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SERVICE DATE – APRIL 7, 2022

SURFACE TRANSPORTATION BOARD

NOTICE

Docket No. EP 770

URGENT ISSUES IN FREIGHT RAIL SERVICE

Decided: April 7, 2022

AGENCY: Surface Transportation Board.

ACTION: Notice of Public Hearing.

SUMMARY: The Surface Transportation Board (Board) will hold a public hearing on April 26 and 27, 2022, on recent rail service problems and recovery efforts involving several Class I carriers. The hearing will be held in the Hearing Room of the Board's headquarters, located at 395 E Street, S.W., Washington, D.C. 20423-0001. The Board will direct executive-level officials, including operating and human resources officials, of BNSF Railway Company (BNSF), CSX Transportation, Inc. (CSXT), Norfolk Southern Railway Company (NSR), and Union Pacific Railroad Company (UP) to appear to discuss the recent rail service problems, each carrier's ongoing and planned efforts to improve service, and each carrier's estimated timeline for recovery of normal service levels. The Board will also invite and welcome the attendance of executive-level officials, including operating and human resources officials, of Canadian National Railway Company (CN), Kansas City Southern Railway Company (KCS), and Canadian Pacific Railway Company (CP). In addition, the Board will provide other carriers, rail customers, labor organizations, and other interested parties the opportunity to report on recent service issues and service recovery efforts.

DATES: The hearing will be held on April 26 and 27, 2022, beginning at 9:30 a.m. each day, in the Hearing Room of the Board's headquarters and will be open for public observation. The hearing will be available for viewing on the Board's website. Any person wishing to speak at the hearing should file with the Board a notice of intent to participate (identifying the party, proposed speaker, and amount of time requested) as soon as possible but no later than April 14, 2022. Submission of written testimony by hearing participants is optional; any such written testimony, and written comments by any other interested persons, may be submitted by April 22, 2022.

ADDRESSES: All filings should be submitted via e-filing on the Board's website at www.stb.gov. Filings will be posted to the Board's website and need not be served on the other hearing participants, written commenters, or any other party to the proceeding.

FOR FURTHER INFORMATION CONTACT: Nathaniel Bawcombe at (202) 245-0376. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION: Rail network reliability is essential to the Nation’s economy and is a foremost priority of the Board. In recent weeks, the Board has heard informally from a broad range of stakeholders about inconsistent and unreliable rail service. These challenges include tight car supply and unfilled car orders, delays in transportation for carload and bulk traffic, increased origin dwell time for released unit trains, missed switches, and ineffective customer assistance. Moreover, the Board has received several recent reports, from the Secretary of Agriculture, Senator Shelley Moore Capito, and other stakeholders, about the serious impact of these service trends on rail users, particularly with respect to shippers of agricultural and energy products.¹

At the same time, the Board has been closely monitoring weekly rail service performance data submitted pursuant to 49 C.F.R. part 1250.² The data validate the anecdotal information reported to the Board, as many key performance indicators, such as system average train speed and average number of trains holding per day, suggest performance is below historical norms. While the Board appreciates that the pandemic has caused significant volume fluctuations, which have created great uncertainty and other challenges, these trends demonstrate that service has continued to deteriorate. Since the beginning of 2022, and through the data for the week ending March 25, 2022, there has been no material, sustained decline in trains held per day due to crew or locomotive availability for BNSF, CSXT, NSR, or UP. Recognizing large reductions in railroad employment over the past several years (including prior to the pandemic), as reported to the Board under 49 C.F.R. § 1246.1, and understanding that carriers have reported hiring difficulties—difficulties that are not restricted to the rail industry—the Board is concerned that crew shortages have contributed to these recent service trends and affected carriers’ recovery efforts. For these reasons, the Board has determined that the service issues may have reached a level that requires action by the Board, and it is imperative that the Board hear from carriers, rail customers, labor organizations, and other interested persons.

¹ See Honorable Thomas J. Vilsack, U.S. Dep’t of Agric. Letter, Mar. 30, 2022, Reciprocal Switching, EP 711 (Sub-No. 1); Letter from Honorable Shelley Moore Capito, to Board Members Martin J. Oberman, Michelle A. Schultz, Patrick J. Fuchs, Robert E. Primus, & Karen J. Hedlund (Mar. 29, 2022), available at www.stb.gov (open tab “News & Communications” & select “Non-Docketed Public Correspondence”); Letter from the Nat’l Grain & Feed Ass’n, to Board Members Martin J. Oberman, Michelle A. Schultz, Patrick J. Fuchs, Robert E. Primus, & Karen J. Hedlund (Mar. 24, 2022), available at www.stb.gov (open tab “News & Communications” & select “Non-Docketed Public Correspondence”); Letter from SMART-Transp. Div., to Chairman Martin J. Oberman (Apr. 1, 2022), available at www.stb.gov (open tab “News & Communications” & select “Non-Docketed Public Correspondence”).

