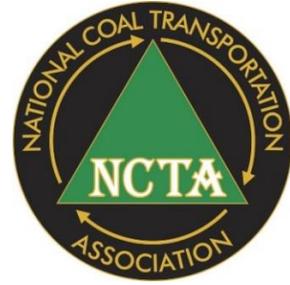




Freight Rail
Customer Alliance



THE
NATIONAL
INDUSTRIAL
TRANSPORTATION
LEAGUE



August 31, 2020

The Honorable Ann D. Begeman, Chairman
United States Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Re: Freight Railroad First-Mile/Last-Mile Service Data - Need for Improved Transparency

Dear Chairman Begeman,

This letter of concern is written on behalf of the Freight Rail Customer Alliance, the National Coal Transportation Association, the National Industrial Transportation League, and the Private Railcar Food and Beverage Association, Inc.

Collectively, our organizations represent a cross section of industries in the energy, grain and feed, chemical, industrial, food and beverage, and manufacturing sectors whose respective members produce and deliver vital products to the vast majority of Americans and export these vital commodities to our Nation's numerous trading partners. These organization's respective members also are responsible for millions of American jobs.

While our members are diverse in terms of the markets and customers they serve, they all depend heavily on reliable and affordable rail freight service to produce and deliver their products, to serve their customers and communities, and to sustain employment.

Our organizations and their respective members sincerely thanks you Madam Chairman, for your efforts, along with those of Vice Chairman Martin J. Oberman and Member Patrick J. Fuchs, in addressing longstanding process and transparency improvements to the betterment of all freight rail stakeholders – including but not limited to recent railroad operating changes and COVID-19 pandemic effects on freight rail service.

As explained below, our groups' respective members seek improved transparency concerning the level of first-mile/last-mile service that their rail carriers actually provide. Enhanced transparency can be achieved by having the rail carriers report appropriate data.

Our members, like all sectors of the economy, including the freight railroads, have had their operations severely disrupted by the Covid-19 pandemic. Our members thus deeply appreciate both the railroads' efforts to preserve and restore freight service and the Board's expressed interest in those efforts, especially your May 7, 2020 letter and the joint Federal Railroad Administration-STB August 24, 2020 Service Reliability letter to the Chief Executive Officers of each the Class I railroads asking them to address their preparedness to meet customer demand and enhance communications with rail shippers and other stakeholders with respect to service performance and operating conditions.

Our members also deeply appreciate that substantial information regarding railroad service data has been made available to shippers and the public generally through the reporting that the Board established in EP 724 (Sub-No. 4). That information is of immense value to shippers in ascertaining what level of service they can reasonably expect, whether they are alone in experiencing service problems or service issues are more systemic, and whether service is generally improving or deteriorating. For customers that depend on freight rail transportation, such information can be critical. The information is also very useful for even those shippers that are fortunate to have shipping options, and their ability to divert to other modes can free up rail resources which can then be concentrated on those shippers and products that lack feasible alternatives.

Nonetheless, many of our members have become increasingly aware of and concerned by the gap between the service data that the railroads report to Board and the level of service that shippers actually receive in the real world. We believe that the gap stems in substantial part from the exclusion from the reporting of the first-mile/last-mile performance for traffic that does not move in unit trains. This reporting gap has become more significant for several related reasons:

- First, it is entirely understandable that the railroads furloughed employees and placed additional equipment in storage when the country broadly shut down in response to the pandemic. However, major swaths of the economy are attempting to reopen, and a number of members are reporting shortages in the level of available rail service that is impeding their ability to restore operations. We believe that those are the same concerns that led to your May 7 letter referenced above.

- Second, while Precision Scheduled Railroading (PSR) purports to be premised on moving cars instead of trains, that objective is not always perfectly realized in PSR implementation. In particular, PSR has typically entailed a shift away from unit trains and towards a greater utilization of mixed or manifest trains. In theory, PSR seeks to maintain or improve service despite the shift by having the manifest trains move regularly and efficiently, experience less congestion, and produce increased reliability. Whether that objective was being achieved prior to Covid-19 is a matter of considerable contention, as the Board has seen. Unfortunately, the pandemic resulted in reduced railcar volumes, and the railroads have responded by seeking to maintain the length of trains. Preserving the length of trains is typically desirable from an operating ratio perspective, as it involves fewer crews and more efficient utilization of locomotive power and associated fuel. However, it has the potential to result in increased dwell times to assemble the longer trains from fewer railcars and/or while waiting for a sufficient number of railcars to accumulate.
- Third, the Board's existing service data reports various types of information for different types of trains. The data tracks, among other things: system average train speed by train type and overall system train speed; weekly average terminal dwell time, overall system dwell time, and weekly average dwell time at origin for unit trains by train type; data on trains held; weekly average number of loaded/empty cars not moved in 48 hours; plan versus performance for grain trains and coal trains; and weekly carloads originated and received by commodity. That is a substantial amount and type of data, and for many shippers, particularly unit train shippers, the information may be adequate, at least in the aggregate, recognizing that what a shipper experiences individually may well deviate from the average.

However, the reported data omits first-mile/last-mile service for cars that are not part of unit trains. Cars that are part of a unit train are captured within unit train average train speed and dwell, and non-unit train rail cars are presumably captured within average train speed and dwell, for the period they are part of a longer train. The problem is that these individual cars are not part of a larger train during first-mile/last-mile service, and thus their data is not captured during those intervals.

