



A bold voice for transportation workers

March 6, 2023

The Honorable Amitabha Bose
Administrator
Federal Railroad Administration
1200 New Jersey Avenue SE
Washington, DC 20590

**RE: Union Pacific Railroad February 3, 2023, Request To Amend Its
Positive Train Control Safety Plan
Docket No. FRA-2010-0061-0171**

Dear Administrator Bose:

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Federal Railroad Administration's (FRA) notice regarding Union Pacific Railroad's (UP) February 3, 2023, request to amend its Positive Train Control (PTC) safety plan and control system. TTD consists of 37 affiliated unions representing the totality of rail labor, including both passenger and freight rail workers¹. For the reasons stated below, TTD is again asking FRA to deny UP's request without prejudice because of a lack of information provided by UP in this filing. Additionally, we endorse the comments filed by our affiliated union, the Brotherhood of Railroad Signalmen (BRS).

Background

The current PTC safety plan amendment being considered by FRA is a re-filing of an amendment that was originally offered on December 12, 2022. UP withdrew that amendment following significant concerns and opposition from [TTD and our affiliated unions](#). The original December 2022 filing consisted of two documents totaling more than 1,000 pages, including a 586-page document that contained more than 550 fully-redacted pages. In that document, UP stated that "...no changes to the PTC System are identified or proposed in this RFA [Request for Amendment]."²

¹ Attached is a list of TTD's 37 affiliated unions.

² FRA-2010-0061-0162 - UP PTCSP RFA 2 Version 1.1 Final - Redacted, page 2

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Greg Regan, President / Shari Semelsberger, Secretary-Treasurer



TTD appreciates that UP responded to concerns raised and withdrew its amendment with such extreme redactions. However, while we acknowledge that the new filing contains no redactions, it does not appear that UP offered any additional information not in its original filing. We find it notable that the new filing is a mere 13 pages and believe that critical information has been left out of the new filing that was included in the original redacted filing that totaled over 1,000 pages. While TTD generally has no desire to review extremely technical documentation, we would like to understand the changes that are being made to the PTC safety plan that affect the workers we represent and impact the safety of the public. The workers we represent operate these trains, install signal systems, and help dispatch the trains on a daily basis. The ability to understand and comment on UP's (and other railroads, for that matter) amendment to its PTC plan is fundamental to their jobs. Unfortunately, the paucity of information offered by UP in this amended filing still prevents TTD, its unions, and the general public from understanding and providing comment on what UP is proposing to do.

For example, in UP's filing, UP states that:

An analysis of the use of Interoperable Electronic Train Management System (I-ETMS) at higher speeds (up to 125 MPH) and the impact on the I-ETMS hazards safety assessment was conducted by Wabtec. This analysis confirmed I-ETMS would function at speeds up to 125 MPH without an increase in risk associated with hazards it was designed to mitigate, as well as hazards associated with its use, and that the existing safety analysis is complete with respect to higher speed operations.³

However, UP notably does not include in this filing any of that analysis done by Wabtec nor share any of the methodology for that analysis, nor any data at all for that matter. We ask how TTD, our unions, or the general public can evaluate UP's claim without being able to view any supporting data or evidence.

Passenger Train Speed Increase

In the re-filed amendment, UP indicates that the PTC safety plan must be updated to allow increased speeds for passenger service between Chicago and St. Louis.⁴ To support this speed increase, UP cites a revenue service demonstration conducted between 2012 and 2017 that utilized the PTC system and the Incremental Train Control System (XITCS). However, since 2017, the use of Trip Optimizer (Electronic Train Management System, ETMS) has increased rapidly. There is very little information available in UP's filing about the XITCS system, and how it would interface with the PTC and ETMS software or how it overlaps between UP and Amtrak operations. While UP is not the operator of the passenger trains, these safety questions about interacting software are critical to ensuring safety on UP-owned track along this route, including the safety of UP's and Amtrak's workers. UP has not provided any information or data that the public can view to support

³ UP PTCSP RFA #2, Page 5

⁴ UP PTCSP RFA #2, Page 1

its claims that the ETMS, when working in conjunction with the PTC, will provide the same level of safety achieved in the 2012-2017 service demonstration. Therefore, it is not possible for TTD or its unions to evaluate and comment on such claims, which are central to UP's filing.

