

SURFACE TRANSPORTATION BOARD**Docket No. EP 711 (Sub. No. 2)*****Reciprocal Switching for Inadequate Service*****Summary of Ex Parte Meeting Between CN
and Surface Transportation Board Chairman Martin Oberman****November 28, 2023****ENTERED**
Office of Proceedings
December 1, 2023
Part of
Public Record

CN Attendees: Greg Hartley, Director, Asset Planning and Quality, Network Operations; Kathryn Gainey, Deputy General Counsel; Allison Davis, Sidley Austin LLP

STB Attendees: Martin Oberman, Chairman; Ellen Erichsen, Chief of Staff; Jetta Sandin, Attorney Advisor

CN thanked Chairman Oberman for the opportunity to meet to discuss CN's use of metrics. CN also encouraged the Board to hold a technical workshop on the metrics, in which CN would be an active participant. Chairman Oberman asked what CN envisioned with a technical workshop. CN discussed the technical meetings with staff that occurred in the EP 724 proceeding, and the benefits of having an opportunity for in-depth discussion with technical staff. Chairman Oberman explained his view that one of the goals of the proposal is to have standardized metrics.

Mr. Hartley explained that high-level measures are useful for understanding overall fluidity and trends, but do not include enough information to shed light on underlying causes and potential solutions for any developing trends. As an example, Mr. Hartley explained that in high grain season with larger volumes, CN looks to optimize performance through short-term opportunities, such as by having manifest traffic transported on unit trains, thus resulting in that manifest traffic having a faster transit time. In a subsequent year, if there is a poor grain season, transit time would return to normal, but that would not indicate a service inadequacy.

Chairman Oberman asked whether these types of events would be reflected in the metrics, given that the proposal would measure them over a 12-week period. Mr. Hartley discussed grain season and how changes during grain season could be reflected in a 12-week year-over-year comparison

Chairman Oberman encouraged CN to consider how the rule could be modified to address CN's concerns while also keeping in mind the Board's goal of having clear

standards. CN agreed to consider this further in its reply comments. Chairman Oberman also asked for CN's view on the Board's proposed use of metrics. CN responded that metrics can be useful, but also emphasized the need to consider whether forced switching would improve an actual service inadequacy. Chairman Oberman and CN then discussed the affirmative defenses proposed in the rule.

CN and Chairman Oberman thanked each other for their time.