

SERVICE DATE – SEPTEMBER 2, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 767

FIRST-MILE / LAST-MILE SERVICE

Digest:¹ The Board invites comments on issues related to first-mile / last-mile service.

Decided: August 31, 2021

The Board seeks comments on issues regarding first-mile / last-mile (FMLM) service, particularly on whether additional metrics to measure such service might have utility that exceeds any associated burden. FMLM service refers to the movement of railcars between a local railroad serving yard and a shipper or receiver facility. So-called “local trains” serve customers in the vicinity of the local yard, spotting (i.e., placing for loading or unloading) inbound cars and pulling (i.e., picking up) outbound cars from each customer facility. A larger local yard may run numerous local trains serving many customers dispersed along separate branches; a smaller yard may run only a handful of local trains. Yard crews build outbound local trains by assembling blocks (groups of cars) for each customer on the route. Inbound local trains return to the yard with cars released from shipper facilities and, in turn, are sorted into outbound blocks for line-haul movements. After hearing concerns raised by shippers across numerous industries and requests for transparency of FMLM data, the Board seeks information on possible FMLM service issues, the design of potential metrics to measure such service, and the associated burdens or trade-offs with any suggestions raised by commenters.

BACKGROUND

In addition to weekly and monthly collection of certain railroad performance data metrics from Class I railroads,² the Board actively monitors, on an informal basis, the national rail network, including network fluidity and service issues, through, for example, the Railroad-Shipper Transportation Advisory Council (RSTAC), the Rail Customer and Public Assistance Program, and information requests to Class I railroads. See, e.g., Surface Transportation Board,

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language in Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² See 49 C.F.R. § 1250.2.

Budget Request Fiscal Year 2022, 14-15.³ Since Spring 2020, the Board has focused its informal monitoring on the effects of and response to the pandemic, engaging in frequent communication⁴ with carriers, shippers, and other stakeholders. See id. Recently, the Board’s Chairman inquired to each Class I carrier about rail service issues⁵ and supply chain issues⁶ (including local service issues). The Board appreciates the carriers’ responses to its informal requests and now seeks more formal input from shippers, carriers, and the public focused specifically on FMLM service. As the Board has heard from various stakeholders, in recent months, crew shortages and other issues stemming from the COVID-19 pandemic and worldwide supply chain complications have heightened and added to the importance of the Board exploring FMLM service.

The Board has received a number of letters about FMLM service issues. For example, the Rail Customer Coalition (RCC) wrote to the Board this year to request, among other things, that the Board “adopt new reporting metrics to provide a more complete and useful picture of rail service, including [FMLM] performance.” RCC Letter 2.⁷ Following the Chairman’s May 27, 2021 letters regarding rail service to the Class I carriers, the American Chemistry Council (ACC) wrote to the Board regarding general service concerns, briefly noting local service failures, see ACC Letter 2,⁸ and The Fertilizer Institute (TFI) wrote to express general service concerns,

³ Available at <https://prod.stb.gov/about-stb/agency-materials/budget-requests/> then follow hyperlink “FY 2022 Budget Request Final.”

⁴ This communication during the initial phase of the pandemic included “daily and weekly communications with key railroad and shipper stakeholders to actively monitor the reliability of the freight rail network with a special focus on critical supply chains.” Surface Transportation Board, Budget Request Fiscal Year 2022, 14. For example, the Board and RSTAC convened weekly (and later biweekly) conference calls. Id. The Board also participated in calls hosted by the Federal Railroad Administration, held with representatives from each Class I railroad, the short line and regional railroads, and the National Passenger Railroad Corporation (Amtrak). Id.

⁵ See, e.g., Letter from Martin J. Oberman, Chairman, to Canadian Pacific (May 27, 2021), <https://prod.stb.gov/news-communications/non-docketed-public-correspondence/> (follow hyperlink “Chairman Oberman Rail Service Letter to CP, May 27, 2021” under headings “2021” and “May”).

⁶ See, e.g., Letter from Martin J. Oberman, Chairman, to BNSF Railway Company (July 22, 2021), <https://prod.stb.gov/news-communications/non-docketed-public-correspondence/> (follow hyperlink “Chairman Oberman Letter to BNSF Regarding Intermodal Supply Chain Issues, July 22, 2021” under headings “2021” and “July”).

⁷ Available at <https://prod.stb.gov/news-communications/non-docketed-public-correspondence/> then follow hyperlink “RCC Letter to STB regarding regulation and rail service, February 11, 2021” under headings “2021” and “February.”

