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Mike Gebo
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The Surface Transportation Board
395 E St., S.W.
Washington, D.C. 20423

Re: Docket EP 711 (Sub-No. 2), *Reciprocal Switching for Inadequate Service*
Reply Comments of The Dow Chemical Company ("Dow")

Dear Board Members:

My name is Mike Gebo, and I am the North America Rail Operations Director for Dow. In my role, I oversee railroad performance and I am responsible for ensuring consistent service for our sites, as well the safe and on time delivery of shipments to our customers.

Dow strongly supports the Surface Transportation Board's goal of increasing access to reciprocal switching to address inadequate service. However, Dow is concerned that the Board has set the service-performance standards for access to reciprocal switching under its proposed rules served on September 7, 2023, in the above-referenced proceeding (the "NPRM") at levels that are too low to meaningfully address inadequate service. Dow urges the Board to adopt the modified service-performance standards that the American Chemistry Council, The Fertilizer Institute, and the National Industrial Transportation League (collectively, the "Coalition Associations") proposed in their opening comments on the NPRM. In support of those modified standards, these reply comments explain the practical business impact on Dow when rail service falls below the Coalition Associations' modified service standards.

Dow's Reliance on Rail Transportation

Safe, reliable, and competitive rail transportation is critical in supplying Dow's customers. Dow has 19 rail-served facilities in the U.S. located in California, Illinois, Kentucky, Louisiana, Michigan, Pennsylvania, Tennessee, Texas, and West Virginia. Its largest rail-served facilities in the United States are captive to a single railroad. Also, Dow operates a private fleet of over 21,000 railcars that make 90,000 outbound shipments annually across North America.

Dow has supported increased access to reciprocal switching, including through comments in Docket No. EP 711 (Sub-No. 1). Dow continues to urge the Board to consider increasing access to reciprocal switching to improve competition, consistent with its proposed rules in EP 711



(Sub-No. 1). As Dow has explained in EP 711 (Sub-No. 1), improving access to reciprocal switching for shippers who do not have access to effective competition for their rail traffic will provide an effective means to discourage inadequate rail service.

The Coalition Associations' Proposed Service Standards Reflect Inadequate Service

Service Reliability Standard

The Coalition Associations proposed a revised Service Reliability standard under which 70% of shipments must be delivered within plus or minus 24 hours of OETA, 80% within 48 hours of OETA, and 90% within 72 hours of OETA. When rail service falls below these levels, it can have significant negative consequences for Dow and its customers.

Reliable rail service is critical to Dow because its customers count on Dow's products arriving on time to meet their replenishment needs. A customer's replenishment needs are driven by several factors, such as available railcar storage space, set production schedules, and staffing schedules. So, when raw materials that customers order from Dow by rail are delayed or arrive excessively early, the customers can experience production slowdowns or downtime or may not have appropriate staffing to handle the delivery. Multiday delays exacerbate these impacts.

Additionally, unreliable rail service can force Dow's customers to engage in inefficient practices. It can force a customer to order additional safety stock of Dow's products, if the customer has available track space to store the extra railcars or ample fixed storage capacity for the product. It also can force a customer to supplement rail shipments with truck shipments. Also, where a customer supplements rail shipments with truck shipments that arrive before a delayed railcar, it could lead to a situation where the customer incurs storage charges because the truck supplied inventory displaces the late railcar shipment, causing the railcar to remain at the customer facility longer than expected and prevent delivery of subsequent replenishment shipments.

Further, delivery delays force Dow to add more railcars to the associated lane. This adds not only to congestion on the rail network, but it also requires more inventory in the pipeline and more railcars.

The significant impact of unreliability on the supply chain is why it is not only important to have a minimum reliability standard of 70% shipments within 24 hours of OETA, but to also have thresholds for late deliveries that ensure at least 90% of railcars arrive within 72 hours. Even if 70% of railcars arrive within 24 hours of OETA, if the remaining 30% arrive many days later, it will be impossible for a customer to accurately plan their production needs.



Service Consistency Standard

The Coalition Associations proposed a revised Service Consistency standard under which the maximum year-over-year increase in lane transit times is 15% and the maximum increase in lane transit times over three years is 25%. Rail service that fails to meet these thresholds can have a significant negative impact on Dow.

Consistency in transit times is crucial to ensuring on time delivery, accurate replenishment lead times, and proper fleet sizing. Even when a carrier provides OETAs that are accurate, increases in transit times will have a direct impact on the number of railcars required to support a given number of shipments. As an example, from 2019, prior to the pandemic and rail staffing shortages, to 2022 when most railroads saw significant network congestion, average transit times increased by 15% for Dow lanes. Adding railcars to a fleet so that Dow could address this increase was not always possible because of the long lead times to acquire new railcars.

Similarly, transit-time increases jeopardize the reliable replenishment of customers. Managing rail shipments to a customer's replenishment needs is critical to Dow's and its customers' businesses. But transit time fluctuations and increases, even when Dow receives an accurate OETA, make meeting customer replenishment needs difficult and could force Dow to supplement its rail shipments with truck shipments. For these reasons, the transit-time increases that Dow experienced from 2019 to 2022 caused production losses for Dow's customers and extensive use of truck shipments to supplement rail shipments with longer transit times.

Dow thus commends the Board for proposing a service-consistency standard that includes transit-time performance. However, it is clear from Dow's experience that allowing a 20% year-over-year transit time increase before traffic becomes eligible for reciprocal switching would require shippers to endure significant harm. Most shippers will face significant consequences with just a 15% increase.

