

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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UPDATING CLASS I RAIL CARRIER REPORTING REQUIREMENTS RAIL INDUSTRY	)))))	Ex Parte No. 787
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**JOINT REPLY COMMENTS OF FREIGHT RAIL CUSTOMER ALLIANCE
AND NATIONAL COAL TRANSPORTATION ASSOCIATION**

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Dated: December 8, 2025

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The Freight Rail Customer Alliance (“FRCA”) and National Coal Transportation Association (“NCTA”) respectfully submit these joint reply comments responding to the comments of the Association of American Railroads (“AAR”).

The AAR’s requested changes to the Board’s proposal to limit the reported data, and AAR’s purported justifications for those changes, are so excessive as to create contradictions. In particular, the AAR urges that the reported data not be considered for assessing the adequacy of railroad service. At the same time, the AAR would exclude data if it reflects any delays that are not the fault of the railroad. Excluding such data would necessarily make the reported data more indicative of railroad performance. In any event, the larger point is that while broader data that reflects negative trends may not be sufficient by itself to establish that service has become deficient, the data is certainly relevant and should be reported and available for the Board’s consideration for that and other purposes.

The AAR’s proposals to exclude data, or allow it to be excluded, create additional problems. The AAR contemplates that each member railroad will continuously review

data for all of its individual movements, or at least for those involving manifest traffic, for potential exclusion. This type of movement-by-movement review would appear to create the type of burden the AAR seeks to avoid elsewhere.

The filtering exercise the AAR envisions is also likely to introduce pro-railroad bias. The railroads will be tempted to focus on movements with poor performance for potential exclusion, as the railroads are unlikely to exclude those movements where the traffic is delivered on time despite delay or interruption potential attributable to other causes. Shippers and receivers are unlikely to be informed of or have any opportunity to review the exclusions, inviting more bias, plus the vast bulk of shippers will have better things to do than scrutinize the data, even if they were given an opportunity for review. Perhaps the railroads will employ artificial intelligence protocols or other filters to screen the data for additional review. In short, the railroad efforts to refine the data to make it more usable for a purpose they seek to avoid in the first place is inherently contradictory and likely to make the data less accurate and useful. The better approach is to accumulate and submit the data as is.

Other AAR proposals are similarly flawed. Adding an extra day grace period before a movement is considered late is simply another means of lowering the bar and making the data less informative. (What the railroads intend when the next delivery is not the next calendar day is unclear. If there are only weekday deliveries and the delivery occurs the following Monday, does the AAR intend that it be included in the grace period?) The suggestion to exclude delivery of the empties from the ISP data is particularly problematic. Without empties to load, there will be missing originations and

the exclusion of empties requested by the AAR could conceal a major gap in first-mile service.

Similarly, the ISP data will be more representative if it is reported or weighted on a per-window basis, rather than a per-car basis. The per-window basis is likely to be more reflective or indicative of the adequacy of the service that is actually provided and also the service is not provided, especially if empties are not delivered, than reporting on a per-car basis. For those shippers that handle, or can handle, only a few cars at a time, missed windows can be devastating for both receiving vital inputs and being able to deliver output. The AAR approach would also lead to the perverse outcome where if a delivery of three cars is expected and only two are sent, then the railroad can claim on-time delivery for two cars (and perhaps a failure for only one of the three cars, unless it is delivered the following day if the railroads obtain their grace period or apply some other exclusion).

The AAR briefly supports the non-inclusion of unit and intermodal train data, but without presenting any consideration of the need for and utility of the data. The AAR's explanation is that not all unit trains have schedules, which implicitly concedes that some unit trains do have schedules, and that some railroads make unit train deliveries are based on monthly demand, rather than a particular day's service. Whether or not there are predetermined schedules, average data as well as data regarding interruptions and delays are certainly available, remain useful for both unit train shippers and those concerned with railroad network performance in general, and should be required to be reported, as it was prior to the January 30, 2024 decision in EP 770 (Sub-No. 1).

FRCA and NCTA ask that the Board consider these reply comments as well as their opening comments in promptly adopting an effective and measured reporting rule as the Board proposed, augmented by additional reporting on unit and intermodal trains, especially including the data that the railroads were required to report until January 30, 2024.

Respectfully submitted,

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