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BEFORE THE
 SURFACE TRANSPORTATION BOARD

UNITED STATES RAIL SERVICE ISSUES –	)	
PERFORMANCE DATA REPORTING	)	Docket No. EP 724 (Sub-No. 4)
	)	

JOINT COMMENTS OF
THE WESTERN COAL TRAFFIC LEAGUE,
AMERICAN PUBLIC POWER ASSOCIATION,
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS,
NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION,
AND FREIGHT RAIL CUSTOMER ALLIANCE
TO THE SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING

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Dated: May 31, 2016

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UNITED STATES RAIL SERVICE ISSUES – PERFORMANCE DATA REPORTING	))))	Docket No. EP 724 (Sub-No. 4)
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Western Coal Traffic League (“WCTL”), American Public Power Association (“APPA”), National Association of Regulatory Utility Commissioners (“NARUC”), National Rural Electric Cooperative Association (“NRECA”), and Freight Rail Customer Alliance (“FRCA”) (collectively “Coal Shippers/NARUC”)¹ hereby submit their Comments pursuant to the Supplemental Notice of Proposed Rulemaking (“SNPRM”) of the Surface Transportation Board (“Board”) served in the above-captioned proceeding on April 29, 2016.

Pursuant to the Board’s Notice of Proposed Rulemaking (“NPRM”) served December 30, 2014, Coal Shippers submitted comments on March 2 (“NPRM Comments”) and reply comments on April 29, 2015. The Board later invited interested

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parties to meet in person with Board staff to discuss their specific data reporting proposals and answer questions from the staff.² Coal Shippers/NARUC met with the Board staff on November 19, 2015. The Board then posted summaries of its meetings Coal Shippers/NARUC and others on its website. On December 16, 2015, the Board requested that interested parties file written comments addressing the summaries, which Coal Shippers/NARUC did on December 23, 2015. On April 29, 2016, the Board served its SNPRM seeking comments on the Board's revised performance data reporting requirements presented in the Board's NPRM. Coal Shippers/NARUC respond to the Board's revised proposal as follows.

COMMENTS

I. COAL SHIPPERS/NARUC SUPPORT THE BOARD'S PROPOSAL TO REQUIRE WEEKLY REPORTING OF ACTUAL COAL LOADINGS VERSUS PLANNED COAL LOADINGS

The Board proposes to make permanent the requirement adopted in the *Interim Data Order*³ that the railroads report weekly actual coal loadings versus planned coal loadings.⁴ Coal Shippers/NARUC support the Board's proposal. As previously explained by Coal Shippers/NARUC, this metric provides direct and frequent information regarding whether the railroads are meeting the service needs of their coal

² *United States Rail Service Issues – Performance Data Reporting*, EP 724 (Sub-No. 4) (STB served Nov. 9, 2015).

³ *United States Rail Service Issues – Data Collection*, EP 724 (Sub-No. 3) (STB served Oct. 8, 2014).

⁴ SNPRM at 15.

customers and even the carriers' own loading plans, whether such divergences are continuing or increasing, and is superior to the metric proposed in the NPRM.⁵

II. COAL SHIPPERS/NARUC SUPPORT THE BOARD'S PROPOSALS TO COLLECT ADDITIONAL METRICS

Coal Shippers/NARUC generally support the additional metrics proposed by the Board in the SNPRM. In particular, Coal Shippers/NARUC support the Board's proposal to require the regular reporting of: system-average train speed for coal unit trains;⁶ weekly average terminal dwell time;⁷ weekly average dwell time at origin for loaded unit coal trains;⁸ and weekly total number of loaded and empty trains held short of destination or interchange by train type and cause.⁹ The additional data will be helpful for identifying the causes and effects of delays that may arise and provide more detailed notice when service may be deteriorating or improving.

III. COAL SHIPPERS/NARUC URGE THE BOARD TO RETAIN CERTAIN REPORTING REQUIREMENTS FROM THE *INTERIM DATA ORDER*

In its SNPRM, the Board proposes to reduce, in certain instances, the detail in the performance data reports prepared by the railroads. Coal Shippers/NARUC urge the Board to retain some of these critical details that provide valuable insight into railroad performance. Specifically, the Board should: (i) retain the requirement to report the

⁵ NPRM Comments at 9.

⁶ SNPRM at 8.

⁷ *Id.* at 9.