PTC Amendment Process

Although UP did submit an unredacted document in this re-submitted filing, many outstanding questions remain before the public can be confident in the safety of higher passenger train speeds. For instance, while this amendment briefly discusses the XITCS software, it does not elaborate on the necessary changes to highway crossing systems to ensure that barriers are lowered with sufficient time to prevent collisions due to trains moving at higher speeds.

While we understand that the FRA is currently required to provide a decision on PTC plan amendments within 45 days of receipt, this situation is another example of why we believe that this regulation should be changed, as TTD has asked FRA to do previously.⁵ Even though FRA has 45 days to make a decision from the time it receives notice from a railroad, the time it takes to publish the documents in the federal register means that the public and stakeholders have far less time than that 45-day window. The limited period for review also does not allow for conversations to happen between the railroad, FRA and stakeholders, including unions, that could help answer some of these outstanding questions and potentially resolve stakeholder concerns. The 45-day limitation on making a decision and the outstanding, unanswered questions leave stakeholders like TTD no choice but to oppose FRA granting these PTC plan amendments until these important questions are answered.

It is clear that the original +1000-page filing contained a great deal of information that was not included in the 13-page document that was filed in this notice. TTD concedes that information regarding technical software and computer code may not provide any utility to the public. However, when reviewing such a shortened version of the original document, we are being asked to trust that UP has not left out any information that would impact safety, which seems implausible given the disparity between this 13-page filing and the original +1000-page filing.

This filing comes at a time when UP has a deteriorating safety record and has slashed jobs necessary to the safe operation of UP's system. Since 2015, UP has greatly cut back on the amount of workers it has from 47,201 employees at the beginning of 2015 to 33,179 at the end of 2022.⁶ Per FRA's own data, UP's rate of accidents and incidents per million train miles went from 10.457 in 2013 to 14.042 in 2021 and the rate of yard accidents went from 12.656 in 2013 to 19.568 in 2021.⁷ Given that UP's safety record is getting worse and they have cut so many safety critical

⁵ 49 CFR 236.1021(m)(3)(i)

<https://www.regulations.gov/comment/FRA-2010-0061-0170>

⁶ See

https://www.up.com/cs/groups/public/@uprr/@investor/documents/investordocuments/pdf_upc_10k_02062015.pdf
and

https://www.up.com/cs/groups/public/@uprr/@investor/documents/investordocuments/pdf_up_10k_02102023.pdf

⁷ <https://safetydata.fra.dot.gov/OfficeofSafety/publicsite/Query/TenYearAccidentIncidentOverview.aspx>

jobs over the past few years, trust is not sufficient; verification is absolutely necessary. All of this while UP is raking in record profits. In 2022, UP reported record high profits of \$7 billion.⁸ Furthermore, UP reported that it spent \$6.3 billion on stock buybacks in 2022, nearly double what it spent on its entire capital program in 2022, which was \$3.4 billion.⁹

Conclusion

TTD is not asking FRA to once again deny Union Pacific's amendment to its PTC safety plan just to be obstinate. In this environment where the public spotlight is on Class I railroads' safety record following the derailment in East Palestine, it is critical that the public is able to scrutinize safety claims being made by railroads. While we have no particular desire to comb through computer code, we do have a duty to the workers we represent to ensure that we have a comprehensive understanding of the safety changes being proposed. UP makes multiple assertions in this filing that there are no unmitigated safety risks from the increase in speed in the covered route nor any material changes to their PTC system as a result of this change. Unfortunately, UP has not included in this filing the analysis or data collection that they reference they have conducted so that TTD, its unions, and the public can evaluate and comment on these claims. Additionally, UP includes no information about its XITCS software or how it would be interoperable with UP's PTC and ETMS systems or Amtrak's systems under the proposed amendment. Therefore, TTD asks FRA to deny UP's PTC safety plan amendment without prejudice so that these important, unanswered questions can be addressed.

Sincerely,



Greg Regan
President

⁸ See <https://www.up.com/media/releases/4q22-yearend-earnings-nr-230124.htm#:~:text=Reported%20net%20income%20for%20full,or%20%249.95%20per%20diluted%20share.>

⁹ Id.