



Brotherhood of Locomotive Engineers and Trainmen

A Division of the Rail Conference of the International Brotherhood of Teamsters

304341

ENTERED
Office of Proceedings
April 20, 2022
Part of
Public Record

My name is Clem Harris. I serve as the New Mexico State Legislative Board Chairman for the Brotherhood of Locomotive Engineers and Trainmen. I represent the men and women in New Mexico on safety, welfare, and legislative matters. Our membership includes five BNSF divisions and one Amtrak division.

While I am employed by Amtrak, I have a front row seat to the lunacy that BNSF is embracing with their implementation of bizarre attendance policies, train handling issues, and long trains. I believe that the matters in my testimony can be solved by two simple tenets. Respect for employees and being in good standing as a member of the communities that BNSF operates through. I hope to be able to highlight the observations of BNSF's operations in New Mexico and how they treat their single greatest asset, their employees.

Attendance Policies

Each of the Class One carriers have implemented a slightly different version of the same policy. They revolve around maintaining nearly 100% availability while being required to be on call. BNSF is hemorrhaging employees at record levels with their draconian "Hi-Viz" attendance policy experiment.

I can speak to the corner of the world that I am most familiar with in New Mexico, BNSF. BNSF requires 28-29 out of 30 days a month availability from their workforce in New Mexico. Because a large portion of New Mexico is rural, much of our state's population funnels back to Albuquerque for doctor's appointments. Because of the strain on local health care providers, it is required to schedule health care appointments many months out. It is impossible to predict where your schedule will take you in a week let alone many months out. Our members are required to make a choice between their health or their continued employment. The further threat looms that if you are terminated, you will ultimately lose your health care insurance.

BNSF tells everyone to file for FMLA, then denies it because they do not meet threshold for FMLA or do not have the minimum required employees at a particular location. FMLA is broken and must be revamped to include everyone, especially the men and women that make the railroad go. This must change if BNSF is going to require it to have time off to tend to personal health matters.

We do not have a regular rest schedule because the carriers refuse to fix the line ups (the way they know what trains are coming for scheduling purposes). We are required to live our lives in a very small window while at home with the threat of being removed from service if we take time off because we are not properly rested to work safely. All of this for the value of the company's stock with no regard for the men and women that make record profits for them. These line ups often float and change. This change isn't by a few minutes. It's always dancing around, only to change to a much earlier time than expected. This is nothing more than fluffing the numbers in their records to show that the railroad is still moving. A mere nut and shell game that leaves us as the only loser in this process as we try to maximize their very limited time at home handling their personal affairs and enjoying time with their loved ones.

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A more recent example came to my attention while preparing this written testimony. One of our members' house caught fire while he was preparing for work. He had no attendance issues prior to or after the implementation of "Hi-Viz". He went about notifying his immediate supervisor of exactly what happened and why he would have to be off work- which is more than reasonable in light of his house catching on fire and the local fire department being summoned to put the flames out. BNSF went ahead and charged him points against "Hi-Viz". The "Hi-Viz" attendance policy has a loophole written into it that allows local management to have the final discretion in the manner on how this points system is utilized. Where was that discretion to accommodate an already stressful situation? While working to secure his home, take care of others that live with him, and his dog, he also had to worry about how he was going to be penalized for something entirely beyond his control. This is yet another example of how BNSF is destroying morale and attempting to make their work environment so hostile that our members feel the only recourse is to resign.

Historically speaking, the railroads have been the backbone of our nation's defense. In the world climate of today, we need this resource ready to go at a moments notice and not needing to ramp up and train new employees. In keeping an eye on the news from the frontlines of the Russian's attempted invasion of the Ukraine, the Ukrainians have utilized their rail network to move a large portion of their citizens to safety in other countries. That same rail network is being used to move equipment and weaponry necessary to repel the Russians to the front lines. I hope and pray that we never find ourselves in this situation here.

Train Handling

In the last 10-15 years, the carriers have all introduced their own version of technology to operate their trains, but it's the same idea- fuel conservation. The use of this technology has brought a computer's touch to handling 2-3 mile long trains. There are many reports from our membership that this program known as "Trip Optimizer" will arbitrarily slow the train down at very inopportune times. It will start slowing the train down for no apparent reason only for it to speed the train up again. The threat of discipline looms if you do not use Trip Optimizer 80% of your trip. The carriers were giddy when they figured out how to integrate positive train control (PTC) with trip optimizer technology. All the requirement is that the engineer blow the horn for the grade crossings. BNSF requires us to be awake, alert, and attentive, but take the very thing we know how to do out of our well trained hands.

