

**Rail Cents
Enterprises, Inc.**

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December 5, 2019

300127

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

ENTERED
Office of Proceedings
December 6, 2019
Part of
Public Record



Re: STB Ex Parte 711 (Sub-No. 1)
Reciprocal Switching

Dear Ms. Brown:

The enclosed submission is meant to substitute for my incomplete submission sent by regular U.S. mail yesterday, in that the first mailing failed to include three single-page exhibits to my general comments. Two complete copies and a return mailer have been enclosed herewith so that one can be stamped and returned as received. Please let me know if there are any questions regarding the filing.

Respectfully,

Thomas F. Erickson, Jr.
Thomas F. Erickson, Jr.
Proprietor

Encl as stated

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**Ex Parte 711 (Sub-No. 1)
RECIPROCAL SWITCHING**

**COMMENTS OF
RAIL CENTS ENTERPRISES, INC.**



I. Background

These comments will supplement those regarding Ex Parte 711 that were tendered to the Board on July 30, 2016 by the author, the President of Rail Cents Enterprises, in his other capacity as Board Member of the Big Spring Rail System, wherein he previously presented reasons for not forcing Class III carriers to grant reciprocal switching to larger carriers.

Although the deadline for comments expired over three years ago, the instant comments address a particular case concerning reciprocal switching that has arisen in the last year and that may be of interest. The instant comments pertain to why reciprocal switching for prospective new customers on Class I and II carriers should be preemptively provided under certain conditions.

II. Reciprocal Switching Exigency in Grand Island, Nebraska

The precipitating event for this submission is the apparent refusal of one Class I railroad, the BNSF Railway, to grant reciprocal switching rights either to another Class I railroad, the Union Pacific Railroad (UP), or to a Class III railroad, the Nebraska Central Railroad (NCRC), in Grand Island, NE with regard to a potential new rail customer, McCain Foods USA, Inc. (McCain). McCain's processing facility at 204 East Roberts Street in Grand Island has never

been served directly by a rail spur. This facility receives raw onions from McCain's collection warehouse in Fruitland, ID, a distance of 1,150± miles away, on a steady basis for eleven (11) months per year and ships out frozen onion rings on a steady basis for twelve (12) months per year via a refrigerated warehouse on McCain's Grand Island property that is operated by Americold, all movements being by refrigerated trucks. Rail Cents has a written agreement with McCain that allows Rail Cents to generate a proposal to convert from truck to rail the inbound movement of raw onions to McCain in Grand Island, NE from McCain in Fruitland, ID.

At the origin in Fruitland, McCain's onion warehouse has never been served by a direct rail spur, but it is located immediately next to a Class III carrier, the Idaho Northern & Pacific Railroad (INPR)¹ such that it could be well served by a new spur of only 400 feet in length. INPR connects with one Class I, the UP, at Payette ID.² At the destination in Grand Island, McCain's production facility could be well served by new spur tracks of 4,100 feet in length diverging from an existing BNSF customer's private spur.³ Rail Cents has advised BNSF that this project becomes viable only with reciprocal switching in Grand Island, for two reasons.

The first reason is transit time. Although BNSF has declined to provide estimates of linehaul transit times between 1) hypothetical interchange points between UP and BNSF in Salt Lake City UT, Denver CO, or Council Bluffs IA, and 2) BNSF's serving yard in Aurora NE (where the local train that switches Grand Island is based), Rail Cents estimates that any UP-

¹ INPR coincidentally happens to be a sister road of NCRC, both being owned by Rio Grande Pacific Corp.

² The closest BNSF line to INPR is 175 miles away, as the crow flies, in the opposite direction from Grand Island.

³ That existing customer, Agricultural Services, Inc., is open to reciprocal switching, since UP's main line goes through Grand Island and since BNSF and UP formerly maintained an interchange in Grand Island from which rights were grandfathered. The physical interchange of cars between BNSF and UP for Agricultural Services is now conducted in Council Bluffs, IA, which increases by half, from 600± miles to 900± miles, the rail operating distance for Agricultural Service's only rail traffic, fertilizer cars from JR Simplot in Rock Springs, WY.

