A bold voice for transportation workers

WRITTEN STATEMENT OF
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BEFORE THE
U.S. SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
HEARING ON
PASSENGER AND FREIGHT RAIL:
THE CURRENT STATUS OF THE RAIL NETWORK AND THE TRACK AHEAD

October 21, 2020

This week, the Committee will be holding a hearing entitled "Passenger and Freight Rail: The Current Status of the Rail Network and the Track Ahead." On behalf of the Transportation Trades Department, AFL-CIO (TTD) and our affiliated unions representing passenger and freight rail workers, we appreciate the Committee's focus on the industry at an extremely timely moment. Across the sector, the pandemic continues to wreak havoc, threatening both the health and livelihoods of employees. At the same time, freight railroads, at the insistence of Wall Street investors and hedge fund managers, have pursued operating practices that undermine basic tenets of rail safety, ask frontline workers to do more with less, and threaten the reliable and efficient customer service that should be the hallmark of this industry. Given the critical nature of these issues, TTD would like to submit the following for your consideration.

Amtrak

COVID-19 has had severe and deleterious impacts on Amtrak's ridership, workforce, and future. Like other modes of transportation, Amtrak has seen unprecedented drops in ridership. On the Northeast Corridor, ridership has dropped over 90% as business travel has all but vanished. Long distance routes that connect urban and rural communities across the country have lost half or more of their pre-COVID passengers. The cumulative effects of this lost revenue have put Amtrak in an unsustainable position, and despite welcome and necessary Congressional support via the CARES Act, as of October 1st Amtrak has begun to make damaging changes to its workforce and service.

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Amtrak is in the process of laying off over 2,000 employees who now find themselves without a paycheck in the midst of a global pandemic. The carrier has also begun reducing frequency on its long distance routes, slashing daily service to three days per week. These routes represent critical connections and lifelines for rural communities across the nation who rely on Amtrak's daily service.

As unfortunate as these announced cuts are, they are predicated on the assumption that Amtrak will receive some level of additional federal aid in this Fiscal Year. <u>If Amtrak does not receive further federal assistance the results may be several magnitudes direr than what has already taken place.</u> Furloughs will not be limited to the 2,000 employees who have already received notice — Amtrak is now estimating that without additional support it will lay off at least an additional 2,400 employees beginning December 11th. Additional service cuts or even discontinuations of certain services altogether will be necessitated, and Amtrak will not be able to move forward on critical capital improvement projects that are important to many of your states and Amtrak's ability to operate as a national passenger railroad.

Even in the event that revenues return sooner than anticipated, Amtrak will face a compounding spiral that threatens its future. The carrier maintains a highly skilled and well trained (and in some cases federally qualified and certified) workforce, and recalling these employees becomes increasingly challenging as time goes on after they have been furloughed. Costs of unaddressed degrading infrastructure will only increase over time, creating self-inflicted harm as Amtrak seeks to return to full service.

These draconian cuts are avoidable. TTD strongly supports the $2.88 billion in supplementary funding Amtrak has requested, which it claims is sufficient to maintain operations, including long distance service, and to prevent furloughs. We also support Amtrak's additional request for funding for capital projects.

Congress must provide these funds expeditiously to keep Amtrak's workforce off the unemployment rolls, and before conditions further deteriorate at the railroad. At the same time, we call on Congress to explicitly direct that these funds are used to prevent furloughs and preserve the frequency of long distance service. When testifying before the House T&I Subcommittee on Railroads, Pipelines, and Hazardous Materials, Amtrak CEO Bill Flynn was pressed on how the carrier would spend additional funding, committing only to "following Congressional instructions." If Congress intends to protect working people and Amtrak service, it cannot leave these choices up to Amtrak's discretion. We urge Congress to take action to support the carrier, its works and the important service it provides.

