

February 26, 2024

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Cynthia T. Brown
Chief, Section of Administration Office of Proceedings
Surface Transportation Board
395 E. Street, S.W.
Washington, DC 20423-0001

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Re: URGENT ISSUES IN FREIGHT RAIL SERVICE—RAILROAD REPORTING, STB Ex Parte No. 770 (Sub-No. 1)

Dear Ms. Brown:

The Private Railcar Food & Beverage Association (“PRFBA”) respectfully submits this letter in support of the petition filed by the Freight Rail Customer Alliance and National Coal Transportation Association on February 20, 2024, seeking reconsideration of the decision pursuant to 49 C.F.R. § 1153.3(a) that the Surface Transportation Board (“Board” or “STB”) served in the above-captioned proceeding on January 31, 2024 (“Decision”), with respect to the discontinuation of the service performance data previously required in the proceeding. PRFBA applauds the Board for extending the obligation of Class I railroads to submit data and additional information regarding their level of employment.

PRFBA is comprised of 16 global food and beverage companies and manufacturers headquartered in North America. These members include Frito-Lay (PepsiCo), Molson Coors Beverage Company, KraftHeinz Food Company, General Mills, Inc., McCain Foods USA, Inc., Nortera Foods/Bonduelle Americas, Tropicana Brands Group, Boardman Foods, Inc., G3 Enterprises, Inc., JD Irving/Cavendish Farms, Simplot, Lamb Weston Holdings, Inc., Univar Solutions, Land O’ Lakes, Inc., National Sugar Marketing, LLC, and Leprino Foods. All are major rail shippers that rely on the railroads to produce and distribute their food and beverage products that are vital to the health and welfare of our nation and essential to feeding its citizens. Without adequate rail service, their food and beverages will not be on American store shelves.

Moreover, PRFBA members all own or lease railcars. As such, they absorb costs associated with equipment ownership, operation, and maintenance. Investing millions of dollars in rail cars also greatly restricts these members from other transportation modes. If a decision is made to change modes, it means “parking” assets which is seldom a wise financial decision. PRFBA members have skin in the game and deserve to be treated as such.

PRFBA, like the petitioners herein, are very concerned by the Board’s determination to terminate the service data reporting previously required in the proceeding. PRFBA submits that such reporting should not only be continued but should also be made permanent. Moreover, the decision discontinues the service data reporting without any request for comment.

In April 2022, there was widespread concern about rail service and deteriorating trends reflected in the service data collected by the Board. As a result, the Board held a two-day hearing

to explore issues related to the reliability of the national rail network, in which PRFBA participated. *Urgent Issues in Freight Rail Serv.*, EP 770, slip op. at 1 (STB served Apr. 7, 2022). The Board stated that it had been hearing from a broad range of stakeholders about inconsistent and unreliable rail service related to tight car supply and unfilled car orders, delays in transportation for carload and bulk traffic, increased origin dwell time for released unit trains, missed switches, and ineffective customer assistance. *Id.* at 2. In Docket No. EP 770 (Sub-No. 1), the Board then required additional, temporary reporting of data needed for a timelier understanding of the extent and location of acute service issues and labor and equipment shortages. *Urgent Issues in Freight Rail Serv.—R.R. Reporting*, EP 770 (Sub-No. 1) (STB served May 6, 2022); *Urgent Issues in Freight Rail Serv.—R.R. Reporting*, EP 770 (Sub-No. 1) (STB served May 2, 2023) (extending the temporary reporting period for all Class I rail carriers to December 31, 2023).

The Decision appears to base the termination of the service data reporting in part on the improvement in service that the railroads have achieved. Decision at 2. However, PRFBA members have continued to be adversely impacted by poor rail service over the past year. These service issues continue to subtract substantial value from owning or leasing these railcars as they sit idly or move slowly throughout the rail network.

The instant decision appears to limit consideration of future permanent reporting to employment data. Decision served Jan. 31, 2024, at 8 n.26. PRFBA feels strongly that it is a mistake to move backwards on service data reporting after the significant progress by the Board on this matter over the last several years. We presently live in the age of data, so why should rail shippers and the public be without this critical information. Future service crises would be identified much sooner with more data because service reports would show concerning trends. Also, at present, the STB rulemaking regarding reciprocal switching is based largely on service data. Moreover, the existing STB policy on demurrage allows shippers relief from detention and demurrage fees if cars were subject to a service failure in route. Readily available service data could be used to resolve these all-too-common disputes. The railroads already collect their own first mile/last mile and on-time-performance data, and the burden on them would be light in comparison to the benefit to shippers and the public. This need for service performance data is even more important now as aggressive investor groups continue to try to impact the rail industry as current events demonstrate.

For these reasons, PRFBA urges the Board to reconsider its determination to terminate the service data reporting in its recent decision.

Respectfully submitted,

/s/ Herman Haksteen

Private Railcar Food & Beverage Association
President
Herman Haksteen