

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Ex Parte No. 767

FIRST-MILE / LAST-MILE SERVICE

**COMMENTS OF
INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INC.**

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The Institute of Scrap Recycling Industries, Inc. (“ISRI”) hereby submits its comments in response to the notice regarding First-Mile / Last-Mile (“FMLM”) service issued by Surface Transportation Board (“STB” or the “Board”) on August 31, 2021.¹ The Board’s notice seeks comments on issues regarding FMLM service, including any additional data that is critical to identify FMLM service concerns that is not now being reported to the Board. ISRI commends the Board for opening this proceeding to gather information and evaluate FMLM service issues which play an important role in recycled secondary metal supply chains. Currently, the Board’s reporting requirements do not fully capture the FMLM service performance of the railroads. ISRI strongly believes that, after considering the comments received in this proceeding, the Board should adopt FMLM reporting requirements for both Class I railroads and shortline railroads. ISRI’s comments are filed timely.²

¹ See First-Mile / Last-Mile Service, STB Docket No. Ex Parte No. 767 (STB served on September 2, 2021) (“FMLM Notice”).

² On September 21, 2021, the Board granted the American Chemistry Council and The Fertilizer Institute’s motion to extend the due dates for comments, extending the deadline for comments from October 18, 2021 to December 17, 2021. See First-Mile / Last-Mile Service, STB Docket No. Ex Parte No. 767 (STB served on September 21, 2021).

I. ISRI Statement of Interest

ISRI is a non-profit trade association representing approximately 1,300 companies operating in nearly 4,000 locations in the United States, and 41 countries worldwide that process, broker, and consume scrap commodities, including metals, paper, plastics, glass, rubber, electronics, and textiles. The U.S. scrap recycling industry generates in excess of \$100 billion in domestic economic activity, manufacturing more than 130 million tons per year of highly valued commodities. It is estimated that the scrap recycling industry directly or indirectly supports more than 534,000 well-paying jobs, generating \$13.2 billion in federal, state and local tax revenue. The U.S. scrap recycling industry supplies the commodities that manufacturers use as raw material feedstock to make new products, with more than 70% being consumed in the United States. In addition to providing raw materials to domestic manufacturers, the U.S. scrap recycling industry exports approximately one-third of its commodities worth over \$16.5 billion annually to over 155 nations. ISRI members not only supply domestic manufacturers, including the U.S. steel industry, but the export operations of ISRI members requires an integrated transportation network vital to the global manufacturing supply chain. Recycled scrap or secondary metal is also essential towards fulfilling the mandates in the bi-partisan Infrastructure Investment and Jobs Act, as the industry is environmentally sustainable and resilient saving energy, reducing emissions and conserving natural resources.

Rail transportation is a critical mode for shipments of ferrous and nonferrous recycled secondary metals. Indeed, due to the unique characteristics of shipping bulk recycled secondary metal, there are many situations where rail is the only feasible mode for shipping this material. Many of ISRI's members are served by only one Class I rail carrier and frequently experience significant issues related to FMLM service. Accordingly, ISRI has a strong interest in the

Board's proceeding to consider whether additional reporting requirements concerning FMLM service are needed.

II. ISRI Members Are Having Significant Issues with FMLM Service

The FMLM Notice asks the commenters to provide concrete examples in identifying their FMLM issues, and explain, among other things, the frequency, reasons, and impact of the FMLM issues experienced. ISRI conducted a survey among its membership to gain a better understanding of the common issues and trends in connection with FMLM service problems. ISRI believes that the members' responses provide important context as to the significance of the problems experienced by ISRI members, and perhaps in other industries.

These responses show that ISRI members frequently experience FMLM challenges, including missed switches, reduced service days, mismatches between car orders and car deliveries, and extended dwell times at local facilities.³ While ISRI's members reported that the FMLM service problems primarily stem from Class I railroad service, some reported that they are having similar issues with shortline railroads.

These issues have become more persistent with the railroads' implementation of Precision Scheduled Railroading ("PSR") which has resulted in labor force and equipment reductions. PSR, in theory, aims to increase efficiency but, nonetheless, has sacrificed FMLM service performance for profit maximization. FMLM service performance has further deteriorated during the COVID-19 pandemic which has exacerbated workforce issues in the rail industry, like other industries.