The confluence of several recent developments makes those first-mile/last-mile intervals of increased importance:

- First, as explained above, the ascendancy of PSR means that more traffic that used to move in unit trains is now moving in manifest trains. There is thus more affected traffic that is not tracked.
- Second, Covid-19. Furloughs and equipment reductions have resulted in diminished first-mile/last-mile service for a number of shippers. This development has been reported in the trade press, for example, https://www.joc.com/rail-intermodal/class-i-railroads/union-pacific-railroad/union-pacific-equipment-shortage-sends-spot-rates-soaring-imcs_20200625.html. The joint FRA-STB Service Reliability Letter of August 24, 2020 to each of the Class I railroads also expressed concern that crew availability issues have resulted in missed industrial switches and excessively late or annulled trains. Many of our members have experienced reductions in service, such as fewer days per week service at their sites, or not all cars requested being delivered or picked up. In theory, this shortfall should harm the

carrier as much as the shipper. In practice, however, the carriers may perceive that the lost volume opportunity is not really lost because the traffic will be there the next time, the deployed crews and equipment are fully utilized, and lowering the operating ratio is more important than maintaining volume. In other words, the consequences are asymmetrical. Again, the reduction in service was more understandable and of perhaps less consequence when the country was shutting down, but it becomes of substantial concern when it impedes the nation's recovery.

- Third, first-mile/last-mile issues have additional significance because that is where demurrage charges, a seemingly inevitable component of PSR, will be imposed. In the EP 757, EP 759, EP 760 rulemakings, our organizations stressed the lack of reciprocity in demurrage charges, that is, the ability of railroads to charge shippers for delays in receiving or tendering railcars, when the railroads face no corresponding financial liability for their delays, or even when their delays contribute to shipper delays, such as by creating bunching. Most recently, the railroads have gone so far as to claim in their comments in response to the Supplemental Notice of Proposal Rulemaking in EP 759 that the initial arrival time estimates they provide are at most only aspirational, rejecting any suggestion that they are something on which shippers should rely or plan their operations.

For the reasons noted above, our organizations and our members believe that the omission of first-mile/last-mile data from the service data being reported to the Board is a significant and growing concern. Absent such data, the Board, shippers, and receivers lack relevant information as to how the rail networks are actually performing and whether carriers are providing, and shippers are receiving, service that comports with the railroads' common carrier obligation and that can support restoration of the general economy. The data is also particularly important for assessing the extent to which carriers should be allowed to assess demurrage charges ostensibly designed to help maintain network fluidity, when the carriers may not be doing their part to provide adequate service to individual shipper facilities. The data is also constructive for those shippers and receivers that are forced to schedule their day-to-day and hour-to-hour activities around railroad deliveries and pick-ups, with no assurances as to when their local service will occur, but with the certainty that they will face demurrage if they are not ready to receive or supply their railcars for transport when it does occur.

We recognize that collecting and compiling first-mile/last-mile information is not a simple matter, as it involves aggregating data from numerous individual and often diverse areas and types of shippers. At the same time, the information is certainly something that the railroads collect, compile, and utilize, as the first-mile/last-mile operations require a substantial commitment of railroad resources, including personnel, equipment, and management, and it is not something that can be provided randomly, and even less so in a PSR environment. Moreover, it is a function that the Class I railroads have increasingly outsourced to their short-line partners, which now originate or deliver nearly one out of every five railcars.

Accordingly, we believe that development of a meaningful and useful measure of railroad first-mile/last-mile service so that the Board can have a more accurate view as to the adequacy of rail freight service and response to Covid-19 is a task that is best carried out initially by the Office of

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Rail Customer and Public Assistance (RCPA) within the Board's Office of Public Assistance, Governmental Affairs & Compliance (OPAGAC). RCPA is already well-acquainted with first-mile/last-mile service issues, and RCPA and OPAGAC already interface with the railroads on a regular basis. They possess the knowledge, experience, resources, and contacts to pursue these matters, and it should be less contentious and more productive for all concerned if they develop the needed information and a reasonable methodology than if shippers engage directly with carriers or submit a petition to institute a new rulemaking proceeding at this time. At the same time, our organizations and our members are certainly available and eager to confer with RCPA/OPAGAC staff and provide additional examples of first-mile/last-mile issues.

We also anticipate that our members will be prepared to engage on the topic should it be raised at regular meetings of the Rail Energy Transportation Advisory Council (RETAC) and Rail Shipper Transportation Advisory Committee (RSTAC). We and our members would also be pleased to meet directly with you, your colleagues, and other Board staff to discuss the need for the development of the information.

We thank you in advance for your consideration of this letter of concern and look forward to communicating further with you regarding this important, but unintended overlooked matter.

Ann Warner, Spokesperson for FRCA, is more than happy to answer any questions you and/or your staff might have and offer assistance, as needed. She can be reached via ann@annwarnerllc.com or 202.230.8017.

With best regards,



Spokesperson, Freight Rail Customer Alliance

National Coal Transportation Association

National Industrial Transportation League

Private Railcar Food and Beverage Association, Inc.

cc: Martin J. Oberman, Vice Chairman, Surface Transportation Board
Patrick J. Fuchs, Member, Surface Transportation Board
Lucille L. Marvin, Director, Office of Public Assistance, Governmental Affairs
and Compliance, Surface Transportation Board