

Before the
SURFACE TRANSPORTATION BOARD

STB DOCKET No. EP 711

PETITION FOR RULEMAKING TO ADOPT
REVISED COMPETITIVE SWITCHING RULES

STB DOCKET No. EP 711 (Sub-No. 1)

RECIPROCAL SWITCHING

SUPPLEMENTAL COMMENTS OF THE TRANSPORTATION DIVISION OF THE
INTERNATIONAL ASSOCIATION OF SHEET METAL, AIR, RAIL AND
TRANSPORTATION WORKERS

Pursuant to the Board's Notice of Public Hearing dated December 27, 2021, the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers ("SMART-TD") submits the following as its Supplemental Comments opposing the Surface Transportation Board's ("STB" or "the Board") Notice of Proposed Rule Making ("NPRM") in Docket No. EP 711 (Sub-No. 1) (STB served July 27, 2016).

SMART-TD, formerly United Transportation Union, is the largest railroad operating union in North America, representing employees on every Class I railroad, as well as employees on many regional and short-line railroads. Membership is drawn primarily from the operating crafts in the railroad industry, and includes conductors, brakemen, switchmen, ground service personnel, locomotive engineers, hostlers and workers in associated crafts.

In its Comments in Opposition to the NPRM submitted on October 16, 2016, which are incorporated by reference hereto, SMART-TD raised several concerns with the Board's proposed rule, including the potential safety implications, allowing crews to work in unfamiliar territories, disrupting collective bargaining agreements, financial impact to membership resulting from decreased railroad revenues (or alleged decreased revenues). In addition, while the proposed rule considers impact of employees, it is unclear how much weight the Board would give such, and whether any labor protection would be imposed as a result. As noted in SMART-TD's initial Comments, importantly, while the statute authorizes the Board to impose employee protection for reciprocal switching, 49 U.S.C. § 1102(c)(2), the Board has not mandated employee protective conditions in its proposed regulations. Failing to impose labor protective conditions will forever harm employees. These concerns would only be exacerbated due to the significant operational changes made in the rail industry since the advent and implementation of Precision Scheduled Railroading ("PSR") in 2017.

As the Board is well aware, PSR essentially changed on-demand service to serviced based on strict carrier schedules.¹ Testimony of Larry I. Willis Before the U.S. Senate Committee of Commerce, Science, and Transportation, Hearing on Passenger and Freight Rail: The Current Status of the Rail Network and the Track Ahead (October 21, 2020), *available at* <https://ttd.org/policy/congressional-testimony/ttd-submits-testimony-to-senate-commerce-hearing-on-freight-and-passenger-rail/>. In sum, "trains will arrive at a 'scheduled' time and it is then incumbent on the shipper to be prepared to load or unload cargo." *Id.* "[B]y eliminating on-demand response and flexibility in the construction and quantity of train consists, railroads can reduce capital assets like locomotives and cars, and eliminate jobs across the network." *Id.*

¹ Since its introduction in 2017, all but one of the Class I railroads have implemented PSR.

Indeed, according to the STB's rail employment data, Class I railroads eliminated approximately 13,000 train and engine service positions since December 2017, from 60,466 in December 2017 to 47,611 in December 2021.

SMART-TD is not oblivious to the need of shippers to transport product in a cost-effective manner. However, revising the reciprocal switching rule as proposed is not an effective nor efficient means to that end. Where the railroads use bare minimum staffing levels to maintain current service, employees may not be able to quickly respond these switching requirements, causing delays which have the potential to disrupt entire networks. Better alternatives to aid shippers exist, including ensuring that railroads comply with their common carrier obligations.

A change to reciprocal switching such as the one the shippers propose would add yet another layer of ambivalence to an already strained workforce. Labor has shouldered the effects of deregulation, mergers, and various other regulations that impose costs to carriers. The railroads will not bear the cost of such changes, but will seek to exploit any potential costs at the bargaining table. If adopted, the NPRM could potentially allow other railroads to utilize their own employees to perform work currently performed by employees represented by SMART-TD, and may well lead to further elimination of Class I rail jobs.

Based upon the foregoing and for the reasons set forth in SMART-TD's initial Comments, the Board should decline to adopt the proposed changes to the existing regulations on reciprocal switching.

Respectfully submitted,

s/ Erika A. Diehl-Gibbons

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