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BEFORE THE
SURFACE TRANSPORTATION BOARD

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

UNITED STATES RAIL SERVICE ISSUES—PERFORMANCE DATA REPORTING

**REPLY COMMENTS OF
UNION PACIFIC RAILROAD COMPANY**

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Union Pacific Railroad Company (“Union Pacific”) submits these reply comments in response to the opening comments submitted by other interested parties.¹ In particular, we address certain requests by trade association commenters to modify the metrics in the proposed rule and require reporting of metrics beyond those included in the Board’s Notice of Proposed Rulemaking served on December 30, 2015 (“Notice” or “NPRM”).

I. Focusing on Meaningful and Useful Data Will Further the Board’s Objectives Better than Reporting More Detail

Nearly all additional data requested by trade associations and the United States Department of Agriculture (“USDA”) will not assist the Board in indentifying or responding to service issues while imposing a substantially greater reporting burden on railroads. The requests for additional reporting share a fundamental flaw: the data requested will not provide a meaningful measure of Union Pacific’s or other railroads’ performance. The requests for additional reporting are further flawed in that they generally ask either for detailed data that is less useful than data already available to individual shippers or data for services that Union Pacific does not provide.

¹ Union Pacific also adopts the reply comments of the AAR.

The requests for more detailed data also illustrate a fundamental contradiction in shipper requests: they want more reporting and more detailed data (for example on routes or shipper facilities) while at the same time demanding the reports deliver data that is consistent among the railroads. Yet, the more specific rail service data is, the more likely that it will not be consistent among railroads. Every railroad has a unique operating plan, traffic mix, and geography, among other factors, that determine operations at the customer level. Even at the network level, it is difficult for data to be consistently collected and reported between two railroads, as illustrated by the very few service metrics historically reported through the AAR and the variations in reporting seen in response to the October 8 Order. The variety of grain car ordering systems and the availability of grain shuttles on only some railroads are clear examples of the variation that limits consistency in metrics reported. The Board and shipper interests are better served by collecting less, but more meaningful, data that sheds light on network operations. The Board can evaluate this data and order more detailed short-term reporting, when warranted, to focus on specific concerns.

The shipper requests also ignore the fact that railroad transportation is only one link in the supply chain and collecting additional data on railroad transportation only will often not accurately reflect the true state of the overall supply chain. For example, disruptions at mines and delays at power plants or river terminals will reduce coal loadings, increase coal trains held en route, and reduce coal train velocity but the resulting changes in those metrics do not mean that the railroad's service declined. Requiring more detailed reporting will not improve understanding of the causes or the appropriate responses so long as the performance of others in the supply chain is ignored. Before the Board requires additional or more detailed data it should carefully consider the value that the data will provide in light of the overall commodity supply chain.

Union Pacific urges the Board to reject the proposals for additional reporting and instead adopt the modifications to the proposed rule suggested in our opening comments. As pointed out in the comments filed by Texas Trading and Transportation Services, LLC (“TTMS”), “[r]ailroads know far better than shippers what data truly provides a meaningful measure of performance.” TTMS Opening at p. 5.

Specifically, the Board should require reporting only for the network level metrics proposed in §1205.3(a) Subparagraphs 1 (Train Speed), 2 (Terminal Dwell) and 3 (Total Cars on Line) and weekly carloading data currently reported by Class I railroads. These metrics will provide the Board and shippers with meaningful data on network performance without creating the unnecessary burden of permanent reporting on metrics that may not be relevant to future service issues nor useful for shipper planning efforts. In addition, the Board should keep the AAR’s current reporting week of Saturday through Friday rather than require a change to Sunday through Saturday that would make historic data inconsistent with current data.

