



**National Grain
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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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Docket No. EP 767

FIRST-MILE/LAST-MILE SERVICE

**OPENING COMMENTS OF
THE NATIONAL GRAIN AND FEED ASSOCIATION**

Pursuant to the decision served in this docket on September 8, 2021 (“Decision”), the National Grain and Feed Association (“NGFA”) respectfully files these Opening Comments with the Surface Transportation Board (“Board,” “STB” or “Agency”) in response to its request for input from industry stakeholders on designs of potential metrics for measuring first-mile, last-mile (“FMLM”) rail service data.

I. Identity and Interest of NGFA

The NGFA, established in 1896, consists of more than 1,000 grain, feed, processing, exporting and other grain-related companies that operate more than 8,000 facilities handling U.S. grains and oilseeds. Its membership includes grain elevators; feed and feed ingredient manufacturers; biofuels companies; grain and oilseed processors and millers; exporters; livestock and poultry integrators; and associated firms that provide goods and services to the

nation's grain, feed, and processing industry. The NGFA also consists of 27 affiliated State and Regional Grain and Feed Associations and is co-located and has a strategic alliance with the North American Export Grain Association, and a strategic alliance with the Pet Food Institute.

II. Support for NGFA Statement from Other Collaborating Organizations

The NGFA has been authorized to convey that these opening comments are supported by the North American Millers' Association ("NAMA"), Agricultural Retailers Association ("ARA"), and National Oilseed Processors Association ("NOPA") on behalf of their members.

NAMA represents millers of wheat, corn, oats, and rye in the U.S. and Canada. NAMA has 37 members with 149 locations across 31 states, Puerto Rico, and Canada, and represents the milling industry before the White House, federal agencies, and Congress. ARA is a 501(c)(6) non-profit trade association that represents the interests of agricultural retailers and distributors across the United States on legislative and regulatory issues. ARA advocates, influences, educates, and provides services to support sellers of seeds, nutrients, crop protection products, farm equipment, precision technology and agronomic services. Organized in 1936, NOPA, a national trade association, represents the U.S. soybean, canola, flaxseed, safflower seed and sunflower seed, crushing industries. NOPA represents 12 companies that are engaged in the production of food, feed, and renewable fuels from oilseeds. NOPA's member companies process more than 1.8 billion bushels of soybeans annually at 65 plants located in 21 states throughout the country -- including 60 plants that process soybeans, accounting for approximately 94% of all soybeans that are processed (crushed) in the United States and 5 that process softseed.

III. NGFA Commends the Board for Seeking Public Comment on Metrics to Measure FMLM Rail Service

The NGFA commends the Board for seeking comments on metrics to measure rail service and believes FMLM reporting will lead to better rail performance. The absence of

FMLM data from the current rail service reporting metrics significantly reduces the data's usefulness to shipping and receiving operations.

The NGFA believes most rail carriers already collect large amounts of FMLM data as part of their operations. However, they typically do not readily share this data with their customers, which puts the onus on the customers to try to collect their own FMLM data for the purpose of convincing their rail carriers to provide more reliable FMLM service. In many businesses, enhanced performance follows data collection, review, and expectation setting. The NGFA believes this is a potential outcome of the Board requiring more production of FMLM data from the railroads. Moreover, since rail carriers already collect this data, reporting it should not be a hardship or overly burdensome.

The NGFA also submits that the collection of FMLM data should be utilized in conjunction with the Board's other avenues for monitoring network fluidity and service issues, such as the Railroad-Shipper Transportation Advisory Council ("RSTAC"), the Rail Customer and Public Assistance Program, and the use of information requests to individual Class I railroads as appropriate. These existing methods for gathering information and measuring service performance are extremely valuable and should remain in place.

In general, the NGFA believes the addition of FMLM metrics, if designed correctly, has the potential to significantly increase railroad service performance and efficiency, which will benefit rail carriers, rail customers, the nation's economy, and society at-large. The NGFA believes these benefits will far exceed any burden to the railroads in providing such information.

