PILOT COMPANY

Comments of Pilot Travel Centers LLC
STB Docket No. EP 770, Urgent Issues in Freight Rail Service
April 22, 2022

Pilot Travel Centers LLC submits these comments pursuant to the Surface Transportation Board's notice served April 7, 2022, in this proceeding.

Identity and Interest of Pilot
Pilot, including itself and its wholly owned subsidiaries, keeps North America's drivers moving as one of the largest distributors of fuel, diesel exhaust fluid (DEF),[1] ethanol, biodiesel, and renewable diesel throughout the United States and the largest operator of travel centers in North America. Through Pilot's sourcing infrastructure, Pilot accounts for approximately 20% of the country's highway diesel, renewable diesel, and biodiesel and approximately 30% of the country's DEF supply. Pilot also has a network of over 750 retail and fueling locations across 44 States and six Canadian provinces.

Pilot faces a severe rail-service reduction.
On April 13, 2022, Union Pacific notified Pilot that Union Pacific wanted to lower the car inventory on its network and, to avoid an embargo on Pilot's traffic, Pilot must reduce its shipments by approximately 26%. The following week, Union Pacific demanded that Pilot reduce its shipments even further to 50% or potentially face an embargo.

Union Pacific claims that these reductions are necessary to reduce Pilot's shipment volumes to January 2022 levels, but Pilot's shipment volumes have not increased since January. Union Pacific has overlooked that Pilot has merely become the shipper of record for a greater proportion of its shipments, but it has not increased its shipment volumes. Historically, Pilot's suppliers have been the shipper of record for shipments to Pilot. Rail service issues this year have prompted Pilot to become the shipper of record on its shipments since this provides Pilot flexibility to divert railcars as necessary to avoid supply issues. Union Pacific nevertheless refuses to acknowledge that Pilot's actual shipment volumes have been stable.

Union Pacific's failure to account for Pilot's actual shipment volumes and the severe shipment reductions it is demanding from Pilot significantly and disproportionately impact Pilot compared to other shippers. Pilot is unaware of any other shipper that is facing demands from Union Pacific to reduce traffic volumes below January 2022 levels, let alone at levels approaching anywhere near 50%.

[1] DEF is injected into the exhaust of diesel vehicles to reduce nitrous oxides, which are harmful greenhouse gases.

Pilot certainly understands and appreciates that Union Pacific and other railroads face operational challenges. Yet Union Pacific's recent demand that shippers reduce traffic volumes is not the first time in recent years that it has reduced service. Following its implementation of Precision Scheduled Railroading (PSR), Union Pacific reduced railcar delivery frequency at certain Pilot facilities. This not only disrupted traffic and facility operations while Pilot reconfigured facility infrastructure and operations to accommodate fewer serving days, but also led to congestion on Union Pacific's network. Now, after Union Pacific's adoption of PSR has taken resiliency out of Union Pacific's network and reduced service levels to Pilot, Union Pacific is imposing devastating shipment reductions on Pilot.

The rail-service reduction facing Pilot will have a substantial negative impact on fuel supply and highway transportation.

Union Pacific's restrictions on Pilot will have a substantial impact upon the nationwide supply of fuel and DEF. This will not only impact Americans at the fuel pump, but also it will impair the trucking industry's ability to absorb traffic that Union Pacific is refusing to handle and other railroads are having difficulty serving. Examples of the potential impact include:

- Shortages of DEF. Trucks manufactured in year 2010 or later cannot operate without DEF, and Pilot is the largest supplier of DEF to the nation's Class 8 truck fleets and independent truck operators. As rail-transportation issues continue, the demand for truck transportation will increase thereby increasing demand for DEF and diesel fuel to keep trucks operating on the road. Pilot is one of the nation's largest DEF distributors, owning and/or operating 23 rail-served DEF-blending terminals and 18 DEF railcar-transloading facilities throughout the United States. Since DEF typically moves in large volumes and over long distances, Pilot depends heavily on rail transportation to supply DEF to markets throughout the country. The rail-service restrictions that Union Pacific is proposing will prevent Pilot from keeping many markets adequately supplied with DEF, likely causing shortages that will sideline trucks and reduce trucking capacity.[2]

- Renewable diesel supply issues in California. California has implemented its Low Carbon Fuel Standard, which imposes carbon-intensity standards for fuels and encourages use of low-carbon and renewable fuel. Additionally, the entry of renewable diesel into the California market has led to shutdowns of some petroleum-based refineries in the state and thus made California more reliant on renewable diesel, which is produced mainly in the central U.S. and must move by rail to California due to shipment volumes and distance. Because renewable diesel supply relies heavily on rail transportation and given that Pilot is one of the largest suppliers of renewable diesel and truck stop operators in California, Union Pacific's restrictions on Pilot's shipment volume could have a significant impact on Pilot's ability to meet the demand of renewable diesel in the California market, leading to fuel shortages and higher fuel prices.

