



Office of the Secretary
Washington, D.C. 20250

May 12, 2023

THE HONORABLE ROBERT PRIMUS
Member
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Dear Member Primus:

Following up on my letter from a year ago, I would like to express my sincere appreciation for the Surface Transportation Board's (STB or Board) efforts over the past year and share my continued encouragement for immediate and continued action.

When I wrote the Board about rail service issues in March 2022, rail service was, in many ways, as poor as it had ever been. I was pleased to see the Board act swiftly by hosting our Deputy Secretary at a hearing on rail service deterioration, opening a proceeding to revise its procedures for expedited relief for service emergencies, and considering rules around railroads' use of private cars. I was also encouraged by the Board's collection of more service data, your December hearing on Union Pacific Railroad's (UP) increased use of embargoes, and especially the Board's final rules to streamline rate review in small cases. I know this work was done under your existing limited resources and I commend the Board and its staff for this incredible volume of work.

Unfortunately, while rail service has improved from its worst levels last year, it remains inadequate and unreliable for many agricultural shippers. There is more work to be done.

The delays and unpredictability seen in rail service are partly the result of the railroads' embrace of precision-scheduled railroading (PSR) and its drastic reductions in workforce and assets to reduce operating ratios at the expense of service. As USDA has long expressed, the PSR operating model does not leave sufficient buffer in labor and assets for railroads to be able to handle unexpected spikes in demand, such as those seen over the past few years. And, as we've seen recently, this way of operating leaves the door open to unsafe working conditions which are harmful to workers themselves, and further increase the likelihood of catastrophic events like derailments when the skeleton staff has as little as a few minutes to inspect each rail car.

It is of utmost important that the STB moves quickly to strengthen our rail system overall and specifically to improve service to agricultural shippers before railroad capacity again becomes an urgent, national issue. This work must also ensure the safety of rail workers and communities.

Specifically, I encourage the board to urgently and expeditiously:

- **Move forward on the open proceedings on private railcar use and emergency service orders.** The shipper petition on private rail car use would improve incentives and restore balance around the railroads' use of private cars and demurrage. The Board's proposed changes to the emergency service rules will help provide relief in times of severe disruptions, which have become more frequent.
- **Move forward on reciprocal switching.** Following the Board's approval of the merger between Canadian Pacific Railway and Kansas City Southern Railway, ensuring adequate industry competition is more important than ever. The Board's ongoing oversight of the highly consolidated rail industry is key to this objective.
- **Provide clarity on the railroads' common carrier obligation.** The railroads must provide reasonable service upon reasonable request. However, without clarity on what these terms mean and how the policy will be enforced, railroads are able to make unilateral decisions, with little regard for shipper needs. For example, a few observations raise important questions about whether railroads are meeting their obligation: first, UP's use of embargoes to manage congestion and, also, the multiple cases brought to the Board where a shipper's service was cut from 5 to 3 days per week.
- **Collect additional first-mile/last-mile (FMLM) service data.** USDA appreciates the additional data the Board has been collecting as part of its monitoring. However, USDA encourages STB to significantly expand that data collection to cover additional commodities and provide more granular geographic data. Agricultural shippers have continually reported, to USDA, distinct service issues affecting specific regions of the country. More granular commodity and geospatial FMLM data will significantly improve visibility into those issues.

More broadly, the railroads should not be able to continue to operate without buffer for unexpected demand, make historic profits, and engage in enormous stock buybacks, all while providing subpar service to agricultural shippers and disregarding safety. STB can and should counteract these negative trends in rail transportation by increasing competition and improving oversight with enhanced data. The Board should also ensure the railroads balance their focus on shareholders with their duty to provide high-quality common carrier rail service to the Nation.

Sincerely,

THOMAS J. VILSACK
Secretary