BNSF linehaul service would at least double the transit time above UP-direct linehaul service between Payette and Grand Island. A second transit-time issue is that BNSF currently switches Grand Island only once per week on average from Aurora, so more frequent switching in Grand Island is needed for time-sensitive perishable traffic and for high-value cars like the refrigerated boxcars that would be required for McCain's onions. The upshot is that more-than-doubling the transit time would mean more-than-doubling the need for expensive refrigerated boxcars and more-than-doubling the risk of spoilage en route.

The second reason is linehaul pricing. Having to negotiate pricing with both UP and BNSF between Fruitland and Grand Island would be more complex and less efficient. The multiplication of mileage, transit time, and handling with a two-carrier linehaul would embed unnecessary and fatal-to-rail operating costs for the Fruitland-to-Grand Island traffic.

Therefore, both transit time and linehaul pricing dictate that the only pragmatic way to wrest the baseload raw onion business between Fruitland and Grand Island away from truck is through the use of reciprocal switching, as well as through the creation of a physical interchange in Grand Island. The latter need, if reciprocal switching were in place, could be effected using existing tracks between BNSF and UP at a jointly served customer, Central Nebraska Transload.⁴

III. Potential Benefits of Reciprocal Switching for McCain and BNSF's Response

There are abundant incentives for BNSF to grant reciprocal switching to McCain in Grand Island.

1. It could open up outbound frozen-onion-ring traffic from Americold.
2. It could open up using McCain's otherwise empty Fruitland backhauls to refer capacity

for BNSF to the Pacific Northwest without the cost burden of most of an empty return to

⁴ NCRC could provide efficient and adequate contract switching for BNSF in Grand Island, via said existing tracks between BNSF and UP at Central Nebraska Transload, Inc.

Nebraska, such as for exports of beef by JBS from its meat-packing facility in Grand Island⁵ or of chicken by Tyson Foods in Norfolk and Madison NE.⁶

3. It could eliminate BNSF's losses on hauling Agricultural Services' fertilizer traffic for 150 miles from Council Bluffs to Grand Island for the current reciprocal switching fee of \$105, as a result of direct UP access to Grand Island and the potential for favorable contract switching service to BNSF from NCRC.
4. It could open up traffic for BNSF to and from NCRC in Grand Island.⁷
5. It builds working relationships between BNSF and McCain, Americold, and Agricultural Services for other traffic and other locations.
6. It could do all of the above without any capital expenditures by BNSF.
7. Most importantly, it proffers BNSF an opportunity to negotiate reciprocal switching agreement boilerplate that is favorable to BNSF and that serves as a template for the industry in resolving an important part of Ex Parte 711.

Notwithstanding these incentives, BNSF has declined to respond in writing to repeated and escalating requests by Rail Cents for reciprocal switching to McCain in Grand Island.⁸ The only response that Rail Cents has received from BNSF was a verbal one in a meeting at BNSF headquarters in Fort Worth on September 16, 2019, when Todd Whitmore, BNSF's General Director of Sales for Industrial Products, said that he "would not support reciprocal switching" for McCain in Grand Island. Present at that meeting in addition to Todd Whitmore and Tom

⁵ JBS is spending \$95 million to expand its already-large meat-packing plant in Grand Island.

⁶ Tyson in Madison is already served by NCRC and Tyson in Norfolk could be.

⁷ Rail Cents would require UP to remove its paper barrier with BNSF in Grand Island as a condition of its participation.

⁸ Attached as exhibits are Rail Cents' letters to 1) Roger Nober, BNSF's EVP Law, on 12 Aug 19, 2) John Miller, BNSF's Group VP Industrial Products, on 26 Sep 19, and 3) Carl Ice, BNSF's President & CEO, on 21 Oct 19.

Erickson from Rail Cents, were Michael Haeg, VP Marketing & Sales for Rio Grande Pacific Corp., and Chad Gutierrez, Manager—Pricing for Industrial Products at BNSF.

IV. Implications

We are left to draw the conclusion that BNSF has either not paid attention to this opportunity or has decided to stonewall new customers who want reciprocal switching. The latter would be a policy that is not in the best interests of the shipping public, and it is not in the best interests of BNSF itself.

BNSF has one person who is responsible for all new siding development in the states of Nebraska, Kansas, Missouri, and Iowa.⁹ The implication is that customers are expected to do their own legwork for conceptualizing, designing, pricing, financing, and building new rail infrastructure. Any customer with enough sophistication to do that would also be sophisticated enough to want competitive rail service. The most cost-effective way to provide such competitive service is through reciprocal switching, where only one local engine travels to and from the customer. If railroads want new carload traffic, then protecting their franchises must not come at the expense of preempting knowledgeable new customers.