Poor FMLM service has significant impacts on ISRI members' businesses. A number of ISRI members reported that FMLM service issues create significant operational challenges.

³ One ISRI member reported that certain Class I railroads even change the number of car orders entered by a rail customer in the system.

Generally, the recycled secondary metal processors plan their production, operations, and infrastructure around railroad service days and railcar orders. When railroads fail to provide the switches on the committed service days or at the scheduled time, or otherwise fail to deliver the number of cars ordered, ISRI members incur significant inefficiencies and costs. This is because, among other things, their recycled secondary metal processing operations depend on the timely receipt of materials in order to meet their customers' delivery requirements. Also, when they are deprived of the timely receipt of empty railcars needed to ship products to their customers, they may fail to adhere to their committed shipping deadlines, risking cancellations of their customers' orders.

Similarly, the railroads' failure to provide consistent FMLM service causes significant challenges managing labor at recycled secondary metal processing facilities. When ISRI members cannot predict when a railroad will provide switching in its facility, it is impossible for both the member and its customers to plan an efficient labor shift. Instead of being staffed at optimal production levels, employees waste significant time waiting for the delivery/pickup of the railcars and constantly having to monitor the railcar pipeline. Further, erratic railroad FMLM service forces ISRI members to work overtime due to frequent changes in service schedules. As a result, ISRI members incur unnecessary additional costs and inefficiencies as a direct result of the railroads' inconsistent FMLM service.

All of these issues have significant financial implications for ISRI members. Recycled secondary metal orders are contracted monthly. If an ISRI member fails to fulfill a contract by the end of the month due to a railroad's failure to provide consistent and reliable service, purchase orders are cancelled, and the company loses revenue. Similarly, if a railroad fails to provide the number of rail cars ordered and/or switches scheduled, ISRI members' processing

and production lines back up. Further, overtime and loss of productivity by ISRI members' employees caused by erratic FMLM service has significant financial implications. The collective impacts of unreliable FMLM service cause significant lost productivity, inefficiencies, and additional costs for recycled secondary metal processors.

III. ISRI Members are Unable to Address FMLM Service Issues with the Railroads

Importantly, it is nearly impossible for ISRI members to address these FMLM service issues with the railroads, in their contracts or otherwise, or find a long-term solution that works for both sides. Many ISRI members are captive to one railroad at their facilities. This creates significant challenges for ISRI members to address their FMLM service issues in their contracts due to a lack of negotiating leverage. In fact, some ISRI members do not contract for rail service. Many members try to address their issues directly with the railroads, either through customer service or local train masters. While the railroads sometimes take actions to address the service problems, the solutions are never long-term, and the FMLM service issues often reoccur in the next cycle. Further, with the lack of adequate public data regarding FMLM service issues, rail customers are disadvantaged to advance discussions with the railroads.

IV. Current Reporting Requirements do not Capture FMLM Service Performance

While many rail customers, including ISRI members, face significant challenges in connection with the FMLM service, the Board's current reporting requirements do not adequately capture the railroads' FMLM service performance. This makes it nearly impossible for ISRI members to predict bottlenecks in their region and plan for potential service challenges.

The Board's current rules require reporting of, among other things, system-average train speed for the overall system, weekly average terminal dwell time for the carrier's system and its

10 largest terminals, and weekly average dwell time at origin for unit trains.⁴ Nevertheless, the reported data do not provide adequate visibility on FMLM service performance to provide any meaningful assistance for the Board or the shipping community to identify FMLM service challenges. Many of the reporting requirements also are limited to unit trains, which do not necessarily involve FMLM service. The reported data has little to no relevance to FMLM issues, and provides an incomplete, if not misleading picture of the overall rail service.

V. Railroads Should be Required to Report Their FMLM Service Performance

Given the significant FMLM service issues, and the lack of any meaningful remedy available to rail customers to find long-term solutions to these issues, requiring railroads to report their FMLM service performance becomes crucial. Reporting will provide significant benefits for both the Board and rail customers and will likely lead to improvements to the overall FMLM service performance of the railroads.

First, reporting of certain metrics in connection with the FMLM service will enable the Board and rail customers to better monitor overall service performance of the railroads, and identify any areas of the network that are having significant challenges in connection with FMLM service. Without periodic reports, the Board lacks any meaningful information to accurately monitor FMLM rail performance, assess claims of poor performance, and engage stakeholders to address FMLM service issues.