II. The Board Should Reject the Shipper Associations’ Requests for Reporting More Details

A. Terminal Dwell Time (§1250.3(a) Subparagraph 2)

NITL suggests that terminal dwell be reported separately for manifest traffic. NITL Opening at p. 6. This request will add little additional information because the dwell time currently reported is comprised primarily of manifest traffic. Section 1250.3(a) Subparagraph 2 excludes cars on run-through trains, so most unit train dwell is already excluded from the measure.²

² Unit trains that are interchanged are included in terminal dwell, but such trains are small minority. Therefore cars moving in manifest service drive this metric.

NITL, along with The National Grain and Feed Association (“NGFA”), also requests that terminal dwell in §1250.3(a) Subparagraph 2 be modified to report dwell by the unit train traffic categories in §1250.3(a) Subparagraph 1.³ NITL Opening at p. 6; NGFA Opening at p. 6. These requests assume that all such unit trains, which have relatively little terminal dwell, actually run through these terminals. It also ignores that customers can already view train history for their own traffic which is more useful for making their transportation plans. The Board should reject this request because it will not provide the Board or shippers with any additional, useful information.

B. Dwell Time at Origin or Interchange Location (§1250.3(a) Subparagraph 4)

NGFA requests adding destination dwell time as a reporting metric for each of the six specified business segment categories under §1250.3(a) Subparagraph 4, in addition to dwell time at origin that is currently reported and dwell time at interchange location proposed in the NPRM. NGFA Opening at p. 7. This request misunderstands the nature of destination dwell time. We measure dwell time at destination from “train arrival” at facility to “train placement.” These two events usually occur simultaneously resulting in no dwell time. When there is dwell time at destination it is generally because the customer facility has insufficient slots for inbound trains, a malfunction with the facility’s unloading equipment, or other problems that impede how quickly it can unload inbound trains. Adding such a metric would provide no information on a railroad’s service performance.

The Western Coal Traffic League et al. (“WCTL”) requests the addition of dwell time at each railroads’ ten largest interchange locations. WCTL Opening at p. 8. As noted in Union

³ NGFA also requests that the categories include NGFA’s proposed agricultural traffic categories. NGFA’s request to include additional agricultural traffic categories is addressed below in §III.A.

Pacific's opening comments (at pp. 12-15) there are several issues associated with reporting interchange dwell as would be required under the proposed rule that would apply as well to WCTL's request. WCTL does not address Union Pacific's concern as to whether interchange dwell is intended to measure interchange dwell time from when the receiving carrier takes possession of the train at interchange or from when the forwarding carrier considers the train offered. WCTL also does not explain why this metric will be useful to identify service issues in light of the different interchange arrangements between carriers for different train types and at different locations. Moreover, this request ignores that coal trains are frequently held at interchange because the destination cannot accept the train upon arrival.

WCTL goes on to request reporting of dwell times at individual interchanges for empty coal unit trains. WCTL Opening at p. 8. WCTL appears to request dwell time for every empty coal train that Union Pacific interchanges with another railroad. This is the type of detailed reporting that is already available to individual shippers for their own trains. It should not be included in the final rule for public reporting as some interchange locations may be unique to certain customers or used only by a few customers. WCTL provides no justification for why this additional data would be beneficial to shippers or the Board.

C. Grain Car Metrics (§1250.3(a) Subparagraphs 7 and 8)

NGFA requests numerous additions to the grain car metrics reported in §1250.3(a) Subparagraphs 7 and 8, all of which should be rejected. First, NGFA requests that reporting on the number of cars loaded and billed be separated by car type – specifically “covered hopper car” and “tank car” and expanded to “other oilseeds.” NGFA Opening at p. 8. Separating this reporting by car type will increase both the reporting burden and the complexity of the reports, yet will not benefit shippers or the Board with useful data because railroads do not move grain in

tank cars and the tank cars used to move grain products (i.e. vegetable oil) are supplied by shippers, not railroads. The inclusion of tank cars for these two elements is mystifying because Subparagraph 7, which asks for data on cars loaded and billed by ordering system and Subparagraph 8, which asks for data on outstanding car orders, appear to be aimed at assessing how well a railroad is meeting demand for cars. However, tank cars are supplied by shippers and are not ordered from railroads.