Reliable and flexible switching service, which most Class III carriers provide as a matter of course, is the missing link for the larger carriers in garnering carload traffic. With the advent of Precision Scheduled Railroading (PSR), yard-to-yard reliability has improved and yard-to-yard volumes have been supplemented by traffic that was previously handled in unit trains. However, what the customers care about—door-to-door reliability and frequency—has not been addressed by PSR. Attention still needs to be paid to the connections between linehaul trains and

⁹ That person is John Rider, Regional Manager of Economic Development for BNSF covering Nebraska, who has attempted to refer this opportunity to the proper parties and who has been as responsive as possible given his four-state responsibility. BNSF has only ten individuals in its Economic Development department to cover its entire twenty-eight state network.

local trains, and sophisticated new customers, as well as sophisticated commercial employees at the railroads themselves, know that having two carriers' traffic switched by the serving carrier is an insurance policy against arbitrary switching delays and reductions.

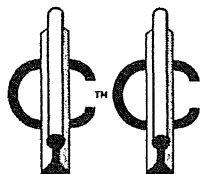
V. Conclusion

Rather than disturbing the anomalies of the railroads' past, the Board could instead enable the future of carload business by mandating that the option of reciprocal switching, if a customer without a siding but contemplating the construction of a siding requests it, be made available on Class I and Class II railroads where there is an existing interchange within a certain number of miles of the new customer's potential turnout or where an interchange could be established at no out-of-pocket expense to the serving carrier within a certain number of miles of the new customer's potential turnout.

Respectfully submitted,

Thomas F. Erickson, Jr.
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December 4, 2019



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August 12, 2019

Roger P. Nober, Esquire
Executive Vice President Law & Corporate Affairs
BNSF Railway Company
2650 Lou Menk Drive
Fort Worth, TX 76131-2830

Dear Mr. Nober:

As info, I'm a railroad consultant who has asked your Economic Development group for help in formulating an agreement that addresses reciprocal switching and adequate frequency of switching for a prospective industrial sidetrack. I'm not sure they have received similar requests.

This project is with McCain Foods USA—to consider rail infrastructure to serve their production facility in Grand Island, NE, where BNSF and UP crisscross, and where a UP branch diverges that UP licenses to a short line. The only economically viable option for McCain appears to be building a new spur off of an existing spur owned by a BNSF-served customer, Agricultural Services Inc. (which has reciprocal switching). McCain's baseload business would be raw onions currently moving by truck from a UP-local station in south Idaho, hence the need for reciprocal switching. There is a time limit on how long the onions can be in transit in refrigerated boxcars, hence the need for adequate switching frequency. BNSF currently serves local customers in Grand Island only once per week via a local from Aurora 18 miles away, but the short line operates daily in Grand Island, and can reach BNSF via a jointly-served customer.

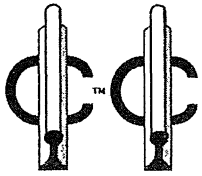
There is a win-win-win solution lurking somewhere here for McCain, BNSF, and UP. Part of the win for BNSF would be the possibility of new outbound traffic from McCain, which now ships frozen onion rings all over the country from Grand Island by truck. Part of the win for BNSF would be demonstrating your willingness to consider reciprocal switching agreements and to establish a favorable template for such agreements. Of course, switching in general and reciprocal switching in particular are coming to a head at the STB. Concerning Ex Parte 711, all three STB members met with the American Chemistry Council on 4 April, two members met with CF Industries on 13 June, and all three members met with Mississippi Lime on 25 June. Chairman Begeman and Vice Chairman Fuchs have been commenting lately about switching in their public remarks.

It is my desire to come to Fort Worth to brainstorm an agreement. Can you facilitate a meeting with the right person(s)?

Sincerely,

Thomas F. Erickson, Jr.

Encl: Biographical Sketch



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September 26, 2019

Mr. John H. Miller
Group Vice President, Industrial Products
BNSF Railway
2650 Lou Menk Drive
Fort Worth, TX 76131

Dear Mr. Miller:

You may have been briefed by Todd Whitmore about our meeting on September 16 concerning reciprocal switching rights for McCain Foods USA in Grand Island, NE. Todd stated that we had been referred to him by Roger Nober (see letter to Mr. Nober of August 12 enclosed), but I suspect that we were actually referred to him by Todd Strever in Customer Support.