² Data collected pursuant to 49 C.F.R. part 1250 is available on the Board’s website at <https://www.stb.gov/reports-data/rail-service-data/>.

Given the serious nature of the service issues reported to the Board, in addition to providing as much visibility as possible to all aspects of the current service issues, the Board expects the information provided at the hearing to inform any potential future Board actions to ameliorate the problems that have been reported.

The Board will hold a public hearing on April 26 and 27, 2022, beginning at 9:30 a.m. each day, at its offices in Washington, D.C., to hear firsthand from senior officials of BNSF, CSXT, NSR, and UP, as well as affected shippers, shipper organizations, and labor organizations, about rail service and efforts to improve service. The Board will direct executive-level officials, including operating and human resources officials, of BNSF, CSXT, NSR, and UP to appear³ at the hearing to discuss their recent rail service problems and their ongoing and planned efforts to improve service, including detailed plans outlining the steps needed to improve service.⁴ The Board will also direct BNSF, CSXT, NSR, and UP to address the extent to which crew shortages, particularly in the context of past employment reductions and current hiring difficulties, may have contributed to these service problems, and their plans, if any, to change and improve their hiring and employee retention policies to alleviate the acute crew shortages that appear to be among the central causes of the current service issues. In addition to the required participation of BNSF, CSXT, NSR, and UP, because the above-discussed problems have also been occurring to some degree on an industry-wide basis, the Board invites and will welcome the attendance of executive-level officials, including operating and human resources officials, of CN, KCS, and CP, and invites any other interested carriers to participate.

The Board also encourages affected rail customers, shipper organizations, labor organizations, and other interested parties to appear at the public hearing to discuss their service concerns and comment on carriers' efforts toward service recovery.⁵

³ The Board is directing BNSF, CSXT, NSR, and UP to appear because most recent service issues involve these four carriers. Additionally, other carriers and interested persons are invited to participate. The Board notes that it is prepared to address service problems with respect to any of the Class I carriers, as appropriate.

⁴ In response to letters from Chairman Martin J. Oberman dated May 27, 2021, October 18, 2021, and November 23, 2021, Class I carriers have provided the Board with information about their service performance and workforce levels. Chairman Oberman's letters and Class I carriers' responsive letters are available on the Board's website at www.stb.gov (open tab "News & Communications" & select "Non-Docketed Public Correspondence"). While the Board appreciates the information that Class I carriers have provided thus far, the trends discussed above demonstrate that service has continued to deteriorate, and the ongoing service problems and crew shortages indicate that the Class I carriers need to take additional steps to ensure adequate service. Accordingly, BNSF, CSXT, NSR, and UP should prepare to discuss at the hearing, with specificity, their most recent efforts to improve service and their proposed timeline for recovery.

⁵ The Board's public hearing is not intended to replace the informal and confidential dispute resolution process facilitated by the Board's Rail Customer and Public Assistance, and stakeholders are encouraged to continue communicating through that office.

BOARD RELEASES AND TRANSCRIPT AVAILABILITY: Decisions and notices of the Board, including this notice, are available on the Board's website at www.stb.gov. The Board will issue a separate notice containing the schedule of appearances. A transcript of the hearing will be posted on the Board's website once it is available.

It is ordered:

1. A public hearing will be held on April 26 and 27, 2022, beginning at 9:30 a.m. each day, in the Hearing Room of the Board's headquarters, located at 395 E Street, S.W., Washington, D.C. 20423-0001.
2. Executive-level officials, including operating and human resources officials, of BNSF, CSXT, NSR, and UP are directed to appear at the public hearing, as discussed above.
3. By April 14, 2022, BNSF, CSXT, NSR, UP and any other person wishing to speak at the hearing shall file with the Board a notice of intent to participate identifying the party, the proposed speaker(s), and the time requested.
4. Written testimony by hearing participants (which is optional) and written comments from any other interested persons may be filed by April 22, 2022.
5. Filings will be posted to the Board's website and need not be served on any hearing participants or other commenters.
6. This decision is effective on its service date.
7. This decision will be published in the Federal Register.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.