With respect to grain car ordering, reported in §1250.3(a) Subparagraph 8, NGFA expresses concerns about different practices by rail carriers on how and when car orders are deemed to have been received and recommends that the Board examine ways to implement a standardized approach. NGFA Opening at p. 8. Car order data is not standardized because every railroad developed its own car order system to implement the particular services it offers to customers. The only way to standardize the data would be require railroads to operate their grain trains the same way. This means that either some transportation products desired by grain customers would be dropped or all products would be required to be offered by all railroads. Such a requirement would prevent innovation and impede rail carriers' ability to respond to their customers merely for the purpose of standardized reporting. Placing reporting ahead of service would place form over substance to the detriment of substance. Moreover, NGFA cites no authority for the Board to order changes in rail carrier operations so that reports will be more standardized.

NGFA also asks the Board to require reporting on whether a grain car is placed or pulled when an order is cancelled. NGFA Opening at p. 8. In Union Pacific's experience this is generally a moot point because cars have value to both Union Pacific and its customers. Customers will generally load all of the cars that Union Pacific is able to provide, particularly in

light of the high demand for grain cars over the last year. Further, if a car order is cancelled before a car is assigned to the order, Union Pacific will not assign a car to the order and will not deliver a car to the customer unless the car is en route and too close to the customer facility to divert.

D. Coal Unit Train Loadings (§1250.3(a) Subparagraph 9)

WCTL requests that the Board retain the requirement that coal loadings be reported versus the plan for the reporting week. WCTL Opening at p. 8. Union Pacific has not provided coal loading plan information in response to the October 8 Order because demand information received from customers is commercially sensitive and highly confidential. There are also practical difficulties in determining what projected volume data supplied by our customers should be relied on to define “weekly planned loadings” because customers provide various projections for different time frames but do not provide weekly projections. Further, Union Pacific is often called upon to be flexible in accommodating customer changes in plans either in volume or in sourcing coal, which leads to customer-driven departures from the plan. Coal producers and receivers already have access to their own coal loading plan information. WCTL offers no reason why the public will benefit from access to such proprietary information.

III. The Board Should Reject Requests for Reporting Additional Metrics

A. Additional Commodities

NGFA requested the addition of numerous commodities but fails to explain why reporting on these commodities is necessary for the Board to fulfill its objectives. Union Pacific agrees with NGFA’s statement that “it is unwise and counterproductive for any segment of rail traffic including agriculture – to seek a general regulatory preference or priority designation over other industry sectors.” NGFA Opening at p. 4. NGFA goes on to state that rail service for

agricultural commodities should not be disadvantaged at the expense of other commodities. *Id.* Yet NGFA makes these statements as an introduction to its request for additional reporting on soybeans, other oilseeds, oilseed meal, vegetable oil and fertilizer. *Id.* NGFA asks that these commodities be included as categories to be reported within the individual metrics from the proposed rule. NGFA Opening at pp. 6-7.

NGFA's statements illuminate a concern that has been discussed since the Board began instituting new reporting requirements: that reporting performance metrics for some traffic will lead to preferential treatment for the reported traffic to the detriment of traffic outside of the reporting requirements. While NGFA shares this concern, it fails to provide a rationale for why agricultural commodities deserve special and more detailed attention over other commodity groups and fails to provide a principle for where to draw the line on including additional traffic. If the Board accepts NGFA's arguments and includes the requested commodities in the final rule it will be more difficult to deny future requests to include other commodities in the reporting. Adding these additional commodities will also increase the complexity of the reporting, making it more difficult to develop more user-friendly report formats as NGFA also urges the Board to do. NGFA Opening at p. 5.