[2] On average, a single railcar can fill 3,275 trucks with DEF. Thus, loss of a single railcar can take 3,275 trucks off the road.

Shortages of renewable diesel in California may cause severe supply chain disruptions. In 2021, 31% of U.S. containerized waterborne import cargo moved through California's San Pedro Bay Port Complex for destinations throughout the United States.[3] Trucks handle the inland movement of approximately 65% of this traffic.[4] Also, in 2017, California was the leading state in value of goods shipped to other states and was second to Texas in value of goods shipped intrastate and inbound from other states.[5] Trucks handled approximately 77% of shipments within California, by value; 58% of shipments outbound from California to other states; and 47% of shipments inbound from other states.[6]

- Gasoline shortages affecting the Las Vegas region and metropolitan areas. Today, finished product gasoline is made by mixing fuel blend stock from refineries with ethanol, which increases the octane of the blend stock to the minimum octane needed for gasoline engines. Pilot supplies approximately 95% of Las Vegas's ethanol demand by railcars that move from Pilot's ethanol facility in Ord, Nebraska, to Pilot's rail terminal in Las Vegas. Because the Ord facility is captive to Union Pacific and Union Pacific is the only freight railroad serving Las Vegas, Union Pacific's threatened restrictions on Pilot's traffic volumes will likely result in shortages of ethanol necessary to produce gasoline for the Las Vegas market, causing the market to experience significant gasoline shortages and increases in gasoline prices. Other major metropolitan markets that Pilot supplies with ethanol and are captive to Union Pacific, like Reno and Tucson, will face similar impacts.

Additionally, these restrictions strand Pilot's investments in rail transportation. For example, Pilot built a new ethanol terminal in Las Vegas in 2020 at Union Pacific's request to make the movement of railcars into the city more efficient. If Union Pacific imposes its proposed 50% reduction on Pilot's traffic, this facility will be underused and fail to provide the level of benefits that Pilot expected when it invested in the facility. Union Pacific's failure to reciprocate with reliable and adequate service is alarming.

To address this and other rail-service issues, the Board should be poised to issue emergency service orders on its own initiative.

Pilot urges the Board to use its authority under 49 U.S.C. § 11123 to prevent railroads from unreasonably singling out shippers for service reductions, like Union Pacific has done to Pilot. Section 11123(a) allows the Board to direct service and take other measures temporarily to promote commerce and service to the public upon finding either that a failure of traffic movement creates

[3] *Facts & Figures*, Port of L.A., https://www.portoflosangeles.org/business/statistics/facts-and-figures (last visited Apr. 22, 2022).

[4] *See Rail*, Port of L.A., https://www.portoflosangeles.org/business/supply-chain/rail (last visited Apr. 22, 2022) (stating that 35% of containers use the Port of Los Angeles' rail network).

[5] *Freight Analysis Framework*, Nat'l Transp. Rsch. Ctr., https://faf.ornl.gov/faf5/SummaryTable.aspx (last visited Sept. 10, 2021) (follow "2017" hyperlink for "Tonnage/Value for shipments Within, From, and To State by Trade Type and Mode" table).

[6] *Id.*

an emergency situation that would have substantial adverse effects on shippers or on rail service in a region of the United States or that a rail carrier cannot transport traffic offered to it in a manner that properly serves the public. Also, section 11123(b) allows the Board to take these actions on its own initiative. The Board should use this authority to investigate Union Pacific's attempts to reduce service and prevent Union Pacific from reducing service to Pilot and others in an arbitrary and unfair manner, without regard for the potential severe impacts that these reductions will have on the public.

Pilot is committed to help ease rail congestion. But the way Union Pacific's service restrictions are disproportionately impacting Pilot's fuel and DEF supply as compared to others, without consideration, preparation, or forethought to how these restrictions will impact fuel supply throughout the country is irresponsible and reckless, at best. Pilot respectfully requests that the Board prevent Union Pacific from imposing these restrictions and require Union Pacific to identify service reductions using actual shipment volumes and accounting for impacts on critical infrastructure sectors.[7]

Respectfully submitted,

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[7] Presidential Policy Directive 21 identifies the energy sector as "uniquely critical due to the enabling functions [it] provide[s] all crucial infrastructure sectors." Directive on Critical Infrastructure Security and Resilience, 1 Pub. Papers 106, 107 (Feb. 12, 2013), https://obamawhitehouse.archives.gov/the-press-office/2013/02/12/presidential-policy-directive-critical-infrastructure-security-and-resil.