

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

EX PARTE DOCKET No: 770 (Urgent Issues in Freight Service)

SMART-TD'S SUPPLEMENTAL COMMENTS

The Transportation Division of the Sheet Metal, Air, Rail, and Transportation Workers ("SMART-TD") hereby submits the following as its Supplemental Comments in the above-referenced matter. SMART-TD, formerly United Transportation Union, is the largest railroad operating union in North America, representing employees on every Class I railroad, as well as employees on many regional and short-line railroads. Membership is drawn primarily from the operating crafts in the railroad industry, and includes conductors, brakemen, switchmen, ground service personnel, locomotive engineers, hostlers, and workers in associated crafts, as well as the craft or class of Yardmasters.

SMART-TD is submitting the following Comments to highlight areas of particular concern to SMART-TD and its members, including the effect of abolishing jobs and/or continued inadequate staffing, very long trains, and yard closures on rail service. Along with submitting its own Comments, SMART-TD also concurs in the Supplemental Comments filed on May 22, 2023 by a number of unions, including the Brotherhood of Maintenance of Way Employees Division/IBT; Brotherhood of Railroad Signalmen; International Association Of Boilermakers; International Association Of Machinists And Aerospace Workers District #19; International Association of Sheet Metal, Air, Rail and Transportation Workers Mechanical Division; National Conference of Firemen and Oilers, 32BJ/SEI; and the Transport Workers Union of America; and

the Supplemental Comments submitted by the Brotherhood of Locomotive Engineers and Trainmen (“BLET”) (hereinafter collectively referred to as “the Unions) filed on June 6, 2023.

The service issues caused and/or exacerbated by the railroads’ so-called “Precision Scheduled Railroading” operating model, involving drastic cuts to personnel, have been well documented in these and other proceedings. *See, e.g.*, Urgent Issues in Freight Rail Service, STB Ex Parte No. 770, April 26, 2022 Hearing; Oversight Hearing Pertaining to Union Pacific Railroad Company’s Embargoes, STB Ex Parte No. 772 (December 14, 2022). As demonstrated therein, those arbitrary cuts, combined with very long trains, improper makeup of trains, and yard closures, have created an untenable situation in terms of service to shippers, and safety of employees and the public at large. *See, e.g.*, Testimony of Jeremy Ferguson and Matt Burkhart, Urgent Issues in Freight Rail Service, STB Ex Parte No. 770, April 26, 2022 Hearing, Tr. 108:16-134:19 and 136:8-139:2 (describing service and safety issues of very long trains in excess of 10,000 feet); *see also* [Investigative Hearing: Norfolk Southern Railway Train Derailment with Subsequent Hazardous Material Release and Fires \(ntsb.gov\)](#); Safety Advisory 2023-02, Train Makeup and Operational Safety Concerns, Federal Railroad Administration (noting FRA has noticed rising trend in recent incidents where train build and makeup have been identified as a potential cause or contributing factor).

As set forth in the Unions’ Supplemental Comments, total Class I union membership has been cut dramatically from 2016 to 2023. For the Board’s ready reference, those numbers are summarized below:

<u>Union</u>	<u>Craft(s) Represented</u>	<u>2016 Total Class I Membership Level</u>	<u>2023 Total Class I Membership Level</u>	<u>Percentage Decrease</u>
BLET	Engineers, Train Service Employees	32,118	25,514	20.56%
BMWED	Maintenance of Way Employees	25,854	20,506	20.68%
BRS	Signalmen	9,037	6,937	23.24%
IAM	Clerks	6,800 in 2019	4,937	27.4%
IBEW (excluding CN and CP)	Electricians	5,831	3,522	39.6%
NCFO	Fireman & Oilers	2,987	1,668	44.16%
SMART-MD (BNSF, CSXT, NS, UP)	Mechanics	995	570	42.71%
SMART-TD	Train Service Employees, Engine Service Employees, and Yardmasters	42,014	29,051	30.85%
TWU	Car inspectors, car repairmen, welders, crane operators, carpenters, on-board service workers, cleaners, trackmen, flagmen	960	504	47.5%

Rail employees have traditionally been separated among historical craft or class lines, with such employees honing skills and expertise over time to safely and efficiently perform the duties and responsibilities required for their respective craft or class. Train service employees' duties involve the overall responsibility for the operation of the train, including reviewing orders, calling signals, communicating with dispatchers, cutting cars, and throwing switches, among other things. A Yard Foreman or local switcher is a freight conductor within a rail yard, whose duties and responsibilities consist of the safe and proper movement of the train within the yard boundaries, which include the switching of inbound and outbound trains. Road conductors are generally responsible for the safe and efficient operation of the train over the road (*i.e.* between

yards), and ensuring that cars are “set out” and delivered to the appropriate stop or shipper.

Yardmasters are generally responsible for supervising the operating craft employees who are directly engaged in the switching, blocking, classifying, and handling of cars in a yard. They are additionally responsible for ensuring that trains are made up correctly, *i.e.* how individual railcars are placed that make up a train.

