



May 31, 2016

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The Honorable Daniel R. Elliott III
Chairman
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

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Re: Ex Parte No. 724 (Sub-No. 4), *United States Rail Service Issues—Performance Data Reporting*

Dear Chairman Elliott,

The National Industrial Transportation League (NITL or League) respectfully submits these comments in response to the Supplemental Notice of Proposed Rulemaking (SNPRM) issued by the Surface Transportation Board (STB or Board) in a decision served on April 29, 2016 in Ex Parte No. 724 (Sub-No. 4), *United States Rail Service Issues—Performance Data Reporting*. The League was founded in 1907 and represents companies engaged in the transportation of goods in both domestic and international commerce. The majority of the League's members include shippers and receivers of goods; however, third party intermediaries, logistics companies, and other entities engaged in the transportation of goods are also members of the League. Rail transportation is vitally important to League members and their customers, and many League members depend highly upon efficient and effective rail service for the transportation of their goods.

Following the near meltdown of critical rail services in the winter of 2013-2014, the Board acted in a responsible manner to identify any underlying causes beyond the harsh winter weather and the record breaking farm output that preceded it. The Board correctly focused on the insufficiency of publicly available and meaningful data on rail operations and performance. In issuing the Interim Data Order served October 8, 2014, the Board took a reasonable and appropriate first step to obtain new details of near real time operating conditions for the Class I carriers and the Chicago Transportation Coordination Office (CTCO). The Board then moved to transform the requirements of the Interim Data Order to a permanent performance data reporting mandate in the Notice of Proposed Rulemaking (NPRM) issued by the Board on December 30, 2014. On March 2, 2015, the League submitted comments on the NPRM that were highly supportive of the proposed rule and the Board's efforts to create a particularly useful data set for Class I customers, although the League did seek to clarify and supplement certain data elements. This proceeding has followed a coherent, well-structured and methodical path to obtain and make public consistent and highly relevant freight rail performance data.

Shippers using rail services are also keen analysts of the services they purchase. The data the Board has made available to shippers and others offer valuable insights into the operations of the nation's rail network, insights which assist shippers in better understanding their carrier's rail system performance. In turn that knowledge aids shippers' decision-making on car orders, fleet sizing, car placement, shipment timing (both inbound and outbound) and more. This information is critical to the ability of shippers to satisfy the needs of their customers and to keep their costs at acceptable levels. The absence of this data makes it much more difficult for shippers to plan, especially for those with specialized assets that are not easily found in the market place.

The League now welcomes this Supplemental Notice of Proposed Rulemaking as yet another reflection of the Board's thoughtful construction of this data reporting requirement. Before commenting on specific provisions of this SNPRM, however, the League wishes to commend the Board for its decision to waive its ex parte rules and invite interested parties to meet with Board staff in late 2015 to discuss technical aspects of this rulemaking. This action by the Board was a clear signal of the Board's intention to identify and resolve potential problems in the initial proposal for both data providers and data users. From the narrative discussion presented in the SNPRM it is clear that the decision to invite stakeholders to meet with Board staff yielded those results. The League is hopeful that this action also signals a positive step toward more openness in the Board's deliberative process. The League would certainly welcome similar opportunities in the future to meet with Board staff (and Board Members) to discuss technical issues and explore options to resolve problems.

We have carefully reviewed the Board's summary of comments received on the NPRM, and its proposed resolutions of conflicting views which give rise to the SNPRM. Overall the Board has done a commendable job of balancing the interests of both the Class I railroads as data reporters, and shippers and others as data consumers. The League accepts that not every request for more data can be accommodated, and we appreciate the Board's position that should future conditions warrant, the Board could request additional appropriate reporting from the Class I railroads. In particular we appreciate the Board's rejection of the unsupportable blanket statement from the Association of American Railroads (AAR) that the information requested in this proceeding "would not provide additional insight, would be burdensome for the railroads to collect, and would not provide additional benefits to the public or the Board." Comments from the League and other shipper organizations, and testimony in the Board's two field hearings on this matter, argue strongly otherwise. In our view the STB has been fair and balanced in continuing to assert the need for comprehensive performance data from the Class I railroads while rejecting a significant number of requests for more such data on more commodities and more services.

With regard to the defined "reporting week" and timing of data submissions to the Board we agree with the Board's acquiescence to requests from the railroads to conform this reporting with reports provided to the AAR. For data users, consistency in reporting is the more important consideration. However, we note the Board's further acceptance of the railroads' request to allow each carrier to define the term "unit train" according to its own company definition. To avoid confusion and misunderstanding, we would ask that the Board draw

special attention to this provision on the website housing these data reports and provide clear guidance on how each reporting carrier defines “unit train.”

In reviewing the Board’s summary of comments and proposed actions related to data requests 1-3 (Train Speed, Terminal Dwell Time and Cars Online) we note the Board’s proposal to add an overall “system” component to the reporting of average train speeds. The League strongly agrees this is an important measure. Likewise, the proposed addition of fertilizer unit trains is appropriate given fertilizer’s critical role generally in the agriculture industry and the well-argued requests for its inclusion from the fertilizer industry.