Specifically, NGFA requests that the Board expand reporting on average train speed, reported in §1250.3(a) Subparagraph 1, dwell time, reported in §1250.3(a) Subparagraph 4, and hours held, reported in 1250.3(a) Subparagraph 5, to include categories for soybeans, other oilseeds, oilseed meal, vegetable oil and fertilizer. NGFA Opening at pp. 6-7. The Board should not include these categories because these commodities primarily move in manifest service. The only exception is soybeans, which are already included in the unit grain train metrics. Therefore, Union Pacific would typically have no additional data to report but would be required to collect

and analyze additional data every week to confirm that we did not operate any of these train types.

The Fertilizer Institute (“TFI”) made a similar request that the Board include fertilizer as a reported commodity. TFI’s request essentially repeats its arguments made in its letter to the Board dated October 23, 2014 (“TFI Letter”) filed in Docket No. Ex Parte 724 (Sub-No. 3). The Board should deny TFI’s requests because, as stated in Union Pacific’s response to the TFI Letter, TFI’s requests ignore fertilizer shipment characteristics which make the requested information largely irrelevant, fertilizer customers already have access to more useful information, and granting this request will only serve to invite similar requests from other commodity interests.⁴

B. Geographic Metrics

NGFA, NITL and WCTL request inclusion of additional service metrics specific to regions or traffic lanes. NGFA’s request would greatly expand the number of elements reported by requiring weekly reporting of car loadings by region and of velocity and cycle times by corridor for unit train commodities.⁵ NGFA Opening at pp. 8-9. NGFA models this request on the required coal loading reporting in §1250.3(a) Subparagraph 9. With respect to car loadings by region, NGFA provides no basis to define relevant regions. Grain is produced in nearly every state and flows to whatever export or domestic market is then attractive to the shippers. In contrast, coal loadings can be provided by origin region due to the relatively small number of locations that originate coal. Moreover, because the proposed rule already requires data on grain

⁴ See Union Pacific’s response to the TFI Letter filed in Docket No. Ex Parte 724 (Sub-No. 3) on November 3, 2014.

⁵ Notably, this contradicts NGFA’s earlier concern that railroads report inconsistent data. NGFA Opening Comments at p. 3. Since railroads operate over different lanes and regions there will be differences in what information could be reported.

car loading by state, adding this undefined corridor data will increase burden and complexity more than it will shed useful light on the condition of the rail network.

The velocity and cycle time requests are similarly misguided. NGFA suggests that “shipping corridors” for grain would include the Pacific Northwest and Texas Gulf. Grain does not move in defined corridors on Union Pacific. We originate grain in 21 states and customers control the movement of shuttle trains, which account for the majority of grain that we move. Grain shipping patterns are simply not conducive to reporting by shipping corridor because there is no way to predict what origins will ship to what destinations. For example, markets may draw Nebraska corn to the Pacific Northwest one month and to the Texas Gulf the next month. Similarly, due to different harvest times, PNW ports will handle crops from Nebraska first, the Dakotas next, and Idaho and Montana afterwards. Given the differences in harvest periods, the variability in yield due to weather, and volatility in export market demand, no useful information will be derived about railroad performance by comparing corridor-specific data. NGFA has not provided enough information on how this metric would be defined or why it would be beneficial.

Similar to the NGFA request, NITL suggests that the Board require railroads to provide average train speed over key corridors, or by region. NITL Opening Comments at p. 5. NITL does not define, or provide criteria to define, key corridors or region and fails to address how velocity for a corridor should be determined. If a train moves over part of a corridor, should it have the same weight as a train that moves over the entire corridor? If a train moves over two different corridors, is its speed measured by its total trip or allocated between corridors? NITL also fails to provide any rationale for why this reporting would be more useful than the system-level reporting currently in the proposed rule. Since corridor-level reporting would certainly be more complicated and require more work, the Board should require that such complicated

reporting deliver substantially more benefits. But for reasons we explained in our opening comments and that we also discuss in our reply, system-level metrics are more useful tool to assess network performance.

