

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**Ex Parte No. 767
FIRST-MILE / LAST-MILE SERVICE**

REPLY COMMENTS OF CSX TRANSPORTATION, INC.

CSX Transportation, Inc. (“CSXT”) respectfully submits these reply comments pursuant to the Board’s decision inviting comment about first mile/last mile service and metrics served on September 2, 2021 in this proceeding.¹ CSXT also joins in the reply comments of the Association of American Railroads.

As explained on opening, CSXT believes it is important to provide its customers with supply chain visibility. That is why CSXT has developed online tools to provide its customers with extensive information through ShipCSX and why it continues to explore ways to provide information and transparency related to local service.

Some opening comments expressed generalized concerns with first mile/last mile service and seek various forms of data reporting. As CSXT explained on opening, the up-to-date customer-specific information related to first mile/last mile service that it provides directly to the customer in a convenient online platform is the best source of real time performance data. CSXT continues to believe that an aggregated data reporting metric for first-mile/last-mile service would not be useful

¹ *First-Mile/Last-Mile Service*, Docket No. EP 767 (STB served Sept. 2, 2021) (“Decision”).

and that no new reporting regulations should be proposed. If, however, the Board does intend to propose new reporting for first mile/last mile, it should be narrowly tailored and should include information as to causation.

I. CSXT is committed to providing excellent service to its customers.

CSXT is focused on providing high quality transportation service and customer service. The ability to provide such service is critical to CSXT's ability to compete with other transportation providers and to its overall success.

Some comments cite anecdotal service problems as a reason for the Board to mandate new data reporting.² While CSXT takes seriously concerns from its customers about service, it is impossible for CSXT to respond to these types of anecdotes presented by shipper associations without more information.

CSXT serves more than 5,000 customer facilities. While it strives to maintain excellent service at all times, there will be inevitably be instances where local service is not performed according to plan—due to weather, shipper fault, or CSXT's own fault. Like all businesses, CSXT has been impacted by COVID and the supply chain challenges. CSXT continues to work towards the goal of delivering to its customers in the most efficient and reliable manner, and encourages its customers to reach out directly with any concerns so that CSXT can work towards resolution.

² See, e.g., Opening Comments of National Association of Chemical Distributors, at 2-6 (filed Dec. 16, 2021); Opening Comments of Private Railcar Food & Beverage Association, at 16-20 (filed Dec. 17, 2021).

But the comments have not shown that mandatory system-wide reporting is the appropriate response to anecdotes about first mile/last mile misses, and such anecdotes certainly should not form the basis for any proposed rule.

II. Customer-specific information is more useful than aggregated data.

CSXT appreciates that shippers want transparent information about service to their own facilities. As CSXT explained on opening, customer-specific information is more useful than aggregated data.

The Board already collects a significant amount of aggregated performance data through regulations adopted in Docket No. EP 724 (Sub-No. 4) and (Sub-No. 5). The Board's decision in this docket references that reporting, as do a number of opening comments. Those reporting regulations were adopted as a tool to identify trends and monitor potential regional or national system-wide service issues.³ The Board's proposed reporting came at the urging of shippers and after public hearings, interim reporting, two rounds of written comment, and meetings with the public to address technical issues.

Yet now, some commenters in this proceeding suggest that the 724 data, which the railroads submit on a weekly basis, are not useful and are imprecise.⁴ Any form of aggregated performance data, however, will by its very nature be

³ See *U.S. Rail Service Issues—Performance Data Reporting*, Docket No. EP 724 (Sub-No. 4), at 22 (STB served Apr. 29, 2016) (main objective of reporting rules to identify trends and monitor potential service issues on Class I railroads).

⁴ See, e.g., Opening Comments of Institute of Scrap Recycling Industries, Inc., at 6 (filed Dec. 17, 2021) (the reported 724 data “provides an incomplete, if not misleading picture of the overall rail service”); Opening Comments of U.S. Department of Transportation, at 2 (filed Dec. 17, 2021) (current metrics are “imprecise”).

imprecise. Indeed, the U.S. Department of Transportation appropriately urged caution in Docket No. EP 724 (Sub-No. 4) about drawing conclusions about the state of the industry from aggregated data.⁵

The aggregated first mile/last mile data that some commenters seek now would suffer from the same limitations as the existing aggregated performance data, but those limitations would potentially be more pronounced due to the nature of first mile/last mile service. It is questionable whether aggregated first mile/last mile data would provide meaningful insight into trends in overall service. Indeed, some commenters acknowledge the limitations associated with an aggregated metric.⁶

If the Board ultimately determines that there is a need for additional insight into overall service trends beyond the tools it already has available, then it must be clear about the inherent limitations associated with such reporting and consider the burden of requiring railroads to report additional data.

Aggregated data will not inform shippers about their own service, yet that appears to be a common theme in many of the opening comments by shipper

⁵ Reply Comments of U.S. Department of Transportation, *U.S. Rail Service Issues—Performance Data Reporting*, Docket No. EP 724 (Sub-No. 4), at 8 (filed Apr. 29, 2015). The Department of Transportation also agreed that the Board was appropriately concerned with weighing costs and benefits of the proposed data reporting. *Id.* at 8-9.