Freight Rail and Precision Scheduled Railroading

Over the last several years, Class I freight railroads have increasingly undergone a drastic reimagining of their operations. Today, all but one Class I has adopted this model, known as Precision Scheduled Railroading (PSR). Rail labor has long supported industry changes that allow railroads to improve how they do business — operations that improve safety protect our workers and evolutions that generate new business create new jobs that increase rail employment. In turn, these investments and expansions in rail transportation benefits the U.S.

economy and commercial competitiveness. Unfortunately, PSR meets none of those objectives. Instead, it is a shortsighted effort to increase operating ratios[1] as a means to increase share price without any regard for the impact these changes have on service quality, safety, or long-term industry viability.

What is PSR?

Fundamentally, PSR seeks to enrich shareholders by increasing return on investment in order to reduce assets while maximizing revenue per employee. To accomplish this, railroads move away from the traditional operating model of a service industry that responds to variable demand of its customers. Instead, PSR railroads attempt to operate on a regimented schedule that is more akin to passenger rail. Put another way, instead of providing service to shippers in a manner that fits their business needs, trains will arrive at a "scheduled" time and it is then incumbent on the shipper to be prepared to load or unload cargo. Further, by eliminating on-demand response and flexibility in the construction and quantity of train consists, railroads can reduce capital assets like locomotives and cars, and eliminate jobs across the network.

Ultimately, degraded and unsafe freight rail operations stemming from PSR will have long-term and substantial negative effects for the industry. These effects are immaterial to the hedge fund managers who are desperate to usher transformation towards a short-term profit maximization enterprise, but they matter greatly to the men and women who work on our railroads, as well as to American consumers. Like other industries that have been targeted by Wall Street, investors will eventually move on to the next sector. In their wake, PSR will have left behind a rail industry that is less resilient, is less safe, and with an uncertain future.

Safety Under PSR

For freight rail employees, PSR has manifested itself in a chilling fashion. To extract every possible cent of revenue out of their operations, railroads now run with historically and dangerously thin workforces. Over the last four years, over 50,000 rail workers have lost their jobs, the vast majority of them freight rail workers, and a shockingly large number in an industry where total employment, including passenger and commuter rail, sits today at approximately 200,000 employees. In just the first two years after CSX implemented this model, the carrier fired 22% of its equipment maintenance workers, 16% of its train crews and 11% of its maintenance-of-way employees. In 2019 alone, 20,000 rail workers lost their jobs, a 10% decline in total employment in the industry, and the largest layoff since the Great Recession. Yet during that same period of catastrophic job loss, Norfolk Southern's and Union Pacific's share prices increased 30 percent and Kansas City Southern's were up more than 60 percent.[2]

Our concerns are not simply that jobs are being lost, but that employment has been reduced in a manner that is fundamentally incompatible with safety. In fact, the Federal Railroad Administration (FRA) has done nothing in response to a massive culling of safety-sensitive

[1] Operating ratios are operating expenses as a percentage of revenue, considered to be the standard metric for railroad profitability

[2] "Railroads are slashing workers, cheered on by Wall Street to stay profitable amid Trump's trade war", Washington Post, 1/3/2020.

workers who are responsible for transporting billions of dollars in goods, including explosive, radioactive, and highly flammable products. Not only do carriers want to operate with artificially slim costs and deeply reduced employment, but they also expect the remaining workforce to run trains at a high and consistent velocity[3]. In this pursuit, TTD-affiliated unions continue to report a concerning de-prioritization of safety.

Last year, the Transportation Communications Union (TCU)/IAM and the International Association of Machinists and Aerospace Workers (IAMAW) conducted a survey of their members on the impacts of PSR, and the answers painted a deeply disturbing picture of day-to-day operations. One responding machinist reported being sent by himself to work with dangerous and heavy equipment that once required two workers, and expressing fear that no one would know to call for help if he was injured. TCU represented carmen reported that at certain properties management now demands brake inspections be performed at the extraordinary and unsafe pace of just 60 seconds per car, and are routinely asked to ignore FRA regulated defects. Other carmen reported entire sides of train consists going uninspected prior to departure because management needed the adjacent track occupied, a clear violation of FRA safety standards. Similarly, Transport Workers Union of America (TWU) represented carmen have reported to the FRA that railroads have allowed cars with safety defects to run after they were shopped by carmen as unsafe to run. Employees from multiple crafts have reported that critical safety rules designed to protect employees from being hit by equipment are being ignored in the name of speed and that re-shift safety briefings — a common industry practice — are being eliminated in order to focus man hours on velocity over safety.

