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STB Ex Parte No. 724 (Sub-No. 4)

UNITED STATES RAIL SERVICE ISSUES—PERFORMANCE DATA REPORTING

Comments of the
U.S. Department of Agriculture

Edward Avalos
Under Secretary
Marketing and Regulatory Programs
U.S. Department of Agriculture
Washington, D.C. 20250

Date: March 2, 2015

Authority and Interest

The Secretary of Agriculture is charged with the responsibility under the Agricultural Adjustment Act of 1938 and the Agricultural Marketing Act of 1946 to represent the interests of agricultural producers and shippers in improving transportation services and facilities by, among other things, initiating and participating in Surface Transportation Board proceedings involving rates, charges, tariffs, practices, and services.

Introduction

The U.S. Surface Transportation Board (Board) is proposing to establish new regulations requiring all Class I railroads and the Chicago Transportation Coordination Office to report certain service performance metrics on a weekly basis. The Board is inviting public comment on whether to establish new regulations for permanent reporting and, if necessary, how to revise and improve the existing data reporting structure.

The Department of Agriculture (USDA) has been involved with the circumstances surrounding this proceeding since rail service problems first surfaced in 2013, working closely with shippers, railroads, and other government agencies. Throughout the rail service crisis, the most recurring requests were data related—providing data and analysis to stakeholders and policy officials to assist in evaluating rail service progress and determining whether preferential service was being given to some commodities. USDA is encouraged by the Board initiating this proposed rulemaking and supports regulations requiring permanent reporting of this data.

The Importance of Data to Markets

In this age of information, business decisions rely on the availability of complex data. In this vein, shippers have expressed a desire for more publicly available data concerning rail performance metrics because these data are necessary for them to plan logistics, minimize economic harm to operations and revenues, assist with business planning, and better serve their own customers. This type of data is not only necessary during times of rail service problems, but is essential on a regular basis.

Throughout the duration of the 2013/2014 rail service issues, one of the most frequent and pressing requests from USDA's leadership and stakeholders, as well as from other governmental agencies with which USDA cooperates, was for any and all data related to the rail service problems. USDA's ability to collect and provide data and analysis was limited to the extent that data were available. USDA believes that sufficient data are necessary for research, policy analysis, or market reports, and generally as a prerequisite to the efficient functioning of free markets. USDA devotes a considerable amount of resources towards the collection and dissemination of data, used across the country and around the world by governments, producers, and other market participants to increase efficiency, minimize waste, and broadly maximize revenues and social utility. While economic markets are highly interdependent and spread across many sectors of the economy, USDA's jurisdictional authority is not. USDA must rely upon the voluntary willingness of railroads to provide and/or the legal authority of the Board to obtain transportation market data critical to the agricultural sector of the economy.

As the Board noted in its proposal, the weekly railroad performance metrics have allowed rail stakeholders to monitor the industry's performance in near real-time and develop baseline performance data. It is important to establish baselines from which to gauge future events. This allows rail stakeholders to know the relevance and context of specific data, and whether the data are a cause for alarm or simply a reflection of normal operations. Thus, performance metrics need to be collected on a continuous basis and not just when needed. Furthermore, data discrepancies need to be eliminated so that data are comparable across railroads and time periods.

USDA recognizes that performance metrics may not be used all the time nor appreciated until a particular concern arises. However, in times when data are necessary, analyzing data trends is only meaningful if the data series is intact and clearly defined. USDA believes the Board and rail stakeholders should consider what data could be most helpful in addressing a variety of issues so that when these issues arise, a robust data series is available to help mitigate the disruption of rail service. Like any safety mechanism, it must remain in place at all times even though it may only be needed infrequently.

USDA believes that the availability of railroad performance metrics on a regular basis may even be able to avert or mitigate rail service issues before they become fully realized. The more information that is available to shippers will help them to begin making contingency plans ahead of any perceived transportation issue, rather than scrambling in a reactionary nature to achieve second-best outcomes. Such proactive actions by shippers may even lessen the degree of service issues, resulting in a better outcome for both railroads and shippers.