Given the integral role that Train Service Employees and Yardmasters play in the makeup and movement of trains, it is no surprise that as the Class I railroads have continued to cut jobs, run longer and longer trains, and close yards, they have also failed to meaningfully improve service to and from shippers, which not only impacts those shippers, but also consumers and the general public. As noted previously, these cuts are not limited to train service employees, but rather spread across all crafts. As the Railroads continue to cut staffing for other crafts and classes, more work is required to be performed by fewer hands, which may lead to Carriers placing duties performed by other crafts onto the backs of already overworked Train and Engine Service crafts. This will only compound these problems and worsen the service to shippers, particularly where long trains are utilized. For example, with railroads running longer and longer trains, the time it takes to walk and inspect trains in excess of two miles long routinely leads to those employees timing out on hours of service and even more congestion on the rail network. When there is an issue on the road, reducing staffing levels often leads to longer than otherwise necessary wait times for diagnosis and repair, also leading to Train and Engine Service Employees timing out on hours of service. Rested crews then have to be transported to the train’s location. Meanwhile, excessively long trains often have nowhere to go, as they are too long to pull into a siding, and instead block mainline traffic, which increases congestion. All the while, shippers are not being served and traffic has slowed or stopped altogether.

There is no question that railroads are aware that increasing personnel is required for improved service, as the Board has heard from numerous executives that problems with customer service can be traced back to a lack of available train crews. While acknowledging this issue, they have at the same time been reluctant to admit their hiring and retention difficulties to this Board, where they instead contend that they are successfully hiring personnel across-the-board. Contrary to this rosy picture, the reality is quite different than what Carriers have attempted to portray in their monthly reports to the Board. While they have repeatedly stated their commitment to increase staffing, the railroads have at the same time not been shy about their intentions to greatly reduce, or entirely eliminate, the Train Service and Yardmaster crafts, which would only serve to further exacerbate delays and further bollix the rail system. Indeed, in lieu of increasing staffing, during the last round of bargaining, the railroads sought to remove the crew consist provisions, or the minimum number of train service employees on a crew, from the controlling collective bargaining agreements, giving them cart blanche to eliminate Conductors from trains. During the April 2022 hearings in this matter, then-CEO of CSX James Foote admitted what most railroads have failed to acknowledge publicly, “There is no other reason why the company is not performing other than we do not have conductors on the train. Do you want an answer? **Let us run the trains with one employee and the issue is solved.** If you want to double the number of trains that run shorter trains, double the number of trains, you’re going to need twice as many employees. It’s as simple as that.”¹ Testimony of James Foote, Urgent Issues in Freight Rail Service, STB EP No. 770, April 26, 2022 Hearing, Tr. 424:16-21 (emphasis

¹ It should be noted that the pursuit of profits by Carriers eliminates any suggestion by Mr. Foote that more trains would be available in such situations. Rather, lone engineers would be required to run the same excessively lengthy trains, only now without the support of a conductor. Any issues with a train the conductor traditionally addresses promptly would instead take hours to remedy, leading to even further congestion and delays.

added). If the railroads prevail in eliminating running trains with a one-person crew, service levels and safety will only deteriorate to never-before-seen levels. While most of the Class I (with the exception of BNSF) have for the time being withdrawn their crew consist proposals, there is no indication that these efforts will not resume in the near future, and it is in fact expected for such to occur. Furthermore, at this time, they have only increased their abolishment and consolidation of Yardmaster positions. As Yardmaster positions are abolished entirely, or transferred to yards sometimes more than 500 miles and several states away, the makeup of more and more trains are improper, so much so that the Federal Railroad Administration recently issued a safety advisory on the makeup of trains. *See* Safety Advisory 2023-02, Train Makeup and Operational Safety Concerns, Federal Railroad Administration. In addition to the safety issues posed from the improper makeup of trains, there is a direct impact on service to shippers based on the makeup of trains.

Continuing this trend of staffing cuts, yard closures, and operating very long trains is unsustainable for adequate rail service in this country. As has been urged by the shippers, labor organization leaders, and the public alike, this Board must exercise its full authority to remedy the service issues facing the rail industry today. SMART-TD concurs with the Unions' requests for the Board to do all it can as expeditiously as possible to enforce service standards and the common carrier obligation. This could take many forms, but may include imposing reporting requirements and a stakeholder comment period related to a yard closure of a certain threshold; holding an investigative hearing on the impacts of long trains and service; imposing reporting requirements regarding the length of sidings and the length of trains, and the length yard tracks

and train lengths; and issuing a decision in Ex Parte No. 767 (First Mile/Last Mile Service).² If the Board believes it lacks sufficient authority to remedy a particular service problem, it should so advise Congress, and request that such authority be delegated to the Agency.

Dated: June 30, 2023

Respectfully submitted,

/s/ Erika A. Diehl-Gibbons

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² A group of unions, including SMART-TD, submitted comments in EP No. 767 on December 17, 2021, indicating that they supported the STB requiring reporting of FMLM information as a good first step towards restoring rail service.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing SMART-TD's Supplemental Comments has been service upon the following via email this 30th day of June 2023 via email.

Parties of Record

/s/ Erika A. Diehl-Gibbons
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