IV. NGFA Comments and Recommendations for FMLM Metrics

The format of these Opening Comments provides responses to the questions posed by the Board on page 4-6 of the Decision, and NGFA's recommendations on certain issues and requests

for comment. In general, “the issue” discussed in each answer is the unreliable service provided by rail carriers during the “first mile” or “last mile” of a movement, which is more accurately defined by the Board in the Decision as “the movement of railcars between a local railroad yard and a shipper or receiver facility.” Decision at 1. As such, FMLM issues can take place over distances considerably longer than a mile.

A. Identifying FMLM Issues

How often does the issue arise?

NGFA is unaware of any shipper or receiver in its membership that is presently immune from FMLM service letdowns. The NGFA believes a reduction in predictable, reliable service between local railroad yards and shipper/receiver facilities has increased significantly in recent years.

Why does the issue occur?

On an individual facility basis, FMLM service failures are due to the inability or unwillingness of the delivering carrier to provide regular, predictable service to and from local rail yards and/or interchange points. There are many contributing factors, such as the lack of adequate crews, lack of locomotives, bunching of cars and trains, lack of any financial penalties for poor service, bad communication, etc. More broadly, current FMLM issues for NGFA members reflect the market power of railroads, their built-in competitive advantage over long haul trucking, and the lack of market constraints such as competition that would incentivize railroads to operate more efficiently and use shipper assets more efficiently. Also, unlike rail customers, rail carriers do not pay monetary penalties if they do not use shipper assets efficiently and so they are not sufficiently incentivized to provide service as efficiently and as timely as possible.

These factors enable rail carriers to reduce assets and crews to maximize operating ratios at the expense of predictable, reliable service and efficient use of shipper assets. The present lack of transparency regarding the specific factors that cause FMLM service breakdowns helps insulate rail carriers from oversight and responsibility for harm to their customers.

How does the issue affect NGFA member operations?

Inadequate FMLM rail service to agricultural shippers can result in customer facilities at grain origins and destinations having to shut down, slow down, reformulate products, or incur higher freight and accessorial charge costs, which unfortunately happens too often. Unpredictable and unreliable FMLM rail service also causes rail customers to incur the costs of ordering extra trains from railroads or buying or leasing additional railcars. The addition of more trains and railcars to the rail system in turn, adversely affects the efficiency of the rail system as a whole.

How does the issue affect NGFA members' facilities and/or production?

Poor FMLM service adversely affects facilities by causing the NGFA member to incur the additional costs and operational problems associated with shutting down, slowing down, reformulating products, and incurring higher freight costs. Railroad service failures also inherently result in the inefficient utilization of rail customer assets acquired with large sums of money to receive rail service, such as rail cars and tracks.

U.S. grain and feed operations are not only competing against each other, they also are engaged in international competition. Their competitiveness is important to their local areas and to the economic health of the United States. Unreliable FMLM service that results in commodities not getting to market and/or the shipper incurring large costs diminishes the ability of NGFA members to compete.

How does the issue affect labor schedules?

Poor FMLM service that results in plant shutdowns, slowdowns, or product reformulation can adversely affect labor and workforce issues. Shutdowns and slowdowns can be accompanied by layoffs, but erratic service can mean trains arrive when there are insufficient employees to process them and return them to service, further disrupting plant operations and efficiency.

In addition, some railroads levy significant demurrage and detention fees even if they deliver cars and trains off schedule or at times when facilities cannot be prepared to load or unload trains. Under the threat of such costs, rail customers frequently are asked to load or unload trains as soon as possible no matter how inopportune the time. Reluctantly, rail customers are faced with the dilemma of asking employees to work irregular schedules or pay the demurrage and detention fees.

What is the financial impact associated with this issue?

The NGFA believes financial losses for rail customers due to poor rail performance can far exceed a rail carrier's marginal gains from further reducing its operating ratio. For example, when a feed mill that produces 1,500 tons per day of animal food valued at \$500 per ton is forced to temporarily cease operations due to poor rail service the cost is \$750,000 per day in lost output – $1,500 \text{ tons} \times \$500/\text{ton} = \$750,000$. While offline, the feed mill saves on the cost of feed ingredients, but almost all other costs continue to be incurred, such as fixed costs and labor costs.