Data Reporting is Beneficial to Shippers and Railroads

To be certain, USDA and its stakeholders benefitted greatly from the data reporting provided by railroads and further expanded upon under the direction of the Board during the rail service problems of 2013/2014. USDA believes the Board's proposed data collection requirements will be to the long-term benefit of both shippers and railroads and supports the Board's proposed new regulations to be codified at 49 C.F.R. § 1250.1-1250.3, which would make permanent the weekly reporting of railroad performance metrics begun in October 2014. USDA has especially found helpful the performance data in subsection 1250.3(a)(7)-(8), which has provided a detailed State-level understanding of grain movements and backlogs. Over time, USDA foresees this information becoming even more valuable as a baseline is established by which USDA may more effectively respond to policy requests concerning the movement of grain by rail.

USDA, as well as other government agencies, relies on data to inform and direct policies and recommendations. When USDA is asked to make policy level decisions and recommendations regarding railroads and agricultural shippers, substantive data ensures USDA's decisions and recommendations are sufficiently informed. Performance metrics helped USDA leverage support for shippers while rail service was deteriorating, but also helped USDA inform policy-makers as rail service improved.

The likelihood of overcoming a transportation disruption increases when full knowledge of the causes, symptoms, expected duration, and possible mitigation strategies are laid bare.

Knowledge is half the battle; without it, attempts to correct transportation disruptions by policy

officials could inadvertently cause additional harm to railroads and shippers instead. Increased transparency is helpful for both shippers and railroads with regards to government policy but also in establishing trust between the two groups.

USDA Supports Reporting on Infrastructure Projects

While railroads ultimately possess the ability to set the amount of available network capacity, the necessary decision making, logistics, funding, and construction projects result in years of advance planning and actual execution before new capacity can be added to the network. At present, such projects are under development with benefits already beginning to accrue from recently completed projects. Because markets are in a constant state of fluctuation between the forces of supply and demand, there will always be a need on the part of shippers for indicators to judge the current state of the rail network in order to make market-based decisions, not just in times when rail performance has slipped. Consequently, USDA supports the Board's newly proposed requirement that railroads provide a quarterly listing and update of all work-in-progress on major rail infrastructure projects in subsection 1250.3(d).

USDA's Recommendations for Additional Data and Data Reporting

In addition to the data items outlined by the Board in this proposed rulemaking, USDA is recommending three additional items for consideration, as provided in the following three subsections.

Weekly Commodity Carloadings

In 2008, during Ex Parte 677 – *Common Carrier Obligation of Railroads*, shippers testified that in preceding years a shortage of railroad network capacity had affected the movement of commodities, resulting in network congestion and denial of service, which raised concerns over how the ability to price movements affected the railroads' common carrier obligation. Similarly, agricultural shippers have brought forth concerns over whether oil, energy, intermodal, or other sectors were given priority over agricultural movements during the most recent rail service disruptions in 2013/2014. Even more broadly, agricultural shippers continue to question whether their rail service declines disproportionately in comparison to other sectors during any rail capacity "crunch" and not just during major slowdowns. This has again raised the question over how a railroad's common carrier obligation should affect service among different customer bases. As was expressed then in Ex Parte 677 and recently during Ex Parte 724 by agricultural shippers, even a great network infrastructure does nothing for shippers who cannot obtain railcars, locomotives, or timely service.

During the past year, agricultural shippers approached USDA numerous times, voicing the concern that their rail service had suffered more sharply compared to other commodity sectors. Until the Board began requiring the reporting by all Class I railroads in October 2014, USDA had only anecdotal evidence—agricultural shippers supported this claim through their own individual experiences while railroads denied this claim by contending all of their customers were complaining about poor service. There was simply no hard data to substantiate or refute shipper complaints.

While USDA appreciates the reporting requirements the Board has proposed to adopt on a permanent basis, USDA believes that weekly carloadings for commodities in addition to grain, as laid out in subsection 1250.3(a)(7), would be helpful in providing additional transparency. These are already provided to the Board in detail on a quarterly basis in the Freight Commodity Statistics. However, a simplified format suitable for a weekly report could provide data on carloadings by major commodity sector and for individual commodities with high volumes, such as petroleum, grains and oilseeds, coal, and intermodal. USDA believes such reporting would help alleviate shipper concerns over any perceived preferential treatment and work towards fostering trust and goodwill.

