



November 7, 2023

Surface Transportation Board

395 E Street, SW

Washington, DC 20423

307411

ENTERED
Office of Proceedings
November 7, 2023
Part of
Public Record

Reciprocal Switching for Inadequate Service

STB Docket EP 711 (Sub 2)

Chairperson Oberman and Board Members Primus, Fuchs, Hedlund, and Shultz:

These comments are submitted on behalf of the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART-TD), a labor organization representing approximately 100,000 transportation employees with active members working in all railroad operating crafts, including engineers, conductors, trainmen, switchmen and yardmasters.

SMART-TD is grateful for the opportunity to respond to this critically important Notice of Proposed Rulemaking which is not only a concern for shippers, but for SMART-TD and the public as well. Timely and adequate rail service is essential to maintaining and growing our economy. American railroads are among the nation's most critical infrastructure. They connect both light and heavy industry to the raw materials they need as well as finished products to markets.

Wall Street and hedge fund managers who had little interest in operating railroads and instead just wanted to turn them into pure profit centers, sacrificed America's supply chain and the efficient movement of goods and materials. The imposition of Precision Scheduled Railroading (PSR) by the nation's carriers has created a race to the bottom, undeniably creating widespread scenarios where industries are incapable of getting their hands on the necessary materials to produce their products with any kind of predictability or reliability.

Unfortunately, while shippers of these goods can track their shipments, they have no ability to get them to move any faster. They watch their shipments stagnate in a siding for days while they field calls from customers canceling orders and looking for other means to ship their goods that meet a minimum threshold of predictability. These shippers are constrained by the conventional rules of capitalism, but they are dependent on a railroad that has the luxury of running their business as a monopoly. The railroads' lack of comparable motivation with their shippers and end users has created friction for years, but with the change to PSR, it has only thrown an accelerant on the fire.

As members of the Surface Transportation Board, you are all too familiar with these dynamics. SMART-TD applauds your effort to address them through this proposed rulemaking for reciprocal switching. In



two recent scenarios, the Board was forced to deal with the symptoms of this problem. When Union Pacific was not servicing a large farm, the STB had to step in to minimize the damage to the nation's food supply chain. Similarly, when the BNSF railroad was neglecting to provide and/or operate coal trains being produced by a subsidiary of the Navajo Nation, the STB again was once again called upon to intervene to sustain our national interests in the energy sector. The Board's proposal was a bold attempt to proactively address the problem at its root cause rather than treating the symptoms as they arise. SMART-TD applauds this effort and supports STB in its goal to address these large-scale problems.

With regard to reciprocal switching, SMART-TD again applauds the effort of the Board to address and remedy the problems which have been created by the nation's railroads through the implementation of PSR. However, there is concern about the specifics of how reciprocal switching would work within the boundaries of our long-established collectively bargained agreements, and how it could be done without treading on the seniority rights that have long been established in our industry's workforce.

In its initial conception, reciprocal switching would allow a short line carrier to service customers that are on the physical right of way of a class 1, thereby eliminating the work and rights of our members. We strongly urge the Board to review the current proposal to prevent what could be catastrophic results for our members.

If what is being proposed as "Competitive Switching" is to uphold all labor agreements and seniority rights when two Class I railroads would be required to compete against one another, and that they be required to service customers on their lines at the behest of a customer who is getting a more lucrative contract for the long-haul services of their commodity with another Class 1 carrier, such is a step in the right direction. Further, if there are truly no trackage rights involved and all customer switching **MUST** be done by the railroad owning the right of way where the customer is located, it can be conceived as a win-win. The language detail will be critical in fashioning a rule that works for all stakeholders. Our members have a keen interest in this matter and how the rule is finally drafted. We urge the Board not to harm the hardworking men and women of the rail industry for short term solutions. The well-settled expectations of our members in the seniority and collective agreements should be a critical consideration in forming a final rule.

We thank you for the opportunity to weigh in on this important matter, and we look forward to working with STB on this project going forward.

Fraternally yours,

Jeremy R. Ferguson

President – Transportation Division