

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 770 (Sub-No. 1)

URGENT ISSUES IN FREIGHT RAIL SERVICE—RAILROAD REPORTING

Digest:¹ This decision extends the temporary reporting period for all Class I carriers for a six-month period and requires certain updated information from BNSF Railway Company, CSX Transportation, Inc., Norfolk Southern Railway Company, and Union Pacific Railroad Company.

Decided: October 28, 2022

Rail network reliability is essential to the Nation's economy and is a foremost priority of the Board. As discussed in prior decisions in this docket, the Board has heard from a broad range of stakeholders about the significant challenges they have experienced because of inconsistent and unreliable rail service from BNSF Railway Company (BNSF), CSX Transportation, Inc. (CSXT), Norfolk Southern Railway Company (NSR), and Union Pacific Railroad Company (UP) (collectively, the Four Carriers), including substantial increases in problems arising from 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. Prior to and during this proceeding, the Board has received reports, from the Secretary of Transportation, the Secretary of Agriculture, members of the U.S. Congress, and other stakeholders, about the serious impact of these service trends on rail users, particularly shippers of agricultural and energy products.²

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol'y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² See Letter from Hon. Jim Costa, Ralph Norman, Mary E. Miller, Charles J. Fleischmann, James R. Baird, Kat Cammack, W. Gregory Steube, Glenn Grothman, John Rose, Austin Scott, Trent Kelly, Rick W. Allen, Dan Newhouse, Mark E. Green, M.D., Louie Gohmert, Frank D. Lucas, Tracey Mann, Vicky Hartzler, Mike Thompson, Jimmy Panetta, Clay Higgins, David Rouzer, Byron Donalds, Tim Burchett, Darin LaHood, Josh Harder, Salud Carbajal, Cynthia Axne, Kim Schrier, M.D., David G. Valadao, Randy Feenstra, Julia Letlow, Sanford D. Bishop, Jr., Lisa C. McClain, Mariannette Miller-Meeks, M.D., Robert E. Latta, Daniel Meuser, Bob Gibbs, Cathy McMorris Rodgers, Jefferson Van Drew, Ashley Hinson, Daniel T. Kildee, Sharice L. Davids, Ro Khanna, John R. Moolenaar, David Kustoff, Al Lawson, Tom O'Halleran, Andrew S. Clyde, Michael Cloud, & Angie Craig, June 29, 2022, Urgent

At the same time, the Board has been closely monitoring weekly rail service performance data submitted in this docket and pursuant to 49 C.F.R. part 1250.³ The most recent data show that all Four Carriers are currently meeting some of their six-month targets for service improvement, and many key performance indicators are trending in a positive direction. However, the data continue to validate the anecdotal information that continues to be reported to the Board regarding significant service issues. Key performance indicators, such as velocity, terminal dwell, first-mile/last-mile (FMLM) service (i.e., industry spot and pull (ISP)), operating inventory, and trip plan compliance (TPC) show that railroad operations remain challenged generally, and particularly when compared to pre-pandemic 2019 levels.⁴ At this time, therefore, continued monitoring is needed.

Background

Given the serious nature of the service issues, the Board held a public hearing on April 26 and 27, 2022, in Washington, D.C., to hear firsthand from senior officials of the Four Carriers, as well as other Class I carriers, affected shippers, shipper organizations, labor organizations, and other interested parties. At that hearing, the Board heard testimony about several carriers' poor

Issues in Freight Rail Serv., EP 770; Letter from Hon. Jim Costa, June 21, 2022, Urgent Issues in Freight Rail Serv., EP 770; Letter from Hon. Alex Padilla & Dianne Feinstein to Chairman Martin J. Oberman, June 1, 2022, Urgent Issues in Freight Rail Serv., EP 770; Letter from Hon. Kevin Cramer, Tammy Baldwin, Chuck Grassley, Shelley Moore Capito, Sherrod Brown, M. Michael Rounds, Patty Murray, Joni Ernst, Marco Rubio, Tammy Duckworth, Mike Crapo, James Risch, Tina Smith, Mark Kelly, John Hoeven, John Kennedy, Joe Manchin III, Roger Marshall M.D., Amy Klobuchar, Mike Braun, & Richard J. Durbin to Chairman Martin J. Oberman, May 24, 2022, Urgent Issues in Freight Rail Serv., EP 770; 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"); Letter from Hon. Thomas J. Vilsack, U.S. Dep't of Agric., Mar. 30, 2022, Reciprocal Switching, EP 711 (Sub-No. 1); Letter from Hon. 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").

³ Rail service data collected pursuant to 49 C.F.R. part 1250 is available on the Board's website at www.stb.gov/reports-data/rail-service-data/.

