The winter of 2013/2014 was long and cold, but it seems clear that the poor BNSF service is much more than a "winter" problem. Given the decline in BNSF performance over the past year, and the ongoing surge in traffic on the railroad (oil, coal, intermodal), coupled with an even more aggressive capital program for 2014 (which can tend to slow trains), United Sugars harbors grave concerns that BNSF will not be able to quickly resolve its service problems and that those problems will be exacerbated once again next Winter.

In a letter opposing formal proceedings requested by the Western Coal Traffic League in Docket Ex Parte No. 723, BNSF notes that its employees have been in contact with customers about service issues and providing service updates. Although that much is true, United Sugars has been far from assured that BNSF has its problems under control or has a good sense as to how long it will take to achieve control. The information provided by BNSF has been at a very general level, such as how much capital it plans to spend during the year, how many locomotives will be purchased, and how many employees will be hired.

United Sugars is seeking greater assurance that BNSF has solved, or soon will resolve, its service issues, and is taking adequate measures to prevent a reoccurrence next winter. More specifically, United Sugars would like to know when cycle times on sugar cars, co-product cars and coal sets will return to normal levels. And, if the BNSF is unable to provide complete assurance that normal car cycle times will be realized in a matter of weeks, United Sugars would like to know the specific steps the BNSF is taking to increase the size of those car fleets to the point where they are sufficient to service the business. Since car fleets are generally not increased quickly, United Sugars needs to see that BNSF is taking action now in order to minimize the adverse effects of similar service failures next winter. While United Sugars hopes that BNSF will not need the extra cars because its service levels will have returned to normal, United Sugars needs to know that those cars will be there just in case. The risk of extended service problems should be borne by BNSF, not its customers.

Respectfully Submitted,

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