Railcar Auction Markets

During the past year, bids in the primary and secondary railcar markets reached unprecedented levels, essentially doubling the cost of shipping grain by rail between some origins and destinations. USDA collects weekly data on prices in the primary and secondary markets, which serve as indicators of grain railcar supply and demand. While the details of these transactions are proprietary, USDA believes information on how many of these service contracts are auctioned each month and how many are being filled each week would provide clarity as to how reflective any premiums being paid are of the overall market for grain by rail. Without additional context, simply tracking the pricing of service contracts does not reveal the full extent to which a problem in railcar supply may be developing for shipping grain by rail. Knowing how much grain is moving under contract can help separate speculation from an actual railcar shortage. USDA believes the substantial price and persistence of transactions taking place in the primary and secondary markets throughout last year warrants greater consideration. A first step would be additional transparency through the aggregated total amount of these contracts being offered and filled each week by all railroads.

User-Friendly Data Portal

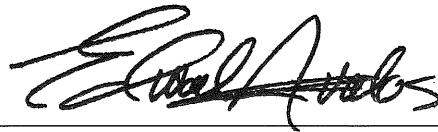
USDA believes a more accessible data portal on the Board's website would be helpful to its stakeholders and other parties interested in or affected by railroad operations. In the course of directing interested stakeholders to the Board's website, shippers often find it difficult to locate specific performance data on their own. Instead of navigating the portals on the Board's website and then having to identify and sort through individual railroad filings hidden among many other related filings, a permanent home for the performance data on the Board's website would further enhance the transparency and accessibility sought by the Board. One suggested location would be a webpage dedicated to "Performance Data" that could quickly and easily be navigated from the "Industry Data" webpage. As a further suggestion, weekly performance data could be inputted on a weekly basis into comprehensive spreadsheets differentiated by railroad, showing all available weekly performance metrics as a time series. Otherwise, the proliferation of individual weekly updates, especially in PDF format, would quickly render the data impracticable to all but the most dedicated researchers willing to manually input each separate file. USDA presumes the railroads and/or the Board are already compiling weekly performance data as a time series for their own use, and that including this more accessible format on the Board's website would prove only minimally burdensome.

Conclusion

In conclusion, USDA supports the Board's proposal to establish new regulations requiring all Class I railroads and the Chicago Transportation Coordination Office to report certain service performance metrics on a weekly basis, including a quarterly listing and update of all work-in-progress on major rail infrastructure projects. USDA and its stakeholders appreciate the data already provided by the railroads and the Board's focus on ensuring adequate performance metrics remain available even after the current issues have passed. However, USDA has three recommendations to make the reported data more robust and accessible: 1) weekly commodity carloadings for commodities in addition to grains and oilseeds by State should be reported, 2) the amount of service contracts offered and sold in the primary and secondary railcar auction markets should be reported, and 3) the new performance measures collected by the Board need a permanent and accessible home on the Board's website with the data made available to the general public in an accessible format.

A continuous and robust data series will be most helpful for avoiding or mitigating future service issues. USDA believes the Board's proposed data collection requirements will be to the long-term benefit of both shippers and railroads, helping lessen rail service issues by giving shippers the necessary information to make informed, market-based decisions.

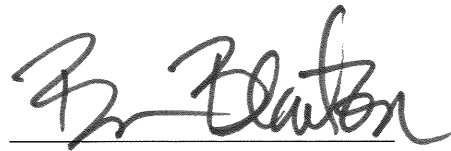
Respectfully submitted,

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Edward Avalos
Under Secretary
Marketing and Regulatory Programs
U.S. Department of Agriculture
Washington, D.C. 20250

CERTIFICATE OF SERVICE

I, Bruce Blanton, certify that on this 2nd day of March, 2015, caused a copy of the foregoing document to be served by first-class mail, postage prepaid, on all parties of record in STB Docket Numbers EP 724 (Sub-No. 4).

A handwritten signature in black ink, appearing to read "B. Blanton", written over a horizontal line.

Bruce Blanton
Director
Transportation Services Division
U.S. Department of Agriculture
Washington, D.C. 20250