Separately, signalmen represented by the Brotherhood of Railroad Signalmen (BRS) have reported that FRA-required inspections are being delayed in clear violation of existing regulations, and that in an effort to reduce staff railroads are assigning these employees territories that are simply too geographically large to be safely inspected in the hours set by management. Ongoing efforts to reduce train crew size are also symptomatic of PSR. Despite clear and compelling evidence, provided by the International Association of Sheet Metal, Air, Rail and Transportation Workers, Transportation Division (SMART-TD), that safe freight rail operations in most cases require the presence of a qualified locomotive engineer and conductor, Class I railroads continue on a relentless effort to deploy single person crews on massive freight trains. Carriers are even pursuing ill-considered remedies in the court system to ensure that nothing can stand in their way of eliminating crewmembers in exchange for cost savings. Finally, the International Brotherhood of Electrical Workers (IBEW) members who inspect and repair locomotives report having seen substantial job losses as carriers mothball thousands of locomotives and cars and are similarly put under undue pressure to perform these duties at unsafe speeds.

As carriers take an increasing amount of trains out of service, the need of shippers to transport carloads remains. How are railroads reconciling shipper needs with less service? By increasingly turning to progressively longer, “PSR-optimized” trains. A recent Government Accountability Office (GAO) report found average train length has increased by approximately 25 percent since 2008, and carriers are regularly operating trains up to three miles long. Frontline workers told GAO they are not receiving adequate training on how to safely operate them. Current rail

[3] Velocity is defined as total miles divided by total travel time, and is a key performance metric for efficiency.

networks and rail infrastructure are simply not designed for trains of this magnitude, which also cause delays to other freight and passenger services. Among other problems, members of the American Train Dispatchers Association (ATDA) report contending with increasingly difficult dispatching decisions due to the logistical challenges these trains pose, even facing disciplinary actions for circumstances beyond their control.

Long trains also cause disruptions to local communities when these trains block grade crossings for long periods. The safety of these types of operations is a real time experiment on our nation's railways — and as railroads discover exactly how far they can push the limit on safety it will come at the expense of frontline rail workers and communities.

This FRA has taken a nonchalant approach to long trains, failing to embark on any analysis or consideration of the safety impacts on trains whose size and weight was never contemplated when FRA's regulations were promulgated. In fact, this FRA has welcomed PSR and its deadly flaws with open arms. Over the last four years, the agency has issued a cornucopia of waivers and rules that serve to accommodate carriers' bottom line and PSR interests. FRA has allowed railroads to provide safety sensitive employees less rest and circumvent the critical role of highly skilled employees and has issued rules which would reduce critical inspections of equipment and track. When FRA began issuing safety waivers to carriers due to reduced manpower as a result of the COVID-19 pandemic, it rejected rail labor's simple request that no manpower waiver be issued if a carrier could fill shortages with qualified employees it had previously furloughed, many due to PSR cuts. This philosophy is also reflected on the ground, where TTD unions continue to report that local FRA inspectors fail to perform due diligence or escalate safety issues raised by frontline workers, and that fear of retribution from carriers for reporting violations is endemic. While the agency paints a rosy picture of the amount and dispositions of the complaints it has received, we know that this perspective is deeply incomplete.

Our assertion is not anecdotal. Over the last four years, several Class I railroads have reported safety data to FRA that reflects substantially increased accidents/incidents over a four year timeframe.[4]

Total Accident/Incidents by Railroad	**2016**	**2017**	**2018**	**2019**	**%Chg 2018 2019**	**%Chg 2016 2019**
Canadian National	274	333	328	309	-5.79	12.77
Kansas City Southern	152	180	172	190	10.47	25
Norfolk Southern	1,095	1,129	1,148	1,225	6.71	11.87
Union Pacific	1,578	1,654	1,788	1,820	1.79	15.34

We believe that these trends stem in part from PSR implementation and attendant unsafe operating practices. Between the data that FRA itself is reporting, and the reports from our member unions, it is clear that are serious safety issues in the freight industry that must be addressed.