This letter is a request either for an audience with you to discuss my idiosyncratic rail project or for a referral up the chain of command to whoever has authority to OK reciprocal switching rights. Todd indicated that he would/could not consider such an approval.

I am a rail consultant who stumbled across a movement of raw onions that only UP can make economically viable for rail. McCain Foods ships six weekly jumbo-refer-equivalents of onions from their collection warehouse in southwest Idaho to their onion-ring production facility in Grand Island, NE. The facilities at both ends have never had rail infrastructure and shipments have always gone by refer truck. However, rail spurs and associated infrastructure could be built at both ends: at origin off of a UP-captive short line (INPR in Fruitland ID) and at destination off of a spur owned by an existing BNSF-served customer (Agricultural Services).

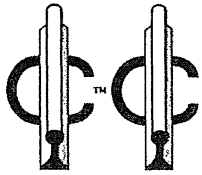
The infrastructure needed in Grand Island would cost seven figures. (See enclosed schematic.) That infrastructure would open up a lot of potential for BNSF: outbound onion rings from McCain in Grand Island, other McCain traffic, and backhauls to the Pacific Northwest using the six eastbound private cars every week. Probably more strategically important to BNSF would be favorable input to the STB from my lawyer concerning Ex Parte 711 on reciprocal switching, instead of a submission critical of BNSF. I am in a position to design, finance, and construct the necessary infrastructure, and to negotiate deals with UP and INPR in order to get the service and rate structure needed for the baseload traffic from Fruitland to Grand Island. Before proceeding, I need an understanding with BNSF concerning switching in Grand Island.

It took me five months to work my way up the chain of command at McCain before getting an agreement with them that allows me to work on this. I'm hoping it won't take so long with BNSF.

Sincerely,

Thomas F. Erickson, Jr.

Encl: as stated + Biographical Sketch



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October 21, 2019

Mr. Carl R. Ice
President & Chief Executive Office
BNSF Railway
2650 Lou Menk Drive
Fort Worth, TX 76131

Dear Mr. Ice:

This is a complaint about your organizational structure, but certainly not your people. Your people have only treated me with the utmost courtesy and professionalism, in particular John Rider in Economic Development and Todd Whitmore in Industrial Products. Also know that his letter follows letters to Roger Nober on August 12 and John Miller on September 26.

BNSF has no venue for considering or negotiating either of two switching requirements needed for my company to build an industrial-park-like lead track to McCain Foods in Grand Island, Nebraska. Late last year I stumbled across a baseload opportunity—25,000 yearly tons of raw onions from McCain's collection warehouse in Fruitland, ID to their onion-ring production facility in Grand Island, NE. Neither facility has ever been served by rail, but both are close to rail: in Fruitland—a UP-captive short line, and in Grand Island—a BNSF-served private track.

The traffic to and from the Grand Island facility is jealously guarded by McCain's trucking group, so it took me five months to walk the inbound opportunity up McCain's chain of command in order to get their permission to work on a rail proposal. Before proposing to McCain that my company spend \$1+ million on rail infrastructure in Grand Island in return for a take-or-pay contract for use of the infrastructure out of their transportation savings, we need:

- Reciprocal switching, both as a matter of course and because UP-BNSF linehaul service would double the transit time, double the fleet requirements, and increase the cost of service and difficulty of rate negotiation; and
- More frequency of switching than BNSF's current once-per-week service in Grand Island, where an opportunity exists for contract switching in Grand Island from the same short line holding company that would serve Fruitland (Rio Grande Pacific).

Switching is the key to getting our foot in McCain's door, but there appears to be no nexus of authority over solicitation, service delivery, and STB implications in order to adjudicate these switching issues, except for yourself. Do you still have someone on your staff doing the kinds of things that Dean Wise used to do—someone who could look all aspects of this opportunity?

Sincerely,

Thomas F. Erickson, Jr.

Encl: biographical sketch

cc: Roger P. Nober, Executive VP Law & Corporate Affairs, BNSF, Fort Worth, TX
Eric M. Hocky, Attorney at Law, Clark Hill PLC, Philadelphia, PA