⁸ Available at <https://prod.stb.gov/news-communications/non-docketed-public-correspondence/> then follow hyperlink “ACC Letter to STB Regarding Rail Service, June 8, 2021” under headings “2021” and “June.”

which encompass issues such as reductions in days of service to customers, increased dwell times, and car order errors, see TFI Letter 2.⁹

The Board has received additional correspondence relating to FMLM service over the last year.¹⁰ On August 31, 2020, the Freight Rail Customer Alliance (FRCA), the National Coal Transportation Association (NCTA), the National Industrial Transportation League (NITL), and the Private Railcar Food and Beverage Association, Inc. (PRFBA), (collectively, the Shipper Group) stated that their members have become increasingly aware of and concerned by what they describe as the gap between the service data that the railroads report to the Board and the level of service that shippers receive in the real world. the Shipper Group Letter 2.¹¹ The Shipper Group noted that the service metrics collected pursuant to rules adopted in United States Rail Service Issues—Performance Data Reporting, Docket No. EP 724 (Sub-No. 4), do not focus on FMLM service for traffic that does not move in unit trains. Id. Therefore, they seek “improved transparency regarding [FMLM service issues]” and suggest that such “transparency could be achieved by having the rail carriers report appropriate data.” Id.

The Association of American Railroads (AAR) responded to the letter on September 10, 2020, stating that the request is unnecessary and undefined, that data collection would not be practicable or meaningful, and that shippers have remedies for service concerns. AAR Letter 1-3.¹² AAR notes that railroads provide such information directly to their customers, id. at 1, and that the Shipper Group’s suggestion would require that the Board “collect, process, and protect enormous amounts of commercially sensitive data and information,” id. at 3. On September 21, 2020, UP responded to the Shipper Group, stating that it already provides local service metrics at

⁹ Available at <https://prod.stb.gov/news-communications/non-docketed-public-correspondence/> then follow hyperlink “Fertilizer Institute Letter to STB Regarding CSX Rail Service, June 2, 2021” under headings “2021” and “June.”

¹⁰ These letters follow comments in Oversight Hearing on Demurrage and Accessorial Charges, Docket No. EP 754, regarding a variety of local service issues that may relate to FMLM service. See, e.g., International Paper Statement 2, May 7, 2019, Oversight Hearing on Demurrage and Accessorial Charges, EP 754 (“Reduced switch frequency has led to last mile service issues. . . . Changes to local service yards have also heightened risks for service failure.”); Packaging Corporation of America Statement 3-5, May 8, 2019, Oversight Hearing on Demurrage and Accessorial Charges, EP 754 (describing local service issues such as switching issues); Ag Processing Inc Statement 4, June 5, 2019, Oversight Hearing on Demurrage and Accessorial Charges, EP 754 (referring to increased dwell times due to reductions in local service).

¹¹ Available at <https://prod.stb.gov/news-communications/non-docketed-public-correspondence/> then follow hyperlink “FRCA, NCTA, NITL, PRFBA Letter to STB regarding Rail Service Data, August 31, 2020” under headings “2020” and “August.”

¹² Available at <https://prod.stb.gov/news-communications/non-docketed-public-correspondence/> then follow hyperlink “AAR response regarding FRCA, NCTA, NITL, PRFBA Letter to STB, September 10, 2020” under headings “2020” and “September.”

the customer level and that aggregated metrics would not provide customers with meaningful representation of their local service levels. UP Letter 1.¹³

On October 8, 2020, the Shipper Group replied that data reporting on FMLM issues would not be unduly burdensome, that it would be useful regardless of some inconsistencies between carriers, and that it is needed because it would help the Board better monitor carriers' service and the data available to individual shippers does not allow the Board to "ascertain whether carriers are meeting their common carrier obligations in the aggregate." the Shipper Group Response Letter 2-3.¹⁴

REQUEST FOR COMMENTS

The Board seeks comment from the shipping community, carriers, and the public concerning what, if any, FMLM issues they consider relevant. The Board also seeks comment on whether further examination of FMLM issues is warranted, and what, if any, actions may help address such issues, taking into account the information shippers already receive from carriers. Of particular importance, and as set forth in the questions raised below, the Board seeks recommendations as to specific additional data commenters view as important to identify FMLM service concerns that is not now being reported to the Board.¹⁵ The Board would find such data recommendations helpful with respect to the issues commenters may find relevant to FMLM service. The Board also seeks information about potential burdens of any suggested data collection and reporting.