[4] FRA 3.01 - Accident Trends - Summary Statistics, generated 10/17/202.

Service Degradation and the Future of Freight Rail

In addition to safety risks, PSR poses threats to both current and future service. The PSR model is not always consistent with the needs of customers for whom rail transportation as a variable and demand-centric service is essential to their needs. These companies may now have to contend with locomotives arriving or departing at times when they are not prepared to load or unload products. To further exacerbate the situation, railroads are allowed by law to levy demurrage and accessorial charges — fees to shippers for the failure to move cars within an agreed upon period. While demurrage charges are not inherently harmful and can be important in reducing delays on a healthy network, freight railroads have increasingly used them as a cudgel against shippers who struggle to adapt to PSR. While the Surface Transportation Board (STB) took some initial steps earlier this year to address weaponized demurrage, these difficulties are indicative of the broader concerns shippers have raised with the effects of PSR.

At a roundtable held by the House Transportation and Infrastructure Subcommittee on Pipelines, Railroads and Hazardous Materials, a number of shippers stated that due to incompatible service changes, their ability to utilize rail shipping has become increasingly difficult. [5] Panelists noted that under PSR, they had observed substantially degraded service and expressed concerns about their abilities to continue to move products in a way that makes sense for their businesses. It is important to note that while most businesses have no obligation to serve customers they are uninterested in serving, this is not true for freight railroads who have a statutory duty to provide "transportation or service on reasonable request" and cannot refuse to provide service merely because to do so would be inconvenient or unprofitable. [6]

This "common carrier" obligation is important given the historic consolidation and merger of large Class I railroads. Today, depending on where a shipper is located, they will have at most two Class I railroads that might serve them and may only have one. The inability to obtain reasonable service from a Class I railroad could mean a complete loss of access to the freight network and customers, and companies who lose this access may be forced to pursue financially burdensome alternatives, or close their doors altogether. Given how catastrophic this would be to businesses across the country, it is imperative that both the STB and Congress give consideration to whether railroads continue to meet their statutory obligations under PSR models.

Further, PSR's singular focus on maintaining only the bare minimum assets and staff that are needed to maintain current service places the industry in a position where it is not able to be quickly responsive to system shocks and economic volatility. Whether that be a sudden influx in carloads, the introduction of new commodities, or a crisis like COVID-19, PSR denies carriers the ably to quickly adapt their service because they will not have the capital assets or employees to do so. Railroads should have learned this lesson by now. When Union Pacific and Southern Pacific merged in 1996, the result was a near immediate service meltdown with serious economic consequences. In part, this meltdown occurred due to the inability of UP to provide crews and locomotives as necessary, and shippers experienced weeks of delays.[7] [8] Delays of this

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[5] Railroad Shippers Roundtable, Railroads, Pipelines, and Hazardous Material Subcommittee, Thursday, July 25, 2019

[6] 49 U.S.C. 11101(a).

[7] Up Faces "Meltdown' In Wake Of Accident, Journal of Commerce, 8/21/1997

nature have a rippling and harmful impact across the freight network and the American economy writ large that must be avoided. Not only are we concerned about the ability of PSR railroads to respond to unplanned events, we also worry that the model artificially constrains long-term growth. Whether that manifests as reductions in business as PSR-weary shippers pursue other alternatives, or as failures to capture new markets due to lacking capacity, we believe that PSR is fundamentally trading current profits against the future of the industry.

Today, both freight and passenger rail have arrived at critical junctures We urge the Committee to consider the issues discussed here, and to use its authority, as well as cooperation with appropriators and regulators, to ensure the continued existence of a safe and prosperous rail network that works for its employees, its customers, and the American public.

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[8] Another Rail Meltdown?, IndustryWeek, 12/21/2004