WCTL requests that railroads report average cycle times for coal trains over the ten most frequently used coal corridors. WCTL Opening at p. 12. WCTL asserts this data will assist the Board “in evaluating whether service and resources are being allocated fairly and efficiently, and whether the carriers are able to meet their common carrier obligations” while admitting that individual shippers already have access to their own cycle time data. WCTL Opening at p. 13. Therefore the only justification would be if this cycle time data will aid the Board. But WCTL does not even attempt to connect the dots by explaining how coal cycle time over a corridor can convey any meaningful information about the adequacy and allocation of resources—especially in the absence of information about shipper and receiver operations. The proposed rule already requires data on coal train loadings, velocity, dwell, and hours held. Moreover, variances in cycle time are just as likely caused by loading issues by the mines or unloading issues by the utilities or river terminals as they are by railroad transportation issues. Adding cycle time in specific corridors will not give the Board any additional insight into whether a rail service issue is occurring.

C. Chicago Metrics

NITL requests that the Board require railroads to report dwell time in Chicago in addition to system-wide dwell time. NITL Opening at p. 4. The Board is already receiving sufficient information on Chicago from Chicago Transportation Coordination Office, including yard inventory. Union Pacific is also separately reporting dwell time at Proviso, its largest Chicago-area yard, under §1250.3(a) Subparagraph 2. There is no reason to require additional Chicago

reporting as it would be duplicative of the currently proposed reporting and provide no additional value.

D. Resource Metrics

ACC requests that the Board include resource counts, such as locomotives and crews, by region in the list of reported data elements. ACC Opening at pp. 1-2. ACC suggests that a decrease in service in a region could be caused by a decrease in locomotives operating in that region. This completely ignores the fact that locomotives are shared resources that benefit customers across the network. By their very nature, locomotives move across the network to transport traffic between origin and destination and are not assigned to a particular region. A locomotive pulling an intermodal train may leave Los Angeles on Monday, arrive in Chicago on Thursday and be at Laredo by the weekend. The number of locomotives by region, by week—if it could even be determined—will not provide information to assess service issues or establish trends. As for crews, the railroads already report employment information to the Board on a monthly basis. The ACC does not explain why the current reporting is inadequate or what additional benefit will be gained by weekly reporting.

WCTL makes a similar request that the Board require reporting of restrictions on the availability of crews and locomotives for coal service. WCTL Opening at p. 12. Any meaningful information that can be gained from knowing the availability of crews and locomotives is already captured in the trains held short metric (§1205.3(a) Subparagraph 5), which provides the number of coal trains held for crews and power. If there is a sharp uptick in the number of trains held on a particular railroad then the Board can inquire into the reasons why. Requiring each railroad to provide additional data, every week, on the availability of crews and locomotives will create

another burden and provide no benefit. Further, WCTL does not explain how this data would be calculated.

E. Requests for New Service Metrics

Industry Spot and Pull

NGFA requests inclusion of Industry Spot and Pull, an entirely new reporting metric which NGFA describes as a measure of how well a railroad executed its local service plan. NGFA Opening at p. 7. NGFA claims this data should be included because “the quality and consistency of service” at the facility level is what matters most to rail shippers. *Id.* at p. 6. Union Pacific agrees that facility level service is important to customers and, for that reason, it already makes this information available to its customers. NGFA does not provide any reasons why this should be reported publicly when the most interested parties—our shippers and consignees—already have full access to this information for their plants. NGFA also does not provide guidance how this metric, which would be based on each railroads’ individual local service plan, can be reported consistently among the railroads.

Average Miles Per Day

NITL requests that the Board require reporting on "average miles per day for railcars handled in manifest train service." NITL Opening at p. 6. Union Pacific has never used this metric to manage its rail network. To the extent this metric measures line-haul movements, the same data is largely captured by train velocity and terminal dwell. At the more granular level, customers already have access to data on their cycle times and are able to calculate this number if desired. NITL also fails to adequately explain how this number would be calculated.