⁴ Nothing in this docket should be construed to mean that the Four Carriers' goals for improved rail service should be limited to achieving only pre-pandemic levels of service, or that the Board considers the levels of service provided by the Four Carriers prior to the pandemic to be adequate.

service metrics,⁵ the connection between poor service and crew shortages,⁶ and the impact of poor service on rail users whose businesses are central to the country's economic well-being.⁷

As an immediate step toward addressing the significant service problems, the Board issued a decision in this docket on May 6, 2022 (May 6 Order), directing the Four Carriers to submit recovery plans and progress reports, participate in biweekly conference calls to further explain efforts to correct service deficiencies, and report, along with all Class I carriers, more comprehensive and customer-centric performance metrics and employment data for a six-month period.⁸

In response to the May 6 Order, the Four Carriers submitted the first week of required performance data and related service recovery plans on May 18 and May 20, 2022, respectively. The early data revealed extensive service delays and reliability problems. For example, one carrier reported failing—more than half of the time on average—to deliver rail cars in manifest service within 24 hours of the original estimated time of arrival (ETA).⁹ (NSR Performance Data at Row 163, May 18, 2022.) The same carrier reported failing—about one-third of the time in multiple operating divisions, on average—on its FMLM service. (NSR Performance Data at Rows 66, 68, May 25, 2022.) Another carrier reported failing—more than one-third of the time on average—to deliver grain and ethanol unit trains within 24 hours of the original ETA. (UP Performance Data at Rows 183, 187, May 18, 2022.) The early data also showed higher recrew

⁵ Loop Capital Markets Ex. at 15, Urgent Issues in Freight Rail Serv., EP 770.

⁶ See, e.g., Hr'g Tr. 424:134-156, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770 (“There is no other reason why the company is not performing other than we do not have conductors on the train.”).

⁷ See, e.g., Nat. Grain & Feed Ass'n Written Testimony 1-3, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770 (remarking on the doubling of trip times for NGFA members and the impact of longer trips on the grain industry); Am. Fuel & Petrochem. Mfrs. Written Testimony 1-4, Apr. 28, 2022, Urgent Issues in Freight Rail Serv., EP 770 (discussing the impact of poor service on captive shippers and especially consumers); Occidental Chem. Corp. Comment 2-3, Apr. 28, 2022, Urgent Issues in Freight Rail Serv., EP 770 (noting the effect of service disruptions as they relate to chemicals and public health); see also Hr'g Tr. 37:21-38:16, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770; Hr'g Tr. 579:8-12, 678:13-19, Apr. 27, 2022, Urgent Issues in Freight Rail Serv., EP 770.

⁸ Pursuant to 49 U.S.C. § 11145(a)(1), the Board may require rail carriers to file annual, periodic, and special reports with the Board “containing answers to questions asked by it,” and, pursuant to 49 U.S.C. § 1321(b)(3), the Board may obtain from carriers “information the Board decides is necessary to carry out subtitle IV.”

⁹ As the Board has stated previously, an isolated or occasional missed original ETA could be due to a variety of causes and, without more, does not necessarily indicate a carrier-caused service issue. See Demurrage Billing Requirements, EP 759, slip op. at 17 (STB served Apr. 6, 2021). However, this statistic is troubling here because the high percentage of missed original ETAs have persisted and because of the many other indicia of service issues present.

rates than those typically seen during periods of less network stress (i.e., approximately five percent). For example, data submitted by BNSF and UP showed that approximately 10 percent of crew starts were recrewed between May 6, 2022, and May 27, 2022. (See generally BNSF Performance Data at Row 50, May 18, 2022, May 25, 2022, June 1, 2022; UP Performance Data at Row 55, May 18, 2022; UP Performance Data at Row 50, May 25, 2022, June 1, 2022.) For certain operating divisions in that period, the recrew rate was as high as 24 percent. (BNSF Performance Data at Row 44, June 1, 2022.)¹⁰

On June 13, 2022, after the Four Carriers' initial service recovery plans did not meet the Board's expectations and, in some instances, openly failed to comply with the May 6 Order, the Board issued a subsequent decision in this docket (June 13 Order) directing the Four Carriers to submit revised plans detailing how they intend to improve service on their respective freight rail networks. To evaluate their progress towards service improvement, the Board directed the Four Carriers, in the May 6 Order and June 13 Order, to select key service performance indicators and targets (including, at a minimum, an indicator and target for FMLM service and TPC performance)¹¹ that the carrier expected to meet at the end of the six-month reporting period for each indicator selected. May 6 Order, EP 770 (Sub-No. 1), slip op. at 4-5; June 13 Order, EP 770 (Sub-No. 1), slip op. at 4. The Board also directed the Four Carriers to include labor force targets for employees actually on the job (i.e., those employees that are not furloughed) at six months and one year (using the same timeframe starting point as their key service performance indicator targets), broken out by the categories of train and engine (T&E), maintenance of way and structures (MOW), and maintenance of equipment and stores (MOE). June 13 Order, EP 770 (Sub-No. 1), slip op. at 7.¹²

¹⁰ The data corroborate testimony from railroad employees and labor representatives. See, e.g., Hr'g Tr. 126:6-12, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770.

¹¹ In the May 6 Order, the Board directed the Four Carriers to select an indicator and target for FMLM and TPC based on the requirements for the weekly performance data submitted in this docket for Items 5 (ISP) and 7 (percentage of cars placed at destination within 24 hours of the original ETA). May 6 Order, EP 770 (Sub-No. 1), slip op. at 4-6. Although the Four Carriers call these indicators by different names in their service recovery plans (e.g., local service performance, on time performance), their progress towards their FMLM and TPC targets has been compared to the weekly performance data submitted in this docket for Items 5 and 7.

¹² The six-month targets were intended to reflect the Four Carriers' intermediate goals during service recovery. However, more improvements in service are required beyond the six-month targets to ensure that the Four Carriers are providing the level of service needed by rail users to support the nation's economy.

