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Before the  
SURFACE TRANSPORTATION BOARD

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Ex Parte No. 671

RAIL CAPACITY AND INFRASTRUCTURE REQUIREMENTS

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VERIFIED STATEMENT OF  
JOHN D. FITZGERALD

ENTERED  
Office of Proceedings  
APR 5 - 2007  
Part of  
Public Record

My name is John D. Fitzgerald. I serve as General Chairman for United Transportation Union, General Committee of Adjustment 386, (UTU/GO-386), with offices at 400 East Evergreen Boulevard, Suite 217, Vancouver, WA 98660. I represent persons employed by BNSF Railway Company (BNSF), primarily on its lines between Seattle, WA and Portland, OR/Vancouver, WA, on the west, and Minneapolis/St. Paul, MN, on the east; between Vancouver, BC and Keddie, CA, and between Superior, WI and Sioux City, IA; and lines between Guernsey, WY, and Texline, TX.

I have been a full-time General Chairman since August, 1993. Previously, I served as Asst. General Chairman from January 1981 to August, 1993. My railroad service began with BNSF's predecessor in September, 1970, as a brakeman. Currently, I hold seniority as a conductor, brakeman, and yardman.

I have reviewed the Board's notice instituting this proceeding, served March 6, 2007 (Notice, 3/6/07), and published March 12 in the Federal Register. 47 Fed. Reg. 11085-86. The only cited

reference to a perceived "capacity problem," specifically for the railroad industry, is the January 2006 paper by the Congressional Budget Office (CBO), Freight Rail Transportation: Long-Term Issues. (Notice, 3/6/07, 2 n.1).<sup>1/</sup>

The CBO paper, consisting of 23 pages, places considerable emphasis on changes in the general rail rate index, and recognizes the conflict between the STB's reliance on its own computations, generally favored by the Government Accountability Office (GAO), versus those prepared by the U.S. Bureau of Labor Statistics (BLS). The proper estimation of rail rates was the subject of this Board's hearing conducted November 2, 2006, in Ex Parte No. 665, Rail Transportation of Grain, where UTU/GO-386 challenged the STB and GAO rate findings. It is my thinking that the BLS data is far superior to that estimated by this Board, and followed for the most part by GAO.

This Board's March 7 Notice stated the Board looks forward to hearing from all parties affected, including carriers, shippers, port administrators, state entities and federal agencies. The Board did not specifically mention rail employees or rail employee organizations.

I wish to strongly suggest that railroad employees and their skills are important factors in determining railroad capacity, and the utilization of capacity. A recent paper on railroad crew utilization indicates that it takes 18 to 24 months to hire,

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<sup>1/</sup> The CBO paper references an earlier (October 2002) issuance by the Federal Highway Administration, directed to all modes of transportation. (Notice, 3/6/07, 2 n.2).

train, and qualify train crew personnel.<sup>2/</sup> This is a considerable investment in manpower skills. The subject of the Board's investigation is both "rail capacity" and "infrastructure requirements," as indicated in the caption to the proceeding. The two terms are not synonymous. The Board has summarized its examination as directed to issues related to "rail traffic forecasts" and "infrastructure requirements," yet traffic forecasts are not synonymous with infrastructure requirements.

The knowledge, or "human resources," possessed by skilled employees, is close to my heart as a railroad employee, as well as my responsibilities with UTU/GO-386.

I have worked under the 16-hour law, the 14-hour law, and the 12-hour law; I have been involved in various railroad mergers and consolidations, both as a working employee and as an employee representative; and I have been engaged in no less than two movements regarding changes to crew consist, as well as attempts by BNSF to further modify crew consist. The skills of railroad crews are far greater today than when I began railroad service in 1970.

There can be a tremendous capacity of the physical plant, separate and apart from sufficient capacity of the work force. However, physical structure and human capacity cannot exist without each other to maximize efficiency, productivity, and effective capacity.