Further, reporting of FMLM service data will enable rail customers to better align their expectations of local switches and car deliveries with the actual performance of the railroads. Currently, without any visibility as to how a particular railroad performs in a certain region, rail customers plan their operations and production around the railroads' purported service

⁴ See 49 C.F.R. § 1250.2.

commitments. As noted above, when the railroads fail to provide an adequate level of service, which unfortunately occurs frequently, rail customers incur significant costs and decreased productivity, loss of revenue, and opportunities. Periodic reporting of FMLM data will help rail customers mitigate these adverse impacts of below-par FMLM service by providing more visibility as to the challenges occurring in certain areas of the network.

Reporting requirements will also help rail customers to hold railroads accountable when FMLM service deteriorates. Without adequate data regarding FMLM service, rail customers are unable to have any meaningful discussions with the railroads for improvements in FMLM service. Periodic reporting regarding FMLM service will provide rail customers, at the very least, a set of railroad-generated data to start the discussions with the railroads. Further, because the data will be generated by the railroads, it will eliminate any potential railroad concerns regarding the reliability of the data, allowing the parties to focus on solutions, rather than on the selection of the correct data.

Further, adopting FMLM service reporting requirements is reasonable and will not be unduly burdensome for the railroads. As the responses of the Association of American Railroads (“AAR”) and Union Pacific (“UP”) show, railroads already collect and maintain data regarding FMLM service.⁵ Adopting a reporting requirement concerning data that carriers already possess will certainly not be an administrative burden for the carriers and will provide significant benefits for the Board and the shipping community.

At bottom, the Board should require railroads, both Class I and shortlines, to report additional metrics regarding FMLM service to increase the Board’s ability to engage in data-driven monitoring of rail service, permit rail customers to mitigate the impact of any service

⁵ See Letter from Ian N. Jeffries to the Board (September 10, 2020); Letter from Kenny Rocker to the Board (September 21, 2020).

failures, facilitate discussions with the railroads for improvements, and increase the accountability of the railroads for below-par service.

VI. Metrics to Measure FMLM Service Performance

In general, ISRI believes that the additional metrics the Board adopts as part of its FMLM service reporting requirements should be objective, standardized, and able to display an accurate picture of the FMLM service performance of the railroads. The data should be reported to the Board and the public, at the very least, on a regional level, to ensure that the Board has sufficient regional data to monitor any significant FMLM service performance issues at certain areas of the rail network. Further, rail customers should have direct access to the data for each of their facilities on a confidential basis. This will enable rail customers to have visibility to the FMLM issues impacting their businesses, without revealing important confidential commercial information.

ISRI members believe that the Board should require reporting of, at a minimum, the following metrics:

- **Switch Completion Percentage:** The railroads should be required to report the percentage of switches that a customer facility receives during a week in comparison to the number of switches the railroad identified for a customer facility. As noted above, missed switches or reduced services have significant impacts on rail customer's businesses, including loss of productivity and revenue. Switch completion percentage will permit the Board and other stakeholders identifying whether the railroads are providing the switches that they initially identified for customer facilities.

- **Car Delivery Percentage:** The railroads should be required to report the percentage of the number of cars delivered to a rail customer's facility against the number of cars ordered by the rail customer. Railroads frequently fail to provide the number of cars ordered by rail customers. Lack of sufficient railcars has significant implications for rail customers' businesses. Car delivery percentage would enable the Board and rail customers to understand whether the railroads are providing the number of cars ordered by individual shippers and to what extent car deliveries deviate from the orders.
- **On-Time Delivery Percentage:** The railroads should be required to report the percentage of their on-time deliveries. Extended dwell times of railcars at local facilities has been a significant issue for ISRI members. Collecting data regarding on-time delivery percentage of railroads on a regional/individual shipper facility level will enable the Board and rail customers to assess more accurately the FMLM performance of a railroad.
- **Monthly Turns Per Car:** The railroads should be required to report the monthly turns per car – i.e., the number of cycle turns occurring for each car per month. Having this data will provide visibility to the Board and rail customers the average time it takes for a railroad to pick up a loaded car, complete a delivery, and return the empty cars back to a shipper's facility.

Respectfully submitted,

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