Recent Data

The most recent data from the Four Carriers show some signs of service improvement for indicators such as velocity, dwell, and TPC.¹³ However, the data suggests that the Four Carriers will not meet all of their six-month targets. Furthermore, the recent data indicate that the Four Carriers' service performance levels for many indicators remain below their performance levels for the same time period in 2019.¹⁴ The following section compares the Four Carriers' service targets to recent data submitted in this docket and pursuant to 49 C.F.R. part 1250, and historical data from the same time period in 2019. This section also compares the Four Carriers' employment targets to recent data submitted in this docket and pursuant to 49 C.F.R. part 1246. Additionally, the Board directs BNSF and UP to revise their employment targets so that their progress may be tracked against the monthly employment data submitted in this docket.

BNSF. BNSF identified train velocity, terminal dwell, local service performance, average trains holding per day, and on time performance (OTP) as its key performance indicators. (BNSF Serv. Recovery Plan 4, 11.) At the end of the six-month reporting period, BNSF stated that it expects to achieve a velocity target of 26 miles per hour, a terminal dwell target of 26 hours, a local service performance target of 90 percent, and an average of 95 trains holding per day. (*Id.*, Ex. A.) For the OTP category, BNSF stated that its targets are 70 percent OTP for intermodal, 75 percent OTP for coal unit, 63 percent OTP for merchandise,¹⁵ 75 percent OTP for grain unit, 70 percent OTP for crude unit, 63 percent OTP for auto unit, and 50 percent OTP for ethanol unit. (BNSF Revised Serv. Recovery Plan 16.)

While BNSF has started to consistently meet its velocity and terminal dwell targets in recent weeks, Table 1 indicates that BNSF has not yet met its targets for local service performance and average trains holding per day. With respect to OTP, BNSF has been consistently above its targets for intermodal and merchandise traffic in recent weeks, although BNSF's performance in several unit train categories has fluctuated above and below its targets. In its latest progress report, BNSF explains that its performance levels for grain unit trains decreased during the week ending October 7 due to the bunching of trains at the beginning of soybean season. (BNSF Biweekly Progress Report 1, Oct. 21, 2022.) According to BNSF, this fluctuation occurs each year and its current performance is within the bounds of the variability it has seen in recent years. (*Id.*) Additionally, BNSF's recent performance shows improvement compared to its 2019 velocity and terminal dwell metrics. However, recent data for local service performance, average trains holding per day, and most OTP metrics indicate that these indicators on average have not yet returned to 2019 levels.

¹³ The data discussed in the following section reflects all data submitted to the Board through the week ending October 14, 2022.

¹⁴ Several carriers have indicated that they aim to return service to 2019 levels and then improve further upon that baseline. (See BNSF Revised Serv. Recovery Plan 14; CSXT Revised Serv. Recovery Plan 6; NSR Revised Serv. Recovery Plan 27.)

¹⁵ The terms "merchandise" and "manifest" refer to the same traffic.

Table 1 – BNSF Service Performance Data

Key Performance Indicator	Target	Data for the Week Ending June 24 ¹⁶	Most Recent Four Weeks of Data				Four Week Average 2022	Four Week Average 2019 ¹⁷
			Week Ending Sept. 23	Week Ending Sept. 30	Week Ending Oct. 7	Week Ending Oct. 14		
Velocity (miles per hour)	26	24.6 ¹⁸	26.5	26.5	26.7	26.5	26.550	23.975
Terminal Dwell (hours)	26	27.8 ¹⁹	25.8	25	24.9	24.5	25.050	27.825
Local Service Performance	90%	88% ²⁰	87.10%	88.80%	89.10%	88.70%	88.425%	89.400%
Average Trains Holding Per Day	95	188.3 ²¹	115.8	106.9	105.9	101.0	107.400	48.675
OTP – Intermodal	70%	57.4% ²²	78.70%	78.30%	78.30%	76.30%	77.900%	84.700%
OTP – Merchandise	63%	52.4% ²³	66.70%	67.10%	65.20%	64.20%	65.800%	66.125%
OTP – Coal Unit	75%	66.8% ²⁴	67.80%	68.20%	68.90%	76.90%	70.450%	76.125%
OTP – Grain Unit	75%	59.3% ²⁵	78.50%	72.00%	66.50%	55.40%	68.100%	77.350%
OTP – Crude Unit	70%	53.5% ²⁶	72.60%	74.10%	67.90%	69.10%	70.925%	68.375%
OTP – Auto Unit	63%	55.4% ²⁷	70.50%	68.30%	71.80%	69.20%	69.950%	73.850%
OTP – Ethanol Unit	50%	13.8% ²⁸	33.90%	44.00%	40.50%	44.20%	40.650%	48.250%

For its labor force targets, BNSF stated that it expects to employ 15,000 T&E employees at six months (15,200 employees in one year), 8,000 MOW employees at six months

¹⁶ This date signifies the Four Carriers' progress around the time of submission of their revised service recovery plans on June 23, 2022. The weekly performance data filed in this docket, as well as the weekly rail service data filed pursuant to 49 C.F.R. part 1250, are submitted to the Board the Wednesday after the week ending date (e.g., data for the week ending June 24, 2022, was filed the following Wednesday, June 29, 2022).

¹⁷ These averages are based on BNSF's historical data submitted to the Board on June 23, 2022, for the weeks ending September 20, September 27, October 4, and October 11, 2019.

¹⁸ BNSF Rail Service Data at Row 13, available at www.stb.gov/reports-data/rail-service-data/.

(7,800 employees in one year),²⁹ and 6,300 MOE employees at six months (6,400 employees in one year). (BNSF Revised Serv. Recovery Plan 18.)