Further, the shipper providing ingredients to the feed mill may experience lost revenue if the rail delay leads to their assets becoming full and unable to be utilized. In addition, the feed mill's customers may be forced to shift to alternative animal food suppliers and potentially use less efficient and more expensive animal food rations (assuming alternatives are even available.) This is just an example of one feed mill for one day and usually poor rail service is not isolated

to one facility nor is the duration of the poor rail service limited to only one day.

Has this issue changed with the implementation of operating changes generally referred to as precision scheduled railroading?

Yes. From a shipper/receiver point of view, the primary negative issue with the reduction of Class I rail system capacity due to the implementation of so-called “precision scheduled railroading” (“PSR”) principles and methods is that it can exacerbate FMLM service issues, which lead to the above-described adverse results at shipper facilities.

In recent years, nearly every Class I rail carrier has attempted to reduce its operating ratio—a measure of profitability that compares operating expenses to revenues—by adopting operating strategies, like PSR, that involve trying to provide timely service with minimal equipment, locomotives, and employees. Unfortunately, the implementation of PSR has resulted in a marked increase in multi-day delayed train starts, missed switches, extended transit time, excessive dwell times, reduced train velocity, and mishandled freight.

Rationing railroad system capacity inevitably results in poor service and significant risk for rail customers, in that a sudden increase in freight demand or a severe weather event can quickly trigger a severe and long-lasting disruption to rail service because there is no “slack” in the system. The removal of system capacity through PSR may make the rail carriers more profitable, but it comes at a high cost for their rail customers, and subsequently, the American consumer. Some of the FMLM issues that NGFA believes can be traced to PSR implementation include:

1. Loaded cars that are held by carriers in rail yards awaiting locomotives or crews, or for other reasons, and are consequently not physically placed at the customer’s facility for unloading.
2. A growing trend of instances where carriers have significantly delayed pulling

railcars from facilities for which they have been notified are billed and ready to be picked up and transported to the destination or interchange point. In addition to delaying overall service from origin to destination or interchange point, this practice occupies track space at the facility, potentially preventing the loading or unloading of inbound railcars. This disrupts the overall plant operations. However, shippers seldom have the bargaining power to impose financial incentives for railroads to remove cars from shipper tracks that remain beyond a reasonable time.

3. Railroads that increasingly are not promptly returning privately owned or leased rail cars after they are released to the carrier at destination. This practice imposes significant economic losses on shippers and receivers attributable to their inability to utilize their assets, and the rail carrier's inefficiency in returning cars leads to shippers and receivers having to purchase even more cars.

4. Lastly, arbitrary reductions by the rail carrier in the number of switches, delays in providing switches, and entirely switches.

How do you typically try to address the issue?

First, rail customers may implore railroad representatives, such as the local yardmaster or the railroad's customer service department, to provide better service. Next, rail customers may contact the STB's Rail Customer and Public Assistance staff to alert them of the issue and ask them to contact the carrier. Some shippers evaluate formal complaint options at the STB or the court system. When these options are exhausted or rejected, rail customers may lease or buy additional railcars, reformulate products, utilize trucks at a higher cost, and/or slow down or shut down plant operations.

What is communication regarding this issue like between shippers and carriers?

The level of communication between shippers and carriers varies depending on a number

of disparate factors, such as the size of the shipper, the commodity being shipped, the Class I railroad involved, etc. However, as a general matter, the adoption of PSR has resulted in significant reductions in the staffing of rail customer service departments, and communication between rail carriers and rail customers has suffered. Also, the change to automated demurrage and detention billing has made it more difficult for rail customers to communicate FMLM challenges and resolve disputes.

What remedies are available to you?