For data request number 5 (Trains Held Short of Destination or Interchange), the League urges the Board to revisit its decision to propose eliminating two of the reportable causes of trains being held: track maintenance and mechanical issues. Rather than eliminating such descriptors, we believe the Board and the public would be better served by gaining a deeper, not lesser, understanding of the causes of delays. We fully accept that carriers do in fact hold trains for a host of reasons including “normal” operations. But in the search for the root causes of “abnormal” operating conditions we believe having more knowledge, not less, is preferable. We are concerned that reports on the causes of delay will default too frequently to “other”, a cause that sheds no light whatsoever. We are unconvinced that assigning causation of delays is a heavy burden on the reporting railroads, or subjective. Even if it is a “manual” operation, we believe that railroad management is likely very eager to know why a train is not moving, planned or otherwise.

The modest proposed change for data request number 6 (Cars Held at Origin or Destination), reporting only cars that have not moved in 48 hours or more, appears quite appropriate and should meet the needs of both carriers and shippers. For data request number 7 (Grain Cars Loaded and Billed) and number 8 (Grain Car Orders), we defer to the views of the National Grain and Feed Association (NGFA). For data request number 9 (Coal Carloadings), we strongly agree with comments by the Western Coal Traffic League (WCTL) and appreciate the Board’s decision to return to the terms in the Interim Data Order so that actual coal car loadings may be compared to service plans. Similarly, we hope the Board will give great weight to WCTL’s views on the proposal to allow railroads to report this data on either a carload or train basis. WCTL members are in a strong position to know whether data based on carloads or trains are more relevant and meaningful.

Data request 10, 11 and 12 are new additions to the requests specified in the NPRM. Request number 10, Grain Unit Train Performance, continues a requirement originally contained in the Interim Data Order. This specific requirement in the Interim Data Order was directed at CP and BNSF to report on average trips per month (TPM) for both grain unit trains and grain shuttle trains, by region. If this data request is adopted in the final rule, other Class I’s would now also be required to submit monthly reports, but on a system wide basis. We do not perceive any undue burden on carriers in fulfilling this request, especially given the flexibility being offered to carriers with lower levels of grain train operations. We expect this information to be especially valuable and relevant for the agriculture industry in making objective assessments of carrier performance. We support this new data request.

New request number 11, Originated Carloads by Commodity Group, would require the Class I railroads to report weekly originated carloads in 23 commodity categories and intermodal units. Since this information is already reported to the AAR there will be no new reporting burden on the carriers. By including this data set the Board is demonstrating at least a tacit understanding of shippers' many requests for greater, not lesser, coverage of commodity groups in their comments on the NPRM. The League supports this new data request.

New request number 12, Car Order Fulfillment Rate by Car Type, is likewise supported by the League. The data would show Class I weekly car order fulfillment rates by major car type and therefore would allow shippers to compare their car order fulfillment rates against other shippers using the same car type. Again, this additional visibility into industry operations will be beneficial to vast numbers of shippers. Presumably the Class I carriers already track car fulfillment rates, and this requirement should not present a major hurdle for them.

In our submission to the Board on the NPRM, we (and others) commented on the Board's attention to Chicago, and we agreed with other comments suggesting more information on operations in and through Chicago would be helpful to stakeholders generally. While meaningful efforts to improve fluidity through the Chicago region have been underway for some time, Chicago remains a critical node in the national rail network and one which is stressed daily and congested frequently. The Board appears to recognize this in its discussion of comments on the NPRM and in its request for further comments in the SNPRM. We agree that the two cited short lines in Chicago (Belt Railway of Chicago and Indiana Harbor Belt Railroad) should not be overly burdened in their reporting, but we also believe additional information from the two lines would be helpful to many stakeholders in this proceeding. The League suggests that the Board seek objective guidance from the Bureau of Transportation Statistics (BTS) in the U.S. Department of Transportation to design appropriately granular data reports that unambiguously illustrate actual operating conditions while not forcing the reporting lines to divert resources from operations only to report on operations. We believe BTS professional staff may be very helpful in this regard. In addition, and as we recommended previously, we believe a cooperative joint effort between the Class I carriers that "feed" the Chicago region and the two belt lines to define a set of best measures would likely yield good results.

The Board has proposed to substantially reduce carrier reporting on major infrastructure projects based on the comments from carriers that such reporting is already available in multiple sources. The League agrees and we support the Board's restatement of the reporting requirement.

The League wishes to add one final comment on this proceeding. We greatly appreciate the Board's clear recognition that current and consistently reported performance data for the nation's large rail carriers is essential to understanding rail network operations. No party to this rulemaking wishes to see a repeat of the disastrous service breakdowns that occurred in the winter of 2013-2014. We believe the data being requested by the Board in this rulemaking will give all stakeholders the necessary insights into near real time rail operations so that corrective

actions can be taken if and when necessary to avert or substantially reduce service problems in the future.

We appreciate the opportunity to provide comments on the SNPRM.

Sincerely yours,

A handwritten signature in blue ink that reads "Jennifer Hedrick". The signature is written in a cursive, flowing style.

Jennifer Hedrick
Executive Director
National Industrial Transportation League