As shown in Table 2, BNSF is far from its T&E target when compared to the September monthly employment data in this docket for employees actively on the job. BNSF has indicated to Board staff that it intended for its progress towards its labor force targets to be measured against the monthly employment data it submits in Form C pursuant to 49 C.F.R. part 1246. Data submitted in Form C includes a broader group of employees (i.e., total employees on the payroll) than the relevant data in this docket (i.e., employees actively on the job). Accordingly, the Board has compared, in Table 2, BNSF's progress to both the total number of employees on the payroll, as shown in Form C, and the number of employees actively on the job, as shown in the Docket No. EP 770 (Sub-No. 1) employment data.

As demonstrated in Table 2, under either comparison data set, BNSF has not met its T&E target. Compared to its Form C data, BNSF has achieved its MOW and MOE targets, although those figures may be affected by the seasonal nature of maintenance work. Given issues raised in this docket, and absent any indication or explanation from BNSF on this record that it has changed its target, the Board is most concerned with BNSF's ability to meet its target for T&E employees.

To ensure uniformity moving forward, BNSF is directed to provide the Board, in its interim update, with six-month and one-year labor force targets for employees actively on the job (using the same timeframe starting point as its key service performance indicator targets) so that those targets can be compared to the count of employees actively on the job in the Docket No. EP 770 (Sub-No. 1) monthly employment data. See June 13 Order, EP 770 (Sub-No. 1), slip op.

¹⁹ BNSF Rail Service Data at Row 27, available at www.stb.gov/reports-data/rail-service-data/.

²⁰ (BNSF Performance Data at Row 78.)

²¹ BNSF Rail Service Data at Row 59, available at www.stb.gov/reports-data/rail-service-data/.

²² (BNSF Performance Data at Row 169.)

²³ (BNSF Performance Data at Row 163.)

²⁴ (BNSF Performance Data at Row 165.)

²⁵ (BNSF Performance Data at Row 164.)

²⁶ (BNSF Performance Data at Row 167.)

²⁷ (BNSF Performance Data at Row 166.)

²⁸ (BNSF Performance Data at Row 168.)

²⁹ BNSF explains that the decrease in anticipated MOW employees between the six-month and one-year periods reflects seasonal differences in its maintenance and construction activity. (BNSF Revised Serv. Recovery Plan 18 n.6.)

at 7 & n.13 (directing the Four Carriers to provide labor force targets for employees actively on the job (i.e., not furloughed), at six months and one year).

Table 2 – BNSF Employment Data

Category	Six-Month Target	One-Year Target	EP 770 (Sub-No. 1) September Employment Data	September Form C Data
T&E	15,000	15,200	13,875 ³⁰	14,847 ³¹
MOW	8,000	7,800	8,023 ³²	8,088 ³³
MOE	6,300	6,400	6,282 ³⁴	6,429 ³⁵

CSXT. CSXT identified FMLM, velocity, dwell, and TPC as its key performance indicators. (CSXT Serv. Recovery Plan 1.) At the end of the six-month reporting period, CSXT stated that it expects to achieve a FMLM target of 85 percent, a velocity target of 23.5 miles per hour, and a terminal dwell target of 22 hours. (*Id.* at 3-4.) CSXT stated that it expects to achieve TPC for manifest traffic at or above 80 percent, TPC for aggregate unit train traffic (including grain unit, coal unit, automotive unit, crude oil unit, and ethanol unit) at or above 90 percent, and TPC for intermodal traffic at or above 95 percent.³⁶ (CSXT Revised Serv. Recovery Plan 4-5.)

³⁰ (BNSF Emp. Data at Row 305, Oct. 15, 2022.)

³¹ BNSF Emp. Data at Row 10, Sept. 2022, available at www.stb.gov/reports-data/economic-data/employment-data/.

³² (BNSF Emp. Data at Row 263, Oct. 15, 2022.)

³³ BNSF Emp. Data at Row 7, Sept. 2022, available at www.stb.gov/reports-data/economic-data/employment-data/.

³⁴ (BNSF Emp. Data at Row 277, Oct. 15, 2022.)

³⁵ BNSF Emp. Data at Row 8, Sept. 2022, available at www.stb.gov/reports-data/economic-data/employment-data/.

³⁶ The Board notes that, unlike the other carriers, CSXT measures TPC for intermodal traffic by percentage of intermodal trains arriving within 24 hours of their scheduled final arrival time, rather than by measuring transit for the individual intermodal units, which may capture additional delays at terminals accrued during staging, loading, unloading, and stacking activities. (CSXT Methodology 3, May 18, 2022.)

While CSXT has started to consistently exceed its velocity and terminal dwell targets in recent weeks, Table 3 indicates that CSXT has not yet met its target for FMLM. For TPC, CSXT has exceeded its targets for coal unit, intermodal, manifest, and grain unit traffic in recent weeks. Additionally, CSXT's recent performance shows a similar velocity level to that in 2019. However, CSXT's recent data for FMLM, terminal dwell, and unit train TPC show that these indicators on average have not yet returned to 2019 levels.

Since CSXT does not collect TPC data for unit trains in the normal course of business, CSXT stated that it will report train profile data to create a surrogate of expected performance levels. (CSXT Methodology 3, May 18, 2022.) However, the Board is concerned that the methodology CSXT is using for its surrogate approach may not be consistent enough with the approach it is using for the other types of traffic to allow the Board to have a full understanding of its unit train performance. Accordingly, in its interim update, the Board directs CSXT to provide more information about the purpose of train profile data in the normal course of business and the extent to which the profiled run times correspond to the ways in which intermodal and manifest traffic are measured.

