A bold voice for transportation workers

WRITTEN STATEMENT OF
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BEFORE THE SURFACE TRANSPORTATION BOARD

"Urgent Issues in Freight Rail Service"

April 26, 2022

On behalf of the Transportation Trades Department, AFL-CIO (TTD) and our 37 affiliated unions, including the totality of rail labor, I first want to thank Chairman Oberman and the other Members of the Surface Transportation Board for the opportunity to speak before the Board today on the issues facing our freight rail network. The employees represented by TTD-affiliated unions are on the front lines of these challenges and have been sounding the alarm on the state of the freight rail industry for years. It is deeply unfortunate, but also completely predictable, that we would find ourselves here today. As both railroad employees and customers sit before you today to express a shared simple fact – *that today's freight rail network is simply not working for anyone other than railroad investors* – we hope that the Board embraces this opportunity to effectuate positive change for rail employees, shippers, and the American public.

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Freight Rail – A Recent History

As members of the Board are aware, the deployment of Precision Scheduled Railroading (PSR) has resulted in fundamental changes to how freight rail operates, and with what capacity and reliability it can deliver service. At the core of the PSR ethos is deep cuts to its workforce. PSR railroads endeavor to operate with such minimal headcount as to frequently imperil their own ability to operate and maintain their business. As Chairman Oberman pointed out in the notice announcing this hearing:

> *"Over the last 6 years, the Class Is* ***collectively have reduced their work force by 29% – that is about 45,000 employees cut from the payrolls****. In my view, all of this has directly contributed to where we are today – rail users experiencing serious deteriorations in rail service because, on too many parts of their networks, the railroads simply do not have a sufficient number of employees."*

Despite the claims made by the Class I carriers, it is simply impossible to provide an equivalent level of service after eliminating a third of the workforce in less than a decade. These cuts have guaranteed that adequate crews will be unavailable, that equipment and infrastructure will not be adequately maintained, and that critical inspections will be deferred. TTD categorically rejects the absurd claim that the hard work of 45,000 employees had no demonstrable impact on the quality of service offered by Class I railroads.

While the elimination of jobs across all crafts of the freight rail network has undoubtedly contributed to operational breakdowns and service degradation, TTD notes that a number of shippers have specifically cited a lack of available crews as a major component of reduced service quality. In that regard, in the five years prior to the pandemic, Burlington Northern Santa Fe

(BNSF) cut its Train and Engine (T&E) workforce by 27%. Norfolk Southern (NS) has cut 24% of such employees, and Union Pacific (UP) has cut 32%. CSX, which stated on its Q1 Earnings Call last week that it "need[ed] more engineers and conductors, and that's it and that's what we are dedicated to do", eliminated the jobs of 43% percent of those engineers and conductors over the same time period.[1] It is completely unsurprising that this would result in crew shortages and rigid inflexibility in the network. These cuts have occurred with complete impunity for the railroads, and we continue to urge the Board to consider the impacts of these ill-considered mass layoffs on service quality.

TTD also calls on the Board to disregard the argument that the struggles being described by shippers, representing different industries across different parts of the country, are simply a one-off disruption as a result of the COVID-19 pandemic. A "workforce shortage" in this instance is a misnomer. Railroads have long engaged in a concerted effort to cut headcount to the absolute bone. They have created a degraded safety culture that has driven away long-time employees, and in many cases second or third-generation railroaders, who have chosen to walk away from what were "jobs for life" in previous generations. The employees who remain are forced to do "less with less", and subject to increasingly punitive and abusive policies meant to replace meaningful hiring and workforce development efforts with impossible demands on the existing workforce. TTD is well aware that the STB does not regulate the safety conditions faced by rail workers, nor does it impose staffing minimums for carriers. However, the link between service quality, including reliability and frequency, and adequate employment is clear. Simply, Class I railroads have spent

[1] STB Employment Data, Jan 2015-Jan 2020.

years pursuing a model that ensured that they would be unable to provide quality service. The fact that the nation's too small and too fatigued rail workforce is reaching a breaking point is unequivocally a crisis of the railroads' own making.

The lack of available equipment to move carloads is further evidence that these struggles are not an artifact of pandemic conditions. While CSX and others have claimed that they have all the equipment they need for their operations, these claims do not comport with the experiences of the shippers here today, who are reporting that they are being told that locomotives are unavailable and/or that they will be served by fewer (but longer) trains on a schedule that may or may not be reasonable for the customer. In 2020, UP reduced its active locomotive fleet by 24% and only managed to keep 58% of its remaining locomotives in service. UP described this state of affairs as part of a well-considered capital strategy. When record cargo volumes descended at U.S. ports in 2021, UP continued to decrease fleet size, and only managed to increase its locomotive service utilization to 62%.[2] Any claim that railroads operated at maximum capacity during the peak of the supply chain crisis (or today) should be considered alongside the fact that they have chosen to artificially reduce available locomotive power to better suppress labor and maintenance costs, as they have laid off thousands of employees who work to maintain and repair equipment like locomotives.

A Broken Network

The degradation of the freight rail industry has been years in the making. In July 2019, before the impacts of the pandemic, the House Transportation and Infrastructure Subcommittee on Railroads,

[2] SEC Form 10K, 2021, 2022.