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<sup>2/</sup> Vaidyanathan, B., Multi-Commodity Network Flow Based Approaches for the Railroad Crew Scheduling Problem, 22. (Transportation Research Forum, March 16, 2007, Boston, MA).

The Northern Lines merger of March 3, 1970 initiated a hiring frenzy over a period of nearly four years--physical plant was in place--yet an effective human capacity was in short supply. Balance was only achieved when the economy slowed, and in turn reduced rail traffic levels.

Subsequent years have seen physical capacity improvement with technology advances, power controlled switching, portable radios, etc., which permitted improved employee know-how and better utilization of employee skills, along with the augmentation of employee skills. The impact of line spin-offs, such as Montana Rail Link, Washington Central, among others, taken with a downturn in the economy, resulted in decreased hiring, a surplus of operating employees, and tipping the balance between physical plant capacity and manpower capacity. This surplus did not exist for long, most (but not all) employees returning within a year.

Following the Burlington Northern-Santa Fe merger, the combined carrier repeated the hiring/training frenzy for the better part of two years, followed by a downturn in rail traffic and intermittent layoffs and recalls of new employees. Many of these new hires quit the railroad, with the resultant loss in human resources (and investment to the extent of tens of millions of dollars) to the carrier.

When traffic increased in 1999-2000, BNSF found there was again an imbalance, with an adequate (not the best) physical plant, but manpower dangerously insufficient. BNSF, and I understand other Class I carriers as well, have been hiring ever since. BNSF, beginning in 1999, implemented an availability policy, threatening discipline unless employees were marked up and avail-

able a full 75% of each month, regardless of the amount of hours/miles worked in that period. This availability policy was due to BNSF's failure to hire and maintain sufficient manpower capacity in balance with physical plant capacity in light of rail traffic demands.

The U.S. Congress, with support from both rail carriers and employees, recently modified railroad retirement to allow employees, with 30 years service, to retire at age 60. This change, along with the asymmetrical hiring frenzy in the 1970-74 period, has increased the attrition rate significantly. Over the next five years, it is estimated that some 40 percent of the present work force will retire.

BNSF and other carriers are hiring thousands of operating employees, yet are unable to maintain the balance between physical plant capacity and effective human capacity. The present over-utilization of manpower capacity is reaching the point of detriment of the safety of employees and the public.

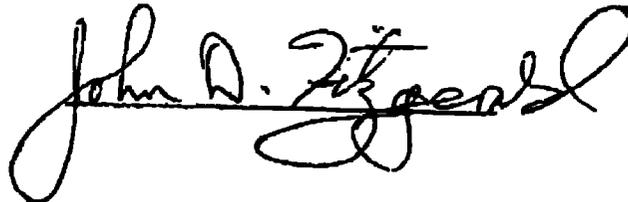
While BNSF has an agreement with UTU for training, the newly hired and trained conductors, brakemen, yard foremen, helpers and hostlers are not seasoned and experienced at the time of their graduation from the training program, which usually is completed during a 15 to 19 week period; the engineer training agreement runs for approximately 5 months. However, proficiency and efficiency are developed with subsequent work experience. Prior to the current shortened training programs, a brakeman would have at least 2 years of experience before promotion to conductor, and an engine service employee would have comparable years of experience as either a hostler or fireman before promotion to engineer. Of

critical importance, newly hired employees would have performed service under the tutelage of employees with 20 or 30 years of experience.

I ask that the Board give consideration to the employee component of rail capacity. To the extent the Board may recommend federal assistance, by loan guarantees or otherwise, to the railroad industry for expanded investment, the Board should call attention to the allocation of funds for added recruitment and training programs.

VERIFICATION

I affirm that the foregoing verified statement is true and correct as stated.

A handwritten signature in black ink that reads "John D. Fitzgerald". The signature is written in a cursive style with a large, looping initial "J".

JOHN D. FITZGERALD

Dated at  
Vancouver WA  
April 4, 2007