Table 3 – CSXT Service Performance Data

Key Performance Indicator	Target	Data for the Week Ending June 24	Most Recent Four Weeks of Data				Four Week Average 2022	Four Week Average 2019 ³⁷
			Week Ending Sept. 23	Week Ending Sept. 30	Week Ending Oct. 7	Week Ending Oct. 14		
FMLM	85%	77% ³⁸	84%	81%	83%	84%	83.000%	90.433%
Velocity (miles per hour)	23.5	21.1 ³⁹	25.3	25.7	26.1	25.6	25.675	25.386
Terminal Dwell (hours)	22	26.22 ⁴⁰	22.2	21.6	21.6	20.8	21.560	17.360
TPC – Manifest	80%	64% ⁴¹	78%	82%	83%	85%	82.000%	-- ⁴²
TPC – Coal Unit	90%	93% ⁴³	97%	95%	98%	98%	97.000%	99.646% ⁴⁴
TPC – Ethanol Unit	90%	69% ⁴⁵	89%	73%	93%	84%	84.750%	99.646%
TPC – Grain Unit	90%	75% ⁴⁶	89%	91%	93%	93%	91.500%	99.646%
TPC – Intermodal	95%	98% ⁴⁷	99%	99%	99%	100%	99.250%	99.944%

³⁷ These averages are based on CSXT’s historical data submitted to the Board on June 23, 2022, for the weeks ending September 20, September 27, October 4, and October 11, 2019.

³⁸ (CSXT Performance Data at Row 78.)

³⁹ CSXT Rail Service Data at Row 13, available at www.stb.gov/reports-data/rail-service-data/.

⁴⁰ CSXT Rail Service Data at Row 27, available at www.stb.gov/reports-data/rail-service-data/.

⁴¹ (CSXT Performance Data at Row 163.)

⁴² CSXT, NSR, and UP did not provide certain historical data to the Board that was not retained in the normal course of business.

⁴³ (CSXT Performance Data at Row 165.)

⁴⁴ CSXT provided historical data for aggregate unit train TPC, rather than by individual unit train type.

⁴⁵ (CSXT Performance Data at Row 169.)

⁴⁶ (CSXT Performance Data at Row 164.)

⁴⁷ (CSXT Performance Data at Row 169.)

For its labor force targets, CSXT stated that it expects to have 7,000 to 7,100 T&E employees at six months (7,000 to 7,500 employees over the next one to two years), 4,905 MOW employees at six months (the same number in one year), and 2,451 MOE employees at six months (the same number in one year). (CSXT Revised Serv. Recovery Plan 10-11.)

As shown in Table 4, CSXT has not met its T&E target when compared to the monthly employment data submitted in this docket. Furthermore, while CSXT has not yet achieved its MOW target, it has achieved its MOE target, although both figures may be affected by the seasonal nature of maintenance work. Given issues raised in this docket, and absent any indication or explanation from CSXT on this record that it has changed its target, the Board is most concerned with CSXT's ability to meet its targets for T&E employees.

Table 4 – CSXT Employment Data

Category	Six-Month Target	One-Year Target	EP 770 (Sub-No. 1) September Employment Data
T&E	7,000-7,100	7,000-7,500	6,836 ⁴⁸
MOW	4,905	4,905	4,608 ⁴⁹
MOE	2,451	2,451	2,778 ⁵⁰

NSR. NSR identified system velocity, terminal dwell, local operating plan adherence, and on time delivery as its key performance indicators. (NSR Serv. Recovery Plan 1.) At the end of the six-month period, NSR stated that it expects to achieve a system velocity target of 19.4 miles per hour, a terminal dwell target of 23.7 hours, and a local operating plan adherence target of 75 percent. (NSR Revised Serv. Recovery Plan 25.) For on time delivery, NSR stated that its targets are 61 percent for merchandise traffic and 93 percent for intermodal traffic.⁵¹ (Id.)

NSR has consistently exceeded its velocity target in recent weeks, as well as its targets for on time delivery of intermodal and manifest traffic. Additionally, NSR has met its terminal

⁴⁸ (CSXT Emp. Data at Row 305, Oct. 15, 2022)

⁴⁹ (CSXT Emp. Data at Row 263, Oct. 15, 2022.)

⁵⁰ (CSXT Emp. Data at Row 277, Oct. 15, 2022.)

⁵¹ In the June 13 Order, the Board directed NSR to provide, if possible, a performance target for unit train service or explain in detail its inability to do so. June 13 Order, EP 770 (Sub-No. 1), slip op. at 14-15. In its revised service recovery plan, NSR explained that it was not able to provide a target for unit trains because they are unscheduled. (NSR Revised Serv. Recovery Plan 26.) NSR stated that it does not track unit train performance by adherence to the original ETA and, therefore, does not have that metric available. (Id.)

dwelling target in some recent weeks. However, as shown in Table 5, the recent data show that NSR is not yet consistently meeting its local operating plan adherence target, and its velocity, terminal dwell, and local operating plan adherence have not returned to 2019 levels.