Available remedies to NGFA members for FMLM service failures include contacting the STB Rail Customer and Public Assistance staff, using alternative transportation at higher transportation rates, buying or leasing additional equipment, and evaluating formal legal recourse such as an unreasonable practices case.

B. Design of Additional Service Metrics for FMLM Data.

What, if any, existing information or metrics (collected by the Board or maintained by carriers) facilitate an understanding of the issue?

The NGFA recommends the Board continue to collect the existing rail service metrics. Each of the metrics facilitate an understanding of the overall rail service issue and more proverbial “pieces of the puzzle” are needed, not less.

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).

The NGFA recommends weekly reporting of metrics to provide timely and useful service information. Below are the service metrics the NGFA believes would be the most useful additions to assist in resolving FMLM issues. The list represents the most useful data to the NGFA and is not exhaustive. For each item, the NGFA recommends separate reporting for

manifest and unit train traffic.

- 1) For closed-gate facilities at origin and destination, the NGFA recommends measuring the time difference between constructive placement, ordered for placement, and actual placement.
- 2) For closed- and open-gate facilities, the NGFA recommends measuring the time difference between released loaded and pulled.
- 3) For closed- and open-gate facilities, the NGFA recommends measuring the time difference between released empty and pulled.
- 4) For open-gate facilities, the NGFA recommends measuring the time difference between the original estimated time of arrival on the trip plan and the actual placement.
- 5) For closed-gate facilities, the NGFA recommends measuring the time difference between the original estimated time of arrival on the trip plan and constructive placement, ordered for placement and actual placement.
- 6) For open-gate facilities, the NGFA recommends measuring the time difference between when the train is 48 hours from destination according to the trip plan versus actual placement.
- 7) For closed-gate facilities, the NGFA recommends measuring the time difference between when the train is 48 hours from destination according to the trip plan versus constructive placement, ordered for placement and actual placement.
- 8) For open-gate facilities, the NGFA recommends measuring the time difference between when the train is 24 hours from destination according to the trip plan versus actual placement.
- 9) For closed-gate facilities, the NGFA recommends measuring the time difference between

when the train is 24 hours from destination according to the trip plan versus constructive placement, ordered for placement and actual placement.

10) For closed-gate facilities, the NGFA recommends measuring daily the number of cars ordered for placement versus actual placement.

11) For closed- and open-gate facilities, the NGFA recommends measuring daily the number of cars released loaded versus pulled.

12) For closed- and open-gate facilities, the NGFA recommends measuring daily the number of cars released empty versus pulled.

How and at what level should any metrics be reported (individual shipper, local, regional, or national)?

The NGFA recommends requiring rail carriers to report aggregated statistics at the regional level to the Board. To help rail customer operations, the NGFA recommends rail carriers provide facility-level statistics to their rail customers.

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?

The NGFA recommends focusing on FMLM service and car trip plan compliance. The car trip plan is another service data metric that would provide significant benefit to rail customers.

Who would use any such information or measurements, and how?

This data will be useful to shippers and receivers for more efficiently planning operations and more accurately gauging when contingency plans are needed.

What are the specific benefits, if any, that would arise from the use of any suggested metrics?

The most immediate benefits would be the opportunity to enhance the utilization of shipper and receiver assets and labor scheduling.

Would reports to the Board, shipper surveys, reports directly to individual shippers, or some other type of information be helpful to clarify the issue?

Reports to the Board and directly to individual shippers would be helpful. Aggregated data reports to the Board would provide for public data reporting and enhanced transparency for the benefit of rail customers and society. Individual facility reports to rail customers would provide shippers and receivers with the ability to assess their situations more accurately and negotiate for enhanced rail performance and increase their own performance by better aligning their assets and labor with the carrier performance.

V. Conclusion

For the reasons outlined in these comments, the NGFA believes the Board's request for data on FMLM rail service can lead to significantly enhanced rail service, if the metrics are designed correctly and service expectations are adequately communicated and enforced with rail carriers.

The NGFA appreciates the Board's consideration of its comments.

Respectfully submitted,

Sincerely,



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