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May 31, 2016

Ms. Cynthia Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423-0001

**ENTERED**  
**Office of Proceedings**  
**May 31, 2016**  
**Part of**  
**Public Record**

**Re: STB Ex Parte No. 724 (Sub-No. 4), United States Rail Service Issues—Performance Data Reporting**

Dear Ms. Brown:

Enclosed for electronic filing in the above captioned proceeding is the Opening Comments of BNSF in response to the Supplemental Notice of Proposed Rulemaking on April 29, 2016. Thank you for your attention to this matter.

Sincerely,



Jill K. Mulligan

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB EX PARTE NO. 724 (Sub-No. 4)**

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**UNITED STATES RAIL SERVICE ISSUES—DATA COLLECTION**

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**OPENING COMMENTS OF  
BNSF RAILWAY COMPANY**

In a Supplemental Notice of Proposed Rulemaking (“Supplemental Notice”) served on April 29, 2016, the Surface Transportation Board (“Board” or “STB”) modified its prior Notice of Proposed Rulemaking (“December 2014 Notice”) in which it initiated this sub-proceeding to receive comments on proposed regulations requiring permanent reporting by Class I railroads of service-related data on a weekly basis and infrastructure data on a quarterly basis. Under the Supplemental Notice, the Board has proposed modified regulations that require ongoing reporting of: (i) twelve different categories of data relating to network service performance to be provided by each Class I railroad on a weekly basis, including two new additional requests; (ii) weekly data and additional notices relating to service within the Chicago area filed by the Chicago Transportation Coordination Office (“CTCO”); and (iii) an annual letter from each Class I railroad describing major rail infrastructure projects, with a six-month update. BNSF Railway (“BNSF”) joins in the Opening Comments being filed by the Association of American Railroads (“AAR”) and submits these additional comments in order to provide the Board with BNSF-specific insights regarding certain aspects of the Supplemental Notice.

As a preliminary matter, BNSF appreciates the efforts that the Board has made to engage with various stakeholders in this proceeding. Most notably, the Board made its staff available to participate in one-on-one meetings with railroads, shippers and other interested parties to discuss the content of the Board's December 2014 Notice and review technical issues that it presented. In several respects, the Supplemental Notice reflects and responds to specific concerns BNSF raised in our comments and in our meeting with staff around the nature and scope of certain reports proposed by the Board or by other parties to the proceeding. We appreciate the modifications that the Board has made to its initial proposal requiring a detailed quarterly spreadsheet accounting for major infrastructure projects, moving instead to an annual narrative with a six-month update. We also appreciate the Board's efforts towards balancing the numerous requests for additional data cuts based on commodities or geography against the substantial burdens and confusion they can generate. We also commend the Board's decision to allow rail carriers to continue to report using existing unit train definitions that are the basis for our ongoing communications with our customers.

BNSF's remaining opening comments focus on four key areas of greatest concern that BNSF has identified after reviewing the Board's Supplemental Notice. BNSF has previously raised concerns around existing Request Nos. 5 (trains held short of interchange/destination) and 6 (cars not moving for 48 and 120-plus hours). While the Board has made some modifications to these items, BNSF still believes that the shortcomings of these metrics significantly limits their value. In addition, despite the return of service to historic high levels, the STB has proposed two new metrics relating to weekly car loadings (Request No. 11) and car order fulfillment (Request No. 12). As

detailed below, Request No. 12 as a whole, and the requirement to include fertilizer in Request No. 11, pose significant complexity and burden for BNSF.<sup>1</sup>

**The Board’s modifications in the Supplemental Notice to Request Nos. 5 and 6 do not fully alleviate the issues BNSF identified with these measures.** In its Supplemental Notice, the Board proposes to retain reporting on the number of trains held short of destination by train type (Request No.5) and the number of loaded and of empty cars in revenue that have not moved in more than 48 hours by car type (Request No.6). In doing so, the Board has made the following modifications from the current interim reporting:

- Request No. 5: (i) retaining the current snapshot approach; (ii) removing the requirement to report trains held short of interchange; (iii) deleting the 6 hour filter; and (iv) simplifying the list of hold causes to “crew,” “locomotive power” and “other”
- Request No. 6: (i) deleting the 120 hour filter; and (ii) substituting a greater or equal to 24 hour filter

While BNSF appreciates the Board’s decision to retain the snapshot view on Request No. 5, the issues BNSF that has identified in several rounds of comments continue to persist. The better approach would be to discontinue these metrics. As previously explained, there a number of reasons independent of railroad performance that a train will be held at a point on the BNSF network, and because a train is held does not

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<sup>1</sup> In the draft C.F.R provisions included with the Supplemental Notice, a “manifest” category is included under the list of unit train types to be reported under Request No. 4, but is not identified as a change in the body of the Notice. Because Request No. 4 related to average dwell time at origin for *unit train* shipments and a manifest, or merchandise, train moves across the network is a materially different manner and lacks an operational event that is equivalent to a unit train’s origin release event, BNSF assumes that “manifest” was included in error and would appreciate confirmation from the Board.