Pipelines, and Hazardous Materials held a "Railroad Shippers Roundtable". Participants, some of whom are also here today, condemned conditions at the time, stating that:

- "Railroads are providing less service, charging more, and rejecting reasonable dispute resolution options…"
- "We have seen numerous delays recently due to insufficient locomotive power, incorrect configuration of power, faulty power, lack of crews, and ongoing poor communication between the railroads. The lack of locomotives means the trains cannot be loaded at the mines, and can end up sitting at our plant, at interchange, or at the mine for days."
- "'Precision Scheduled Railroading' is anything but precise, at origin or destination."
- "PSR has increasingly resulted in arbitrary, abrupt and disruptive changes to operating plans and service schedules… there's now little to no surge capacity in the industry to meeting upticks in demand for rail service."[3]

Those representatives knew then what TTD member unions also knew when they unanimously adopted a policy statement warning that the spread of the PSR model "disrupting the flow of commerce by degrading service or cutting off rail shipping options entirely will have cascading effects throughout sectors that directly or indirectly rely on freight rail to move their goods". It is disingenuous to suggest that the unique impacts of COVID-19 are solely to blame for service degradation, which was well underway prior to the pandemic. Instead, the pandemic laid bare the state of the industry as we know it. When cargo volumes did spike, and railroads were faced with an economic shock and need for surge capacity, several carriers promptly approached or reached

[3] https://www.goiam.org/news/territories/tcu-union/rail-shippers-to-congress-psr-demurrage-are-killing-us/

meltdown status. In July of 2021, due to an inability to handle traffic, UP suspended service between the West Coast and its Global IV gateway in Chicago, and BNSF began rationing, or metering, service over its LA-Long Beach-Chicago routes. In the same month, NS shut down its intermodal traffic through Central Pennsylvania. UP would go on to suspend certain service again in October, and BNSF would re-implement restrictions concerning LA-Long Beach in December. Gallingly, even after the announcement of this hearing, UP informed its customers on April 11th that it would begin metering traffic after April 18th if customers didn't voluntarily reduce their inventory.

The evidence that service is worsening extends beyond individual anecdotes and the failures of last summer and fall. Across Class Is, weekly average train speeds in 2022 are down from both 2021 and 2020, and terminal dwell times are up. Q1 intermodal speeds declined 6.9% for CSX and 2.1% for UP, despite intermodal volumes being down 5% for UP and 1% for CSX year over year. Other data that shows concerning trends can be gleaned from the data the Board collects, but it is also key to note even those conclusions are inherently incomplete.

Last year, the Board requested comments on issues surrounding first-mile/last-mile (FMLM) service. This effort stems in part from the inadequacy of current data in representing real world conditions. While terminal-to-terminal velocity is an important statistic, it can be misleading as it does not reflect the performance of the movement of railcars between a local railroad serving yard and a shipper or receiver facility. Ultimately, a network that is operating efficiently between its own terminals—yet is not reaching a shipper's facility in a timely manner—is not providing quality service. It is our belief that deeper insight into FMLM issues will reveal more of the difficulties that shippers have discussed today. Regardless of source, whether it be the Board's data, the day to day experience of rail labor, and/or the testimonials of shippers of every stripe, it is beyond apparent that service quality has reached crisis levels.

The Path Forward

Unfortunately, we cannot rely on the Class I railroads to address these issues. They have acted with impunity, both in deleterious and dangerous job cuts and attendant decline in service quality. Left to their own devices, circumstances will not meaningfully improve. The workforce will continue to be pushed well past its breaking point, shippers will struggle to get product in and out of their facilities, and the American consumer will suffer for all of it. We note that this hearing is taking place only after Class I's were already warned by Chairman Oberman on the state of service in July 2021. The response at the time and through today continues to be, as a trade publication put it, "US Class I railroads to feds: Don't blame us".[4]

It is for these reasons that the Board must exercise its authorities to reign in the unacceptable state of freight rail service. Current law requires railroads to provide reasonable service at reasonable rates, known as the common carrier obligation.[5] Since STB's creation in 1996, there have been 51 cases brought to the Board concerning "reasonable rates", with shippers noting that they frequently find the process to challenge a rate to be prohibitively costly and time-consuming. [6] The process to challenge the reasonable nature of service is even more opaque. Neither the statute nor the

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[4] US Class I railroads to feds: Don't blame us, Freightwaves, August 10, 2021.
[5] 49 U.S. Code § 11101
[6] The Surface Transportation Board (STB): Background and Current Issues, Congressional Research Service, January 2022.

Board’s regulations speak to a framework by which to bring such a case. In 1998, when the Board considered what deteriorated service meant within STB Ex. Parte No.628, it declined to provide a definition, stating that it did “not list particular factors to be used in making that assessment, or propose a specific test period, but rather sought to retain the flexibility needed to address widely varying circumstances”.

The ambiguous nature of the requirement has proved to be of little use in combating the provision of poor service, and railroads have operated with the understanding that the STB is unlikely to reach a finding that the service provided is not reasonable. It is with this certainty that they have acted to decimate their workforce and ignore the needs of shippers, knowing that there will be no consequences. However, the intent of the statute to govern both reasonable rates and reasonable service must be realized. TTD calls on the Board to forcefully apply the service requirements of the common carrier obligation in circumstances in which service has been degraded and cannot be considered reasonable. In doing so, the Board should consider a number of factors, including the impacts of reductions to the workforce and the existence of a workforce that can be meaningfully expected to provide requested service. The Board should also consider the impacts of reductions in equipment, the availability of equipment, and the maintenance of equipment or railroad infrastructure. TTD believes firmly that the Board has the statutory authority to apply the common carrier obligation in this manner. However, if the Board determines that it requires additional authorities or legislative direction to allow it to ensure the provision of reasonable service, then it should promptly make this known to Congress.

The freight rail network that this Board oversees is in a state of disarray. Today, we look back on the catastrophe of the loss of thousands of good middle class jobs in the industry. We look to the present, where rail employees across the country are being forced into impossible circumstances in dangerous conditions every day. And we look to the future, where the long-term health and viability of the freight network is in serious doubt, as investors seek to extricate earnings regardless of lasting effects. It is incumbent on the Board to take aggressive and immediate action to rectify these trends in freight rail service, and rail labor looks forward to being part of that process.