

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. EP -767

FIRST MILE/LAST MILE SERVICE

RAIL UNION COMMENTS

The American Train Dispatchers Association, Brotherhood of Maintenance of Way Employees Division/IBT; Brotherhood of Railroad Signalmen; International Association of Sheet Metal, Air, Rail and Transportation Workers-Mechanical Division; International Association of Sheet Metal, Air, Rail and Transportation Workers-Transportation Division and National Conference of Firemen and Oilers, 32BJ/SEIU (“Unions”) submit these Comments in response to the Board’s solicitation of comments and information regarding the quality and reliability of rail carrier First Mile/Last Mile service (“FMLM”), and specifically whether rail carriers should be required to report data relative to FMLM. The Unions support the Board opening a proceeding on this subject, and support requiring rail carriers to report FMLM data.

INTERESTS OF THE UNIONS

The Unions represent employees of all of the major rail carriers including all of the Class I rail carriers. These unions collectively represent Train Dispatchers; Maintenance of Way (track, right of way, bridge and structures) workers; Signalmen; rail shop Sheet Metal Workers, Laborers, Fuelers and Hostlers; and Conductors, Trainmen, Yardmen and Yardmasters—employees who work in all departments of the railroads who are familiar with all aspects of rail

operations; and they either provide or support rail service.

Up until recently, it was nearly universal that persons who became employed as rail workers stayed employed in the industry for their entire careers. That has changed as Class I railroads have moved to a new ruthless cost-cutting business model (of which so-called precision scheduled railroading is a part) which prioritizes profit maximization and shareholder returns above all else. Under this new model, operating ratio drives all decisions, and service has become a minor consideration. The drive for ever lower operating ratios has led to dramatic reductions in employment which has, in turn, led to deterioration of service to shippers, which is a significant factor in the service complaints that motivated the Board to open this proceeding.

BACKGROUND

After decades of railroad industry decline, spurred in large part by government support for motor vehicle and air transportation, Congress passed the Staggers Act of 1980 which substantially deregulated the railroads. In 1995, Congress further deregulated the railroads. But shortly after that, the ICC/STB authorized consolidations of the Class I railroads, resulting in two major carriers east of the Mississippi, two major carriers west of the Mississippi, and two carriers running down the center of the country. These transactions were expressly authorized as “consistent with the public interest”. They were approved based on representations that shippers and the public would benefit. The railroads asserted, and the ICC and STB agreed, that the mega-carriers would provide better and faster service through longer-end-to-end runs, reduced interchanges, and greater system velocity; it was said that efficiencies would be achieved that would result in savings that would be passed along to shippers and the public in general; and that the economies of scale available to larger carriers would allow for increased investment in rail

infrastructure.

For a while, the railroads followed through on their representations that service would improve, and infrastructure investments would increase. Shipper rates declined steadily from 1980 rates in real dollars but began to increase toward the end of the first decade of the 2000s, while still remaining well below 1980 rates in real dollars. The two decade-long erosion of rail employee compensation bottomed-out and there were small gains. But after twenty years of significant profit growth, rail employee compensation is only slightly above the 1980 level of compensation in real dollars. However, those who bought stock in Class I railroads in 2009 have gained a 1000% increase in share prices.

Several years ago, so-called “activist investors”, hedge funds and private equity interests took note of railroad profitability and the very light nature of rail regulation. They realized that they could drive down operating ratios without loss of business, or a regulatory response. They forced implementation of policies like inflexible scheduled railroading, running of trains exceeding three miles in length, mothballing of equipment (and cannibalizing of equipment for parts), and reduced inspection and maintenance of equipment and infrastructure to drive down costs and increase earnings for short term gains. Railroads have closed (and sold) yards which were used to sort and classify cars and arrange for delivery to local shippers; yard crews and local crews that actually delivered cars to shippers were eliminated; with train consists exceeding the lengths of sidings (sometimes by miles) Dispatchers were forced to send trains on circuitous routings to maintain system fluidity because they could not use sidings to allow oncoming or higher speed trains to pass other trains. Train crews were directed to reduce speeds below permissible levels to reduce fuel

costs, and they were told not to make deliveries they could make if doing so would incur overtime pay. The railroads now focus on easier to serve/high profit ratio customers. The railroads are no longer interested in growth; they are happy to serve fewer customers so long as the profit margin on the customers they do serve remains high. Rail operations, shipper needs, effective maintenance, safety, employee and manpower concerns, and long-term health of the industry are taking a distant back seat reducing operating ratios.

Rail employment is down by around 30% since 2015 while the amount of freight shipped is only slightly reduced. In the period since 2019 rail employment has been reduced by 20% while carloadings are down only 3%; profits have increased by 8% during that time. This has necessarily impacted service as it is the rail workers who provide and support the service.

It is in this context that the Board has received the service complaints that it has described in seeking comments on whether reporting of FMLM data should be required. Shippers complain of poor and unreliable service. Railroads respond with data on system velocity and dwell time and say all is well. But the fundamental concern of shippers is timely and appropriate delivery and pick-up of cars; not system fluidity and transit times.

POSITION OF THE UNIONS

The Unions support the Board's initiation of this proceeding and they support requiring reporting of FMLM data because the railroad industry has gone from being a customer service industry to a "customer serves us" industry. The Unions support industry growth and quality service to its customers. The Unions believe that requiring reporting of FMLM information will help shippers, the Board, the and the public better assess the quality

and timeliness of rail service and is a good first step toward restoring service to its proper place in the industry. Actual delivery and pick-up of cars is one useful measure for assessing service; that is the ultimate product the railroads are to supply for their customers. Provision of this data to the Board will allow it to better evaluate shipper service complaints and rail carrier assertions of adequacy of service. Additionally, collection and reporting of this information will help the Board assess not merely service to individual shippers, but also service provided by specific carriers, and the industry as a whole. Furthermore, the Unions submit that the data necessary to provide this information to the Board already exists and is readily available to the carriers, so it should not be burdensome for them to report what they already have.

The Unions will review comments filed by other participants in this proceeding and will respond to comments based on the unique perspective and experience of rail workers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served copies of the foregoing Allied Rail Unions' Comments by First Class Mail to the offices all Parties of Record in this Docket.

Date: December 17, 2021

/s/Richard S. Edelman
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