Coal Train Sets

WCTL asks for reporting on the number of coal train sets in service broken down between shipper-supplied and carrier-supplied train sets and any restriction on the utilization of shipper-provided train sets. WCTL Opening at p. 12. The total number of train sets in service is not relevant to identifying service issues. It is sometimes beneficial to the coal network and the overall network to remove train sets from service to reduce congestion and increase throughput. Similarly, differentiating between shipper-supplied and carrier-supplied train sets is irrelevant to service performance. All train sets are counted equally as performance is concerned. The mix of shipper-supplied and carrier-supplied equipment is influenced by the relative demands of each of our customers. Shippers already know if their coal is moving in shipper-supplied or carrier-supplied train sets and the Board will receive no additional benefit from this information.

Small Shipments

The Alliance for Rail Competition et al. (“ARC”) focused its comments on shipments of fewer than 49 cars in addition to reporting on unit trains. ARC Opening at pp. 9-11. ARC’s request does not contain sufficient detail to be adopted by the Board. ARC merely states that railroads should report on shipments of fewer than 49 cars. It does not state what commodities should be included. And on its face, this request appears to include all traffic moving in manifest service. It is entirely unreasonable to require reporting on every carload, but without clarification it appears that is what ARC is requesting.

ARC claims this information is needed to assess whether small shippers are being disadvantaged. ARC Opening at p.10. However, shippers already have access to data on their own shipments directly from railroads. The proposed reporting already includes several metrics for manifest traffic: average train speed, terminal dwell time (which is driven by manifest traffic)

and the “all other trains” category under trains held short of destination or interchange and cars not moving. If a shipper sees a disparity between its own shipment performance and the system-wide performance reporting by a railroad, the Board already provides adequate procedures to determine if the shipper is being treated unfairly.

Grain Car Auctions

USDA requests additional transparency into the primary and secondary grain car auction markets. USDA Opening at p. 5. USDA already collects weekly data on prices but apparently seeks information on how much grain is moving under contract. *Id.* The specific information sought by USDA is not clear from its comments. Union Pacific only participates in the primary grain car auctions, when it makes cars available to grain shippers. Information on these auctions, including the number of units auctioned and winning bids is available to registered users on our website.⁶ Primary auction winners, however, can sell their allotted grain cars to other grain shippers in the secondary market. Union Pacific does not participate in the secondary markets and therefore does not control this data. After a shipper wins an auction, the shipper decides when and where to load the cars, or whether to sell the rights to the cars on the secondary market.

F. Reporting Performance Trigger

ACC recommends that the Board create a performance trigger to determine when a service issue is occurring and additional reporting is required. ACC Opening at p. 2. Union Pacific supports the idea that permanent reporting should be limited to meaningful, system-wide metrics leaving the Board free to require further reporting on an as-needed basis. However, the need for additional reporting must be determined by the Board on a case-by-case basis. It would

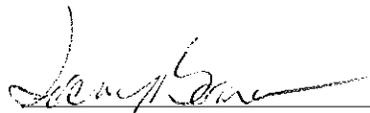
⁶ See <http://www.up.com/customers/ag-prod/gcas/> (last accessed April 28, 2015).

be very difficult to find an appropriate trigger as suggested by ACC. The Board would also have to be cautious not to select a trigger that is affected by seasonality, such as grain volumes that fluctuate with harvests. Rather than invest significant time and effort into trying to make the ACC's proposal workable, the Board should monitor system-level metrics and engage in discussions with railroads and shippers to determine when additional reporting is needed to address specific service issues.

IV. Conclusion

The Board should reject the proposals for more detailed reporting or to require additional metrics because there has been no showing that increasing the reporting burden on railroads would further the Board's objectives or assist the Board in meeting its statutory obligations. Instead, the Board should modify the proposed rule, as we suggested in our opening comments, in order to better achieve the Board's objectives while minimizing the burden on the railroads.

Respectfully submitted,



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