⁶ See, e.g., Opening Comments of American Petroleum Institute, at 7 (filed Dec. 17, 2021) (“[a]s data is rolled up to the national level, it provides less insight and is less actionable but can still be a useful metric to determine overall trends.”); Opening Comments of Diversified CPC International, Inc., at 5 (filed Dec. 17, 2021) (“[a]verages and system-wide reports can lack meaning”).

associations.⁷ The other common theme is that customer-specific information is already provided by many railroads, including CSXT, directly to the customer.⁸ To the extent shippers seek information that will be helpful to their own businesses and operations, aggregated metrics will not provide useful information.

CSXT recently reviewed statistics regarding the number of subscribers to its online tools that provide information relating to first mile/last mile service. Other than pipeline alerts (to which CSXT automatically subscribes all of its merchandise customers), it appears that many of the subscription alerts are under-utilized. CSXT urges its customers to familiarize themselves with CSXT's available tools and will be considering ways to increase customer awareness of these tools.

III. The Board should not propose new reporting, but if it does, it must account for causation or the data would lack meaning.

Some shipper comments seek various forms of data reporting, with some commenters seeking a collection of extensive and potentially burdensome information. The Board did not identify a problem in its request for comments in this proceeding, instead seeking comment on “what, if any, [first mile/last mile]

⁷ See, e.g., Opening Comments of Shipper Associations, at 31-32 (filed Dec. 17, 2021) (providing data directly to customer necessary to enable a customer to identify extent to which first mile/last mile issues are impacting its facilities); Opening Comments of American Petroleum Institute, at 7-8 (filed Dec. 17, 2021) (discussing data to be reported from carrier to the shipper at the shipper level); Opening Comments of Institute of Scrap Recycling Industries, Inc., at 8 (filed Dec. 17, 2021) (discussing benefit of rail customer access to data for their facilities); Opening Comments of National Grain and Feed Association, at 11 (filed Dec. 17, 2021) (facility-level statistics provided to customers would help rail customer operations).

⁸ See, e.g., Opening Comments of BNSF Railway Company, at 3-9 (filed Dec. 17, 2021); Opening Comments of CN, at 3-12 (filed Dec. 17, 2021); Opening Comments of CSX Transportation, Inc., at 2-7 (filed Dec. 17, 2021); Opening Comments of Norfolk Southern Railway Company, at 1-9 (filed Dec. 17, 2021).

issues [are] relevant” and “whether further examination of [first mile/last mile issues is warranted.”⁹ The Board’s decision appears to have been prompted by letters from shipper associations relating to first mile/last mile service.¹⁰ But the Board should not impose regulatory data reporting requirements just for the sake of having more information and it needs to be mindful of weighing the costs and benefits of any proposed reporting. Before burdening the railroads with additional reporting obligations, there needs to be an identified problem and solution that is narrowly tailored to address that problem.

If the Board is inclined to propose reporting regulations, which CSXT does not believe it should, then the Board should be cognizant of the practical limitations associated with first mile/last mile data. For example, overall trip plan compliance for interline moves would be extremely difficult to provide. And it is unclear how overall trip plan compliance would provide insight into first mile or last mile service.

More importantly, many commenters fail to recognize that first mile/last mile service is often impacted by actions outside a railroad’s control, including shipper actions.¹¹ For example, CSXT might be unable to provide such service if cars are improperly loaded, if loading or unloading is not complete, or if the facility’s track

⁹ Decision, at 4.

¹⁰ *See id.*

¹¹ The National Industrial Transportation League acknowledges that missed switches can occur due to rail customers’ mistakes, but believes that that happens less frequently, though provides no evidence to support that supposition. *See* Opening Comments of the National Industrial Transportation League, at 4 (filed Dec. 17, 2021).

condition is inoperable. There are also instances where the cause of a first mile/last mile “miss” is properly attributed to CSXT—for example, engine failure or the railroad’s track condition. CSXT recognizes that these types of on-the-ground issues can arise, and when they do, it works with its customers to make real-time decisions that are in the best interest of both parties and keeps its customers informed through direct customer notifications, as discussed on opening.

All of this underscores the complicated nature of first mile/last mile operations and the fact that context is needed. For this reason, CSXT strongly disagrees with the Shipper Associations’ argument that any first mile/last mile reporting should be “objective,” meaning that it should “not be influenced by personal opinions or interpretations, such as individual determinations of causation.”¹² Any first mile/last mile data reporting without causation would be meaningless. Even worse, it would inevitably lead to inaccurate and uninformed inferences from the data. To be useful at all, causation would have to be reflected within any first mile/last mile reporting metric.

IV. Conclusion.

CSXT appreciates the Board’s desire to gain further insight into first mile/last mile service, but does not believe that regulation in this area is necessary. CSXT and other railroads are already providing detailed information to customers. The record does not identify a problem, let alone a problem for which mandatory first mile/last mile reporting is the answer. If the Board nonetheless intends to

¹² Opening Comments of Shipper Associations, at 13 (filed Dec. 17, 2021).

move forward with a proposal, CSXT urges the Board to carefully evaluate the burdens associated with any proposed reporting and whether those burdens outweigh the benefits.

John P. Patelli
David Prohofsky
CSX TRANSPORTATION, INC.
500 Water Street
Jacksonville, FL 32202

Respectfully submitted,

/s/ Matthew J. Warren
Matthew J. Warren
Sidley Austin LLP
1501 K Street, N.W.
Washington, DC 20005
(202) 736-8000

Dated: February 17, 2022