Table 5 – NSR Service Performance Data

Key Performance Indicator	Target	Data for the Week Ending June 24	Most Recent Four Weeks of Data				Four Week Average 2022	Four Week Average 2019 ⁵²
			Week Ending Sept. 23	Week Ending Sept. 30	Week Ending Oct. 7	Week Ending Oct. 14		
Velocity (miles per hour)	19.4	18 ⁵³	21.27	21.42	21.09	20.14	20.980	22.631
Terminal Dwell (hours)	23.7	27.4 ⁵⁴	24.7	23.5	23.5	24.1	23.950	18.125
Local Operating Plan Adherence	75%	72.47% ⁵⁵	73.33%	72.99%	72.49%	72.49%	72.825%	84.723%
On Time Delivery – Merchandise	61%	54.03% ⁵⁶	74.26%	76.77%	76.73%	76.08%	75.960%	--
On Time Delivery – Intermodal	93%	90.12% ⁵⁷	98.54%	97.92%	96.52%	95.36%	97.085%	--

For its labor force targets, NSR stated that it expects to have 7,330 T&E employees at six months (7,543 employees in one year), 4,206 MOW employees at six months (4,349 employees in one year), and 2,385 MOE employees at six months (2,438 employees in one year). (NSR Revised Serv. Recovery Plan 24.)

⁵² These averages are based on NSR's historical data submitted to the Board on June 23, 2022, for the weeks ending September 20, September 27, October 4, and October 11, 2019.

⁵³ NSR Rail Service Data at Row 13, available at www.stb.gov/reports-data/rail-service-data/.

⁵⁴ NSR Rail Service Data at Row 27, available at www.stb.gov/reports-data/rail-service-data/.

⁵⁵ (NSR Performance Data at Row 78.)

⁵⁶ (NSR Performance Data at Row 163.)

⁵⁷ (NSR Performance Data at Row 169.)

As shown in Table 6, NSR has met its six-month T&E and MOE targets when compared to the monthly employment data submitted in this docket. NSR has not met its MOW target, although that figure may be affected by the seasonal nature of maintenance work.

Table 6 – NSR Employment Data

Category	Six-Month Target	One-Year Target	EP 770 (Sub-No. 1) September Employment Data
T&E	7,330	7,543	7,336 ⁵⁸
MOW	4,206	4,349	4,159 ⁵⁹
MOE	2,385	2,438	2,417 ⁶⁰

UP. UP identified car velocity,⁶¹ operating inventory,⁶² cars per carload,⁶³ FMLM, and TPC as its key performance indicators. (UP Serv. Recovery Plan 3.) At the end of the six-month reporting period, UP stated that it expects to achieve a car velocity target of 207 miles per day, an operating inventory target of 193,000 cars, a system average of cars per carload target of 7.9, and a FMLM target of 91 percent. (UP Revised Serv. Recovery Plan 23-24.) For TPC, UP stated that its targets are 70 percent for manifest traffic, 80 percent for intermodal traffic, and 81 percent for aggregate bulk traffic. (Id. at 25.)

As shown in Table 7, the data indicate that UP's performance is consistently below its targets for velocity and TPC for intermodal, grain unit, and crude oil unit traffic. Furthermore, UP has not yet met its target for cars per carload. In several recent weeks, UP's operating

⁵⁸ (NSR Emp. Data at Row 305, Oct. 15, 2022)

⁵⁹ (NSR Emp. Data at Row 263, Oct. 15, 2022.)

⁶⁰ (NSR Emp. Data at Row 277, Oct. 15, 2022.)

⁶¹ UP's car velocity indicator measures the average daily miles a car moves on the network. (UP Revised Serv. Recovery Plan 23.)

⁶² Operating inventory represents UP's active inventory minus cars placed at rail users' facilities. (UP Revised Serv. Recovery Plan 23.) UP intends to decrease its operating inventory because it contends that a surplus of operating inventory is a primary contributor to network congestion. (Id. at 24.)

⁶³ Cars per carload represents the operating inventory required to generate one revenue carload and is calculated by dividing operating inventory by the average daily number of revenue carloads. (UP Revised Serv. Recovery Plan 24.) UP intends to decrease its cars per carload metric, which would signify that it is using fewer freight cars to move rail users' shipments across the network. (Id.)

inventory has been below its target, signifying that it has made some positive steps towards reducing network congestion. UP has met its FMLM performance target and its TPC targets for manifest and coal unit traffic in several recent weeks. However, UP's recent data for all indicators (i.e., FMLM, car velocity, operating inventory, cars per carload, manifest and unit train TPC) show that on average they have not yet returned to 2019 levels.⁶⁴

⁶⁴ In its interim update, UP is directed to advise the Board about whether its goal is to return service to 2019 levels and then improve further upon that baseline, as the other carriers have indicated, or whether it has a different long-term goal.

Table 7 – UP Service Performance Data

Key Performance Indicator	Target	Data for Week Ending June 24 ⁶⁵	Most Recent Biweekly Progress Reports				Eight Week Average 2022	Eight Week Average 2019 ⁶⁶
			Week Ending Sept. 2	Week Ending Sept. 16	Week Ending Sept. 30	Week Ending Oct. 14		
Car Velocity (miles per day)	207	186 ⁶⁷	192	194	198	197	195.250	221.125
Operating Inventory	193,000	189,612 ⁶⁸	195,493	190,649	192,382	191,094	192,404.500	160,406.500
Cars Per Carload	7.9	8.5 ⁶⁹	8.2	8.2	8.2	8.3	8.225	6.975