Dow also supports the changes proposed by the Coalition Associations that allow a shipper to petition for access to reciprocal switching if transit times have increased on a given lane by 25% or more over a three-year period. Without this threshold, a railroad could remain below a 15% increase year-over-year, for subsequent years, resulting in an exponential increase in transit time by approximately 50% over just three years. The cumulative impact of that increase would be significant on the lane and certainly require additional railcars to support the same volume that was shipped in year one. Additionally, even if the gradual increase was foreseeable, the long lead time and high burden of adding railcars to accommodate the increase would be prohibitive for most shippers. In contrast, a 25% cumulative increase over three years represents a significant, but more manageable burden on shippers.



Industry Spot and Pull Standard

The Coalition Associations proposed a modified industry spot and pull (“ISP”) standard that includes a railcar standard under which 80% of railcars must be spotted or pulled within the planned service window, and the railroad cannot fail to spot or pull a specific railcar two service windows in a row (the “Railcar Standard”). It also includes a no-show standard under which a railroad must show up for 90% of planned service windows and cannot fail to show up two consecutive service windows (the “No-Show Standard”). In addition, the Coalition Associations proposed to escalate the Railcar Standard to 90% and the No-Show Standard to 100% for two years following a carrier’s unilateral local-service reduction without a commensurate reduction in the rail customer’s traffic.

When railroads fail to spot or pull a specific railcar two service windows in a row, it can have significant consequences. In the chemical industry, it is common to receive a variety of raw materials or different grades of the same commodity into a facility. Manufacturing schedules count on a specific product mix arriving on time to ensure the planned finished good may be produced. A single delay of an ordered in car may be manageable with a schedule change or safety stock, but two consecutive delays (especially if service windows are not concurrent) will certainly result in unplanned downtime.

When railroads fail to show *at all* for two consecutive service windows, the consequences can be severe. In this case, a carrier may bring in multiple cars on a single switch that support a variety of production needs of the facility. One miss is generally a serious event at a large chemical facility. Missing two consecutive switches – especially if the service window days are not concurrent – could mean a major curtailment of production across multiple assets within a facility. This would be exacerbated if the missed switch involved pulling railcars. In this scenario, railcars would continue to be loaded to avoid a production shutdown, but because the typical storage locations at the facility for these cars would be at capacity, the facility would need to juggle these cars or place them at locations where they would not normally be kept, sometimes reducing access to other cars. This increases site congestion and the complexity of site switching, which can impair the subsequent spotting and pulling of railcars for the next switch. Further, when a carrier misses two consecutive service windows, it typically will have an abnormally large volume of cars to deliver on the next switch, which can add to the customer’s congestion.

When a railroad fails to show for at least 90% of planned service windows, it can have a significant impact. As previously stated, missing a single switch can cause an interruption in production, even at the large chemical facilities that Dow operates. For a facility served 7 days a week, one missed switch a week would be service-window performance of 86% and therefore, assuming a constant delivery rate, interrupt supply of 14% of the shipments that the facility receives. This level of service is too low to ensure uninterrupted production. In contrast, if the



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facility experiences a missed switch one day out of every 14 days, or service-window performance of 93%, it will impact supply of 7% of the facility's inbound shipments, which is realistically possible to manage with safety stock. Therefore, it is critical that railroads be held to a minimum 90% threshold for the "No-Show Standard", or shippers should be able to pursue reciprocal switching as a service remedy.

Additionally, where railroads unilaterally reduce local service without a commensurate reduction in carrier traffic, the heightened Railcar Standard and No-Show Standard are warranted. Dow sizes its railcar fleets to meet customer demand at a given cycle time. The cycle time is directly impacted by the average origin time at the site, time at destination, and the transit times to and from customers. As the components of this cycle are increased, this requires more cars to support the same demand. When a railroad reduces service frequency without a commensurate change in shipment volumes, the origin dwell component of the cycle increases, but there will not be surplus cars in the fleet to accommodate the longer cycle times. The result will inevitably be delayed shipments and supplemental truck freight. Further, a single missed spot or pull would only add to the strain on the railcar fleet, making any recovery from the miss nearly impossible without extensive reliance on truck freight, if trucking is even an option for the commodity involved. Thus, when unilateral reductions in local service occur without a commensurate reduction in shipment volumes, adopting the heightened standard that the Coalition Associations proposed for two years, instead of the single year that the Board proposed, is imperative.

Obtaining contractual service commitments from carriers is not realistic.

Although AAR claims that shippers can obtain contractual service commitments from carriers, this is not realistic, especially for captive traffic. In general, railroad contracts are focused on price for a given volume commitment across a set of lanes. In the rare event that a railroad agrees on a service commitment, the remedy for failing to meet the commitment is an excuse from the volume commitment for the affected traffic. But this remedy inherently applies only to competitive traffic under the contract, which the shipper can move to an alternative rail carrier. In contrast, on captive lanes, the shipper does not have an alternative rail option and, thus, does not benefit from an excuse from the volume commitment. Accordingly, in Dow's extensive experience, service commitments are essentially unavailable for captive traffic.

For all the reasons listed above, Dow supports the Board's proposed rules, including the Coalition Associations' recommended modifications.

Respectfully submitted,

/s/ Mike Gebo

Mike Gebo

NA Rail Operations Director