⁸ *Id.* at 10.

⁹ *Id.* at 11.

weekly average dwell time at interchange for unit coal trains;¹⁰ (ii) require the carriers to specify the reasons a train was held short of destination or interchange, rather than encourage use of the vague reporting term “other;”¹¹ and (iii) retain the requirement to report detailed data on infrastructure investments exceeding \$25 million on a quarterly basis.¹² The Board should not alter these aspects of the NPRM.

Many coal shippers receive single-line unit train service, but others continue to depend on movements with interchanges. Customers such as Wisconsin Public Service, which testified at the September 2014 hearing, found that interchange dwell can be a telling measure of how the railroads are performing with their interchange partners, their available resources, and whether their systems are constrained. By eliminating the interchange metric, the Board is removing a potentially important source of data that can be combined with other metrics to develop a clear picture of issues that particular railroads might be experiencing. Removing the metric invites carriers to engage in finger pointing and deprives the shipper of insight as to where the delays actually occur. Union Pacific’s concern with potential mismatches in how railroads calculate such times or when one railroad has released or accepted a train versus another railroad is a red herring.¹³ The data reporting and tracking is useful on a carrier-by-carrier basis. Even if the carriers have different definitions, each carrier’s own data will

¹⁰ *Id.* at 10.

¹¹ *Id.* at 10-11.

¹² *Id.* at 18-19.

¹³ *Id.* at 9-10.

demonstrate deterioration or improvement in that carrier's performance, helping to identify the actual cause of service changes, particularly when combined with other data.

The Board's proposal to reduce the disclosure of the reasons a train is held short of destination or interchange to include only "power," "crew" and "other," while eliminating "track maintenance" and "mechanical issue," is particularly problematic.¹⁴ Coal Shippers/NARUC previously explained that the railroads frequently default to the "other" category, such that the cause of many delays remains unclear.¹⁵ Further reducing the reporting granularity encourages the railroads to use "other" even more often. To be sure, holding for locomotives and crews will impair system fluidity, but regular difficulties with maintenance, mechanical, dispatching and similar operational issues also suggest sustained problems and can indicate underinvestment or deferred maintenance in the railroad's system.

The Board also proposes to substantially curtail the reporting on rail infrastructure projects so that the railroads provide an annual report of significant rail infrastructure projects for the applicable calendar year with a six-month update.¹⁶ The SNPRM suggests that the railroad "briefly" describe each project, its purpose, location and projected date of completion. The Board proposes to use \$75 million as the threshold project cost for such reporting, rather than the \$25 million that the Board originally proposed in the NPRM.

¹⁴ *Id.* at 11-12.

¹⁵ *See, e.g.,* NPRM Comments at 8-9.

¹⁶ SNPRM at 18-19.

Coal Shippers/NARUC urge the Board to require more from the railroads.

The proposal in the NPRM required quarterly, detailed reporting for projects valued at \$25 million more.¹⁷ Moreover, the Board's SNPRM decision specifically recognizes that, contrary to the railroads arguments, the Board has the authority to require reports by railroads; "the responsibility . . . for monitoring the adequacy of service by rail carriers;" and that authority and responsibility ties into the railroads' compliance with their common carrier obligation.¹⁸ The curtailed reporting proposed in the SNPRM would undermine the Board's ability to carry out its responsibilities as the Board's information would be restricted to cursory information and on far fewer projects. Infrastructure investments of between \$25 and \$75 million dollars can have a substantial effect on the quality of service provided to coal and other shippers, and the combined effect of such investments can have an enormous impact on whether a railroad achieves and maintains fluidity.

Coal Shippers/NARUC urge the Board to adopt the infrastructure report requirements proposed in the NPRM. Coal Shippers/NARUC also propose, again, that the Board review these projects with an eye toward whether the carriers will be able to meet their common carrier obligations.

¹⁷ *Id.*

¹⁸ *Id.* at 22.

CONCLUSION

Coal Shippers/NARUC urge the Board to adopt the performance data reporting proposal with the modifications that Coal Shippers/NARUC proposed herein.

Respectfully submitted,

WESTERN COAL TRAFFIC LEAGUE
AMERICAN PUBLIC POWER ASSOCIATION
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A handwritten signature in cursive script, appearing to read "Daniel Jaffe", is written over the printed name "Daniel M. Jaffe".