Key Performance Indicator	Target	Data for Week Ending June 24	Most Recent Four Weeks of Data				Four Week Average 2022	Four Week Average 2019 ⁷⁰
			Week Ending Sept. 23	Week Ending Sept. 30	Week Ending Oct. 7	Week Ending Oct. 14		
FMLM	91%	91% ⁷¹	91%	92%	92%	91%	91.500%	92.750%
TPC – Manifest	70%	68% ⁷²	71%	69%	71%	71%	70.500%	80.750%
TPC – Intermodal	80%	63% ⁷³	69%	69%	73%	72%	70.750%	--
TPC – Grain Unit	81%	60% ⁷⁴	57%	66%	64%	61%	62.000%	89.750% ⁷⁵
TPC – Coal Unit	81%	73% ⁷⁶	86%	87%	80%	78%	82.750%	89.750%
TPC – Crude Oil Unit	81%	99% ⁷⁷	49%	75%	63%	54%	60.250%	89.750%
TPC – Ethanol Unit	81%	58% ⁷⁸	67%	77%	74%	90%	77.000%	89.750%

⁶⁵ Three of UP's key performance indicators do not correspond to data that the Board collects weekly in this docket and pursuant to 49 C.F.R. part 1250. Accordingly, the Board has documented UP's progress on these three key performance indicators through the most recent updates provided in UP's biweekly progress reports. The biweekly reports filed in this docket are submitted to the Board the Friday after the week ending date (e.g., data for the week ending June 24, 2022, was filed the following Friday, July 1, 2022).

⁶⁶ These averages are based on UP's historical data submitted to the Board on June 23, 2022, for the weeks ending August 23, August 30, September 6, September 13, September 20, September 27, October 4, and October 11, 2019. An eight-week average was used here because UP's most recent four biweekly reports span eight weeks.

For its labor force targets, UP stated that it expects to have 11,300 T&E employees at six months (11,400 employees in one year); 9,000 engineering employees⁷⁹ at six months (9,000 employees in one year); and 3,850 mechanical employees at six months (4,200 employees in one year). (UP Revised Serv. Recovery Plan 6.)

However, the Board is unable to compare UP's progress to the monthly employment data in this docket that tracks employees actively on the job. As shown in Table 8, UP exceeded its six-month T&E target by approximately 2,000 employees in September when compared to the number of employees actively on the job—a discrepancy that suggests that UP included different groups of employees in the T&E target it provided with its revised service recovery plan and the number of T&E employees actively on the job, as provided in the Docket No. EP 770 (Sub-No. 1) employment data.⁸⁰ In its interim update, UP is directed to explain this discrepancy and provide six-month and one-year labor force targets for employees actively on the job (using the same timeframe starting point as its key service performance indicator targets) that the Board can track against the monthly data UP is submitting in this docket.

⁶⁷ (UP Biweekly Progress Report, July 1, 2022.)

⁶⁸ (UP Biweekly Progress Report, July 1, 2022.)

⁶⁹ (UP Biweekly Progress Report, July 1, 2022.)

⁷⁰ These averages are based on UP's historical data submitted to the Board on June 23, 2022, for the weeks ending September 20, September 27, October 4, and October 11, 2019.

⁷¹ (UP Performance Data at Row 78.)

⁷² (UP Performance Data at Row 163.)

⁷³ (UP Performance Data at Row 169.)

⁷⁴ (UP Performance Data at Row 164.)

⁷⁵ UP provided historical data for aggregate unit train TPC, rather than by individual unit train type.

⁷⁶ (UP Performance Data at Row 165.)

⁷⁷ (UP Performance Data at Row 167.)

⁷⁸ (UP Performance Data at Row 168.)

⁷⁹ The Board understands that UP's "engineering" and "mechanical" categories largely correspond to the categories of MOW and MOE, respectively, with one exception for employees who maintain equipment used by MOW employees, which are categorized as MOE employees. UP is directed to confirm or correct this understanding in its interim update.

⁸⁰ UP's Form C data shows a count of 13,790 T&E employees in September—a number similarly removed from the labor force target UP provided in its revised service recovery plan. See UP Emp. Data at Row 30, Sept. 2022, available at www.stb.gov/reports-data/economic-data/employment-data/.

Despite this discrepancy, the Board is concerned with UP's progress in hiring T&E employees as indicated by the EP 770 (Sub-No. 1) data. In its revised service recovery plan, UP asserted that it planned to add 1,400 T&E employees in 2022 for a net increase of 400 new T&E employees when factoring in attrition. (UP Revised Serv. Recovery Plan 5-6.) However, according to EP 770 (Sub-No. 1) data, between May and September, UP added only 70 active T&E employees. (See UP Emp. Data at Row 305, Oct. 15, 2022, June 23, 2022.) UP's Form C data shows more promising progress, as UP added 330 T&E employees between January 2022 and September 2022. See UP Emp. Data at Row 30, Jan. 2022, Sept. 2022, available at www.stb.gov/reports-data/economic-data/employment-data/.

