

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Ex Parte No. 767**

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ENTERED  
Office of Proceedings  
February 17, 2022  
Part of  
Public Record

***FIRST-MILE / LAST-MILE SERVICE***

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**NORFOLK SOUTHERN RAILWAY COMPANY  
REPLY COMMENTS**

Norfolk Southern Railway Company (“Norfolk Southern”) files these reply comments in response to the feedback provided by shippers and railroads in opening comments to the Board’s request for comment published on August 31, 2021 regarding First-Mile/Last-Mile (FMLM) Service. Norfolk Southern reaffirms its opening comments of December 17, 2021 and additionally files these reply comments to address concerns with the wide-ranging proposals made by shippers. In these reply comments, Norfolk Southern explains why market-based solutions to data sharing between railroads and their customers are more appropriate and reiterates its concern that the collection of the proposed data would conflict with the Paperwork Reduction Act and would not ultimately address the issues raised by the Board.

***1. Shippers Failed to Justify Their Extensive Data Requests.***

The Board asked parties to identify FMLM service issues and to develop and suggest metrics around those service issues. *See* Decision, *First-Mile/Last-Mile Service*, Ex Parte 767 (decided Aug. 31, 2021) at 4 (requesting comment “from the shipping community, carriers, and the public concerning what, if any, FMLM issues they consider relevant” and seeking “recommendations as to specific additional data

commenters view as important to identify FMLM service concerns that is not now being reported to the Board”). Given the broad invitation, shippers requested high volumes of wide-ranging data. Many of the requested data points are highly specific and narrowly defined, spanning a broad spectrum of service metrics. *See, e.g.*, The International Liquid Terminals Association Opening Comments, Ex Parte 767 (requesting railroads report ten (10) additional data points); American Chemistry Council, American Fuel & Petrochemical Manufacturers, and The Fertilizer Institute Opening Comments, Ex Parte 767 (requesting eight (8) additional metrics and a complex reporting scheme); The National Industrial Transportation League Opening Comments, Ex Parte 767 (suggesting railroads should publish set schedules and report data about trip performance, trip plan compliance and interchange performance with respect to those published schedules).

As a threshold matter, shippers did not explain why the myriad proposed data would be more useful than information already available to them. Shippers’ requests are generally rooted in pipeline and inventory management. As stated in its opening comments, Norfolk Southern already provides information and tools to our customers which serve these important goals. This is generally consistent with the information provided by other carriers. *See generally*, BNSF Opening Comments, Ex Parte 767; CN Opening Comments, Ex Parte 767; CSX Opening Comments, Ex Parte 767. Shippers did not explain how the various proposed metrics would meet their needs better than the information already provided by Norfolk Southern and other carriers.

Additionally, much of the requested information is outside the scope of local, or FMLM service. For example, the Institute of Scrap Recycling Industries requested that carriers report on-time delivery percentage. *See* Institute of Scrap Recycling Industries Opening Comments, Ex Parte 767 at 9. However, on-time delivery percentage would not offer a complete, accurate picture of local service. A carrier can fail on on-time delivery for a variety of reasons, but experience smooth local service, so that data point would be misleading in the context of FMLM service.

In short, the wide-ranging requests are not clearly rooted in any justified need for more data that would solve service issues. As customers have noted, service problems are the result of a wide variety of factors, many of which are customer specific. *See, e.g.,* WCTL Opening Comments, Ex Parte 767 at 29. Thus, customer-specific data, such as that provided by Norfolk Southern's customer experience platforms, is what is likely to be most useful. That data is already provided to customers; and the commenters have not explained how publicizing and aggregating what is inherently customer-specific data points would enhance service. Data for data's sake should not justify burdensome regulation.

## ***2. The Board Should Consider The Anticipated Burdens And Its Paperwork Reduction Act Obligations.***

In its opening comments, Norfolk Southern observed the Board's obligation to comply with Paperwork Reduction Act requirements. Having now reviewed and considered the various proposals, Norfolk Southern urges the Board to honor this obligation by declining to adopt a new reporting requirement.

The Paperwork Reduction Act aims to “minimize the paperwork burden” on certain entities, including corporations, and to “ensure the greatest possible benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government”. *Paperwork Reduction Act*, § 3501 (1995). To comply with this statutory directive, the Board must consider both the utility of the requested information and the estimated burden on the industry. As discussed above, the utility of the information requested is not well established. Further, the anticipated burden is quite high.

A new reporting requirement including even a small portion of the information requested by shippers and similarly aligned parties in their opening comments would unreasonably burden carriers. Norfolk Southern tracks almost none of the suggested metrics in the form suggested by the commenters. Even if the underlying data is available, it would require costly, time-consuming, and labor-intensive internal changes. The various reporting schemes proposed would further compound this burden by requiring various sets of the same data packaged differently.

The Board must be mindful of the cumulative burden on the industry. To emphasize a point made in Norfolk Southern’s opening comments, carriers already report a significant volume of service-related data to the Board. Given the Board’s technological infrastructure, this data must be pulled, assembled, and submitted manually. This is a time and labor-intensive process. An additional requirement would further increase the cumulative burden on carriers to an impermissible degree.

In its opening comments, BNSF stated that “[a] generalized desire for more transparency into FMLM data does not justify burdensome regulatory action, especially considering the significant amount of FMLM data that is already available to [] customers.” BNSF Opening Comments, Ex Parte 767 at 10. Norfolk Southern agrees. Especially in light of the proposals and explanations offered by the shippers, a new reporting requirement would not be appropriate and would be inconsistent with the directives in the Paperwork Reduction Act.

### ***3. Carrier-Driven Customer Experience Platforms Allow For Innovative Data Solutions.***

There is a better approach than government-mandated service reporting. Innovative carrier solutions can address shifting service-related needs more effectively than additional reporting requirements. Prescriptive regulatory requirements are inherently fixed and inflexible, subject to lengthy procedural hurdles if modifications are needed. In contrast, a carrier can nimbly adapt its customer experience offerings to changing customer needs. As explained in opening comments, Norfolk Southern regularly solicits customer feedback into its customer experience platform and responds to that feedback through platform updates. *See* Norfolk Southern Opening Comments, Ex Parte 767 at 2 (discussing the ways Norfolk Southern solicits and incorporates feedback into its customer experience tools). This continuous improvement ensures Norfolk Southern and customers are aligned in working towards more efficient pipeline and inventory management.

Norfolk Southern's approach works. Recent internal survey results indicate that customers are satisfied with the customer experience tools offered by Norfolk Southern. These results further illustrate that carrier-customer collaboration is the best way to optimize the delivery of service-related data, without the need for further regulatory intervention. Further, these non-regulatory solutions pair customer-specific information with actionable tools within the customer experience platform. This can have a more meaningful impact on service than data alone.

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After reviewing the suggestions submitted by other parties in their opening comments, Norfolk Southern maintains that the Board should not require additional reporting. If the Board takes any action at all, the Board should encourage carriers to continue to innovate and develop platforms that enable customers to receive real-time information about their shipments, thereby providing those customers with advanced tools to manage their rail pipelines.

February 17, 2022

Respectfully submitted,

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