During times that BNSF determines, the capricious use of throttle and speed restrictions chokes their network to a crawl. As an example, BNSF often implements a 4/40 speed restriction. A locomotive has 8 power positions on its throttle. The 4th notch is 50% of a locomotive's available power. A 4/40 restriction says that an engineer can only use 50% of the power they have available once they reach 40 mph. This is how the supply chain is being choked back during times that America is counting on us the most.

This leads to the next point, train length. BNSF has built much of their infrastructure to handle trains of 8500' in New Mexico. Belen, New Mexico is the first point that BNSF is required to do a 1000 mile inspection as required by law. This is also where locomotives are often refueled on their journey to points further east. BNSF's infrastructure to fuel both the lead locomotives and distributed power locomotives is spaced approximately 8500' apart. Because many of the trains they insist on running are 12,000, 14,000, and even 16,000 long; you can imagine what a circus it is to refuel and inspect these trains as needed.

BNSF is leaning on waivers provided under Ron Batory's time as administrator of the FRA to skip these inspections by use of cold wheel detectors. While we support the use of technology to make our work environment safer, we do not support the use of technology to eliminate the jobs that inspect the trains

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we run. Nothing, and I repeat nothing, is a proper substitute for a well trained and experienced carman (a person that inspects railcars). When BNSF is still required to inspect these ultra long trains, it makes a mess of Belen. There are two crossings that are regularly blocked in Belen- Mesa and Jarrales Roads. BNSF doesn't appear to be bothered about the impact that they have as a member of this community and problems these blocked crossings create for others in this community. They have repeatedly promised the members of the communities of Jarrales and Belen bridges, but always manage to come up short and have nothing but excuses as to why they can not be a positive impact in the communities they operate in.

BNSF has also implemented times where they use a dispatching feature known as "auto-router". This requires a dispatcher to merely monitor the railroad and as you can surmise by its name, it involves a computer making all the dispatching decisions based on the importance that BNSF places on a particular train over another.

Hotel Time

BNSF has adopted a scorched earth practice with their employees that are required to lay over in a hotel to rest as provided by the Hours of Service Act. BNSF will leave a person in the hotel to the point that their rest schedule resets. BNSF then tells the employee that an unknown call time for a train, along with extended periods in a hotel constitute being properly rested. BNSF expects you to enjoy your family, pay your bills, and schedule your life at home when they leave you in a hotel for an extended period of time without an exact idea of when you'll be home again. This is simple. Fix the manner in which you call trains. This would go a long way to keep the employees that they have.

The Impact to Amtrak

In many cases, the Southwest Chief is able to operate at speeds of 79 or even 90 mph. As was mentioned, these throttle restrictions impact Amtrak especially when BNSF has used the auto-router dispatching. The matter of freight delays on host railroads has been a contentious issue on how to add consequence to these unnecessary delays.

It's apparent when a human is in the process as many of the dispatchers take pride in running passenger service on time and doing what's needed to keep Amtrak moving through a sea of 2-3 mile long trains. When auto-router is turned on, this all goes out the window. Amtrak is often put in line and required to follow these long trains for long distances. The same trains that are operating no more than 40 mph in many cases.

Record Profits

BNSF had posted record earnings in recent months. However, in spite of their record profits, they refuse to negotiate their contracts with the operating crafts. They've drug this out over nearly 3 years. During this time, we've worked through COVID and the continued efforts to destroy what little morale has remained by the use of an attendance policy that amounts to indentured servitude. Failure to negotiate in good faith and dragging this process out only serves as an effort to break the back of labor, the very force that makes this company record profits.

To What End?

It is my best estimation that the carriers intend to run everyone off by making the railroad such a miserable place that they can claim an emergency to operate with one person crews. I believe the end game is autonomous trains as BNSF and others have taken an interest in Rio Tinto's autonomous operation in Australia.

This testimony is submitted on behalf of the Members of the Brotherhood of Locomotive Engineer's and Trainmen that proudly run trains in the state of New Mexico.

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Brotherhood of Locomotive Engineers and Trainmen