Table 8 – UP Employment Data⁸¹

Category	Six-Month Target	One-Year Target	EP 770 (Sub-No. 1) September Employment Data
T&E	11,300	11,400	13,265 ⁸²
MOW	9,000	9,000	8,008 ⁸³
MOE	3,850	4,200	4,936 ⁸⁴

Extension of Temporary Reporting Period

As described above, the Four Carriers appear unlikely to achieve all of their targets for service improvement at the end of the current temporary reporting period. At the same time, widespread service issues continue to affect the network, and the Four Carriers have not yet returned service even to 2019 levels. Although the data submitted in recent weeks shows positive signs of improvement for several key performance indicators, the Board finds that it must continue to monitor the Four Carriers' service performance and hiring efforts through current and upcoming challenges, such as the fall harvest and the holiday season. The coming months will be a critical time for the Four Carriers to demonstrate resiliency in the context of these additional challenges. Furthermore, additional time is needed to track the Four Carriers' progress against their labor force targets, especially because the targets BNSF and UP provided in their revised service recovery plans do not compare to the relevant data in this docket (i.e., employees actively on the job), as discussed above. An extended reporting period is also consistent with representations the Four Carriers have made to the Board that restoring service to

⁸¹ As discussed above, and illustrated in Table 8, UP's six-month and one-year targets do not correspond to the Docket No. EP 770 (Sub-No. 1) employment data.

⁸² (UP Emp. Data at Row 305, Oct. 15, 2022)

⁸³ (UP Emp. Data at Row 263, Oct. 15, 2022.)

⁸⁴ (UP Emp. Data at Row 277, Oct. 15, 2022.)

levels that can reliably handle demand takes time. (See NSR Revised Serv. Recovery Plan 1-2 (noting that “[s]ervice recovery will not happen overnight” because “[i]t takes time to recruit and train new employees for skilled and safety-critical careers in train operations”)); see also Hr’g Tr. 796:3-6, Apr. 27, 2022, Urgent Issues in Freight Rail Serv., EP 770 (“[BNSF is] confident that our plan will work and bring our service performance back to where it needs to be, but I want the Board to know that this will not happen overnight.”); Hr’g Tr. 825:3-7, Apr. 27, 2022, Urgent Issues in Freight Rail Serv., EP 770 (“[UP] know[s] from experience that reducing operating inventory alleviates congestion, and though we know getting cars off the network is one of several immediate actions we can take to reduce inventory, we cannot do this overnight.”); Hr’g Tr. 398:17-20, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770 (“It’s important to understand that the success [CSXT is] having in filling our hiring pipeline will take time to be reflected in our performance metrics.”).

Accordingly, the Board will direct the Four Carriers to continue to submit biweekly service progress reports for an additional six-month period, until May 5, 2023. The Board will also direct all Class I railroads to submit weekly performance data in this docket during this additional six-month period.⁸⁵ As discussed in the May 6 Order, EP 770 (Sub-No. 1), slip op. at 4, although not all Class I carriers are experiencing service problems to the same degree, the U.S. rail system is an interconnected network and problems in one geographic area can quickly spread elsewhere. The application of certain reporting requirements to all Class I carriers allows the Board to assess the current service issues across the entire rail network.⁸⁶ All Class I carriers must also continue to submit monthly employment data in this docket, as described in the May 6 Order.

At this time, the Board will not require the Four Carriers to continue to participate in individual biweekly conference calls with the Board’s Office of Public Assistance, Governmental Affairs and Compliance (OPAGAC). OPAGAC will continue to remain in regular contact with the Four Carriers about their service recovery efforts.

⁸⁵ On June 30, 2022, and July 5, 2022, respectively, the Allied Rail Unions and Transportation Trades Department submitted comments in this docket requesting that the Board collect additional granular employment data and consider extending the temporary reporting period. The Association of American Railroads replied in opposition on July 21, 2022, arguing that the new data requests concern the collective bargaining process rather than the pending Board proceedings, and contending that the data might implicate the privacy interests of individual employees. The Board declines to require this additional data from Class I carriers at this time; however, the Board will extend the temporary reporting period, as discussed in this decision. In Docket No. EP 770, the Board also received requests for Board actions from A.F. Gelhar Company and the American Association of Grain Inspection and Weighing Agencies on May 27, 2022, and June 29, 2022, respectively, that are outside the scope of these proceedings.

⁸⁶ The Board will also publish an updated Paperwork Reduction Act notice related to this decision in the Federal Register.

Interim Update

In addition to the specific issues addressed above in the discussions of each carrier's recent data, the Board will order each of the Four Carriers to include an interim update with the following information:

1. Because the Board is extending the temporary reporting period for another six months, the Four Carriers are directed to submit targets that they expect to meet at the end of the extended temporary reporting period for each of their key performance indicators.⁸⁷
2. CSXT and NSR may, if necessary, update their labor force targets submitted in response to the June 13 Order. BNSF and UP must update their labor force targets for the reasons described above. Each carrier is also directed to include an explanation for any labor force target modifications.
3. If any of the Four Carriers have made other modifications to their service recovery plans as submitted to the Board, those carriers should provide the Board with details about changes they have made or intend to make to achieve their longer-term success. If a carrier does not intend to make any changes, those carriers should so indicate.

Based on the progress shown in the ensuing reporting from the Four Carriers, the Board will determine whether any further public hearings are warranted in this docket.

It is ordered:

1. BNSF, CSXT, NSR, and UP shall submit the interim update described above on December 2, 2022.
2. BNSF, CSXT, NSR, and UP shall continue to submit biweekly service progress reports for an additional six-month period, until May 5, 2023.
3. All Class I railroads shall continue to submit weekly performance data and monthly employment data in this docket for an additional six-month period, until May 5, 2023.
4. This decision is effective on its service date.

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

⁸⁷ The Board recognizes that circumstances can change substantially in six months and that such changes, including varying economic conditions, could affect or supersede the targets that the Four Carriers will provide in response to this direction.