mean that the shipment will not be delivered in a timely manner or within the initial service plan. Many cars or trains are held in terminals and other network locations as part of the service design for the movement—to meet prescribed delivery window at a facility or an interchange point at the request of a shipper, receiver or another carrier. Many of those incidents—including incidents where a train is being held because it has arrived early—would be captured as BNSF delays in the data reported in Requests No. 5 and 6, even with the modifications made in the Supplemental Notice. This problem in Request No. 5 is exacerbated by the removal of the 6 hour filter, as running the report against the data source that BNSF current uses will capture every train that is static on the network at the time of the snapshot, regardless of how temporary that state is. The STB has proposed removal of trains held short of the scheduled interchange from the reporting requirements, but BNSF’s current data set does not distinguish between trains that are held short of destination, interchange or otherwise. BNSF is considering substitute data sets that may be used to identify trains that are being held on the network for railroad-caused reasons (e.g., holding for power or crew) as a more informative alternative measure. While the simplification of the causation reporting in Request No. 5 is welcome, BNSF causation flags of “crew,” “locomotive power” and “other” will still need to be applied manually by dispatchers and other operating personnel based on information available to them.

As previously discussed, public confusion persists regarding the differences in hold times for loaded and empty cars on different commodities under Request No. 6. Because this measure captures cars moving as singles in manifest service as well as cars that are moving in a unit train service, differences in commodity categories are driven in

large part by the ratio of unit train and single car service in the commodity fleet rather than service disruptions or other performance issues. As we have explained in prior comments, the BNSF grain fleet has around half the cars deployed in shuttle, or unit train, service with the rest in manifest service. By comparison, the vast majority of crude and coal carloads move in unit trains, which are built for speed and efficiency with a continuous cycle between a single origin and destination. In contrast, manifest service will always have more holding time as cars move across the network into multiple yards along the route to be switched in and out of trains, and ultimately delivered by a local train. The Board's proposed modifications to Request No. 6 does not alleviate this complexity and confusion.

Given the issues that persist around Request Nos. 5 and 6 and the existence of other metrics that provide a superior view of how these commodities are moving across our network, BNSF renews its request that the STB eliminate these two metrics.

**The Board's proposal to report existing AAR data with the addition of fertilizer carries significant burdens with it.** In the Supplemental Notice, the Board proposes that railroads report the weekly number of carloads originated by major commodity group. This new Request No. 11 mirrors the existing Weekly Traffic Report distributed by subscription through the AAR, except in one key way. The Board has added fertilizer (defined to include over 1000 different STCCs) to the 20 other commodities covered by this existing report. In order to create a fertilizer category, the current report would need to be significantly reworked as fertilizer STCCs currently roll into several of the 20 existing commodity classifications in the report. In addition to the recoding burdens, adding fertilizer would mean a break in methodology from historic

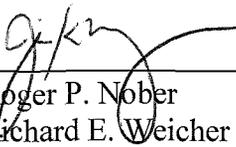
data reports, which are used by the industry, shippers and the financial community to perform point-in-time comparisons. Finally, there are a number of internal systems at BNSF that link into, pull down from, and build on the data reflected in the Weekly Traffic Report, and the addition of fertilizer would require a significant amount of downstream re-coding in interconnected BNSF systems. We respectfully request that the Board to reconsider the requirement to add fertilizer generally, and in particular to this existing report.

**BNSF cannot meet the new reporting requirements for car order fulfillment levels contained in new Request No. 12.** In its Supplemental Notice, the STB adds a new requirement that railroads provide a weekly report on the percentage of cars that have been ordered for placement during the week, compared to the number of cars that were actually or constructively placed. This request poses a number of issues for BNSF.

First, the request covers several car types where the concept of a customer ordering in cars for loading simply does not exist, such as automotive or intermodal traffic where the loading and unloading largely takes place in railroad facilities. For coal gondolas or grain shuttle hoppers, cars also move as part of a unit train in a continuous cycle between origin and destination without an “order in” event. In addition, in the more traditional carload areas like industrial products and agricultural products, there are still significant differences between commodities and even customers of similar commodities that undercut the value of any data, even if it could be captured. For example, BNSF maintains different schedules for leaving unfilled car orders as “active” in the system, based on the practices and expectations of our customers. Carload shippers may order in cars in excess of their actual demand (sometimes from more than one

railroad) without incurring penalties, which can skew the numbers. Also, certain facilities do not operate on an “order in” basis, but instead work with local operators to maintain a certain level of cars on storage tracks within a facility. As a result of these variabilities and the difficulties with matching up car delivery orders with a specific past order, it can take a significant amount of time (up to 4 weeks) for the data to stabilize in the circumstances where such “order in” data is available. Finally, attempting to report these numbers on a week-by-week percentage basis will not be very meaningful—for example, an order may register in the system at the end of one week, but be delivered at the beginning of the next week, meaning that the second week could end up with a fulfillment percentage in excess of 100%. For all the reasons listed here, we respectfully ask the Board to consider eliminating new Request No. 12.

Respectfully submitted,



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May 31, 2016