

SURFACE TRANSPORTATION BOARD**Ex Parte 711 (Sub. No. 2)****Reciprocal Switching for Inadequate Service****Summary of Ex Parte Meeting Between CSX Transportation, Inc.,
and Surface Transportation Member Patrick J. Fuchs****November 14, 2023**ENTERED
Office of Proceedings
November 21, 2023
Part of
Public RecordCSXT Attendees:

- Casey Albright, Senior Vice President of Network Operations and Service Design
- John Patelli, Vice President and Chief Regulatory Counsel
- Matt Warren, Sidley Austin LLP

STB Attendees:

- Patrick Fuchs, Member
- Lisa Novins, Attorney Advisor

Meeting Summary:

CSXT thanked Member Fuchs for the opportunity to meet. CSXT explained that it understands the Board's desire to have meaningful guideposts to identify service inadequacies. CSXT explained that its main suggested improvements to the NPRM are to ensure that the Board considers the many issues that could cause a dip in a service metric over a short time frame, and relatedly to ensure that railroads have a meaningful opportunity to explain the context behind any particular metric change.

Mr. Albright explained that CSXT reviews metrics every day, several times a day, to monitor the network and improve efficiency. He explained that CSXT reviews these metrics in context and does not focus on any one metric as the arbiter of good service. For example, simply increasing train velocity does not translate to improving service unless the right cars are on the right trains. Mr. Albright also discussed how metrics need to be considered in the light of the dynamic nature of the rail network, and that factors such as maintenance projects, capital improvements, and changes in other customers' traffic can temporarily affect metrics.

Member Fuchs asked whether the qualitative approach that CSXT advocated for in its opening comments would provide a sufficiently clear path for shippers to bring petitions. CSXT said that the Board could provide guidance about evidence that it would find probative and that quantitative metrics would be relevant to that inquiry, but that CSXT believed that a qualitative approach was the best way to ensure that the rule would be focused on addressing actual service inadequacies.

Member Fuchs asked whether proposed § 1145.3 on affirmative defenses would provide sufficient avenue for a qualitative consideration. CSXT explained its concern that the

affirmative defenses specified in the NPRM were narrow and would not cover many potential scenarios that could cause a metric to dip while the railroad was providing the best available service. CSXT noted that the affirmative defense for “extraordinary circumstances” would only apply for complete track outages that could qualify for an emergency trackage rights exemption, and would not apply to major maintenance or capital investment projects. Similarly, CSXT explained that the affirmative defenses for surprise surges or highly unusual shipment patterns would only apply if the petitioner’s traffic caused the surprise surge or unusual patterns, and would not apply to scenarios where changes in other customer’s traffic affected a service metric. CSXT also noted its concern with the fact that the NPRM did not require petitioners to be alleging a current service inadequacy, and instead would allow petitions to be based on metric dips from months or years earlier.

Member Fuchs also asked about ways to ensure an accessible process for smaller shippers and welcomed any suggestions that CSXT had about ways to ensure that the rule contained a reasonable pathway for such shippers. CSXT said that it would consider the issue.

CSXT and Member Fuchs thanked each other for their time and insights and concluded the meeting.