Shipper commenters may wish to provide context for their comments by including information about the quantity or volume of traffic they ship, their storage capacity, seasonality of their shipments (if any), work windows, and other factors that make their facilities or operations unique. If requested, a protective order may be issued that would allow sensitive information to be filed under seal.

In identifying FMLM issues, commenters should provide concrete examples, if possible. Further, although there is no set format for comments, answers to the following questions would be helpful when identifying issues:

- How often does the issue arise?
- Why does the issue occur?

¹³ Available at <https://prod.stb.gov/news-communications/non-docketed-public-correspondence/> then follow hyperlink "UP Response Letter to FRCA regarding Rail Service Data, September 21, 2020" under headings "2020" and "September."

¹⁴ Available at <https://prod.stb.gov/news-communications/non-docketed-public-correspondence/> then follow hyperlink "FRCA, NCTA, NITL, PRFBA Response Letter regarding AAR Letter to STB, October 8, 2020" under headings "2020" and "October."

¹⁵ For example, the Board is interested in the insights it may be able to draw from event data such as the TeleRail Automated Information Network (TRAIN II) information exchange protocol or similar datasets available to the railroads.

- How does the issue affect your operations? How does the issue affect your facilities and/or production?
- How does the issue affect your labor schedule?
- What is the financial impact associated with this issue?
- Has this issue changed with the implementation of operating changes generally referred to as precision scheduled railroading?
- How do you typically try to address the issue? What is communication regarding this issue like between shippers and carriers?
- What remedies are available to you?

Design of metrics. As noted, some shippers have suggested that the Board collect additional service metrics to measure FMLM service, and commenters may wish to further address:

- What, if any, existing information or metrics (collected by the Board or maintained by carriers) facilitate an understanding of the issue?
- What new information or metrics would illuminate the issue? The Board asks for specificity in any suggestions, including specific definitions for different types of services (e.g., transportation involving one carrier vs. multiple carriers) and facilities (e.g., open-vs. closed-gate).
- How and at what level should any metrics be reported (individual shipper, local, regional, or national)?
- Should metrics only measure FMLM service, or should additional metrics more broadly measure service that may relate to or involve FMLM service, such as metrics on car trip plan compliance? Who would use any such information or measurements, and how?
- What are the specific benefits, if any, that would arise from the use of any suggested metrics?
- Would reports to the Board, shipper surveys, reports directly to individual shippers, or some other type of information be helpful to clarify the issue?

The above list of questions is non-exhaustive—commenters should feel free to provide any information they believe will be helpful to the Board as it considers issues related to FMLM service.

Some of the issues that have been raised with the Board by stakeholders and that commenters may wish to comment on, if pertinent to them, include a) switching, including missed switches and/or inconsistent switches; b) modified service plans at local yards (such modified plans may reduce the number of service days per week, increase the number of service days per week, or change the timing of service (morning versus night)); c) car delivery, such as the delivery of cars carrying a different commodity, delivery of a different type of car than the cars ordered, or delivery of fewer or more cars than were ordered; d) extended dwell times at railroad facilities local to shipper/receiver locations; and e) discrepancies in information between the railroad and the rail customer as to the location of cars between the local yard and the shipper's facility.

Carrier data tracking. As indicated by AAR's letter, carriers track some information related to FMLM service, and the Board could consider extant data in evaluating comments on the design of metrics. The Board seeks comment regarding the following questions:

- What data do Class I carriers track that are relevant to FMLM service?
- What aspects of these data do Class I carriers make available to their customers?
- To the extent that Class I carriers collect certain information, what uniformity issues may exist related to that data that may affect reporting to the Board?

Trade-offs. Finally, the Board seeks comment on the trade-offs of any suggestions.

- Factoring in the information that carriers already track, what additional burden would be associated with providing any suggested information or measurements?
- If aggregated reports are suggested, what, if any, are the drawbacks of aggregation?
- If individual reports directly to shippers are suggested, what, if any, are the drawbacks of such approach, particularly in comparison to reporting directly to the Board, as was required in United States Rail Service Issues—Performance Data Reporting, Docket No. EP 724?
- How should the Board consider relative burden based on the type of carrier involved in the transportation (e.g., Class II or III railroad)?

Interested persons may file comments by October 18, 2021. If any comments are filed, replies will be due by November 16, 2021.

It is ordered:

1. Comments are due October 18, 2021. Replies are due November 16, 2021.
2. This decision is effective on its service date.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.