

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 to December 31, 2023, and modifies reporting requirements for CSX Transportation, Inc.

Decided: May 1, 2023

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 impact of recent rail service problems on rail users, including the significant challenges rail users 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), such as 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.

The Board has continued to closely monitor weekly rail service performance data submitted in this docket and pursuant to 49 C.F.R. part 1250.² Data from recent weeks show that NSR currently is not meeting its one-year targets for service improvement, BNSF and UP are currently meeting some of their one-year targets, and CSXT currently is meeting nearly all its one-year targets. Overall, the data for 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. At this time, therefore, continued monitoring is needed.

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 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/.

Background

The Board held a public hearing on April 26 and 27, 2022, in Washington, D.C., to discuss the serious rail service problems and recovery efforts. The Board heard 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 service metrics, the connection between poor service and crew shortages, and the impact of poor service on rail users whose businesses are central to the country's economic well-being.

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.³ The first week of required performance data submitted by the Four Carriers revealed extensive service delays and reliability problems. Additionally, the Four Carriers' service recovery plans did not meet the Board's expectations and, in some instances, did not comply with the May 6 Order. Therefore, on June 13, 2022, the Board issued a decision in this docket (June 13 Order) directing the Four Carriers to submit revised plans detailing how they intended to improve service on their respective freight rail networks.

To evaluate their progress towards service improvement, the Board directed the Four Carriers, in both the May 6 Order and the 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)⁴ that each carrier expected to meet at the end of the six-month reporting period for each indicator selected. May 6 Ord., EP 770 (Sub-No. 1), slip op. at 4-5; June 13 Ord., 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 who 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).

³ 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."

⁴ 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 Ord., 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.

June 13 Ord., EP 770 (Sub-No. 1), slip op. at 7. Additionally, the June 13 Order directed the Four Carriers to include certain data about trainees in their monthly employment data and service recovery plans. Id. at 7-8.

In an October 28, 2022 decision in this docket (October 28 Order), the Board stated that data submitted by the Four Carriers through the week ending October 14, 2022, showed some signs of service improvement for indicators such as velocity, dwell, and TPC, and noted that all Four Carriers were meeting some of their six-month targets for service improvement. Oct. 28 Ord., EP 770 (Sub-No. 1), slip op. at 2, 5. But because the data suggested that the Four Carriers would not meet all of their six-month targets, and widespread service issues continued to affect the network, the Board found that it must continue to monitor the Four Carriers' service performance and hiring efforts. Id. at 17. The Board, therefore, directed the Four Carriers to continue to submit biweekly service progress reports and directed all Class I railroads to submit weekly performance data in this docket for an additional six-month period ending on May 5, 2023.⁵ Id. at 18. The Board also directed the Four Carriers to submit an interim update containing, among other things, one-year service targets for each of their key performance indicators. Id. at 19. Further, the Board required BNSF and UP to update their labor force targets and allowed CSXT and NSR to update their labor force targets if necessary. Id.

Recent Data

The following section compares the Four Carriers' one-year service targets to recent data submitted in this docket and pursuant to 49 C.F.R. part 1250.⁶ 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.

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 one-year reporting period, BNSF stated that it expects to achieve a velocity target of 26 miles per hour, a terminal dwell target of 25.5 hours, a local service performance target of 91%, and an average of 95 trains holding per day. (BNSF Interim Update 7.) For the OTP category, BNSF stated that its targets are 75% OTP for intermodal, 75% OTP for coal unit, 65% OTP for merchandise,⁷ 75% OTP for grain unit, 70% OTP for crude unit, 70% OTP for auto unit, and 50% OTP for ethanol unit. (Id.)

BNSF has failed to achieve almost all of its one-year service targets for key performance indicators in recent weeks. BNSF has met its train velocity and average trains holding per day targets just once in the past four weeks. Data for the four most recent weeks also show that

⁵ In the October 28 Order, the Board stated that it would not require the Four Carriers to continue to participate in individual biweekly conference calls. Oct. 28 Ord., EP 770 (Sub-No. 1), slip op. at 18.

⁶ The data discussed in the following section reflects all data submitted to the Board between December 2, 2022, and the week ending April 14, 2023.

⁷ The terms "merchandise" and "manifest" refer to the same traffic.

BNSF has stayed well above its terminal dwell target and that, on average, cars are sitting in yards longer than when BNSF provided its December 2022 Interim Update. Further, recent data show a troubling regression below service levels reported by BNSF in early December. With respect to OTP, BNSF has exceeded its targets for intermodal and automotive unit traffic in recent weeks. However, but for rare occasions, BNSF has not met its targets for other unit train categories or merchandise traffic in recent weeks.

For its labor force targets, BNSF stated in its December 2022 Interim Update that, in one year (May 6, 2023), it expects to employ 14,905 T&E employees, 8,094 MOW employees, and 6,348 MOE employees. (BNSF Interim Update 7.) 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 1246.⁸ Accordingly, the Board has compared 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.

When compared to the March 2023 monthly employment data in this docket for employees actively on the job, BNSF has not yet met any of its one-year labor force targets for employees actively on the job, although it is close to meeting its MOE target. When compared to Form C data, BNSF has met its one-year labor targets.

CSXT. CSXT identified FMLM, velocity, dwell, and TPC as its key performance indicators. (CSXT Serv. Recovery Plan 1.) At the end of the one-year reporting period, CSXT stated that it expects to achieve a FMLM target of 87%, a velocity target of 24.2 miles per hour, and a terminal dwell target of 21.3 hours. (CSXT Interim Update 3.) CSXT stated that its TPC targets are 82% for manifest traffic, 92% for aggregate unit train traffic⁹ (including grain unit, coal unit, automotive unit, crude oil unit, and ethanol unit), and 95% for intermodal traffic.¹⁰ (CSXT Interim Update 3.)

⁸ 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), and is available at www.stb.gov/reports-data/economic-data/employment-data/.

⁹ Because 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.) According to CSXT, after a unit train is “loaded, billed, and released back to the railroad,” CSXT assigns a train profile and a scheduled runtime for that profile. (CSXT Interim Update 4.) Thus, the best surrogate it could devise for a unit train TPC metric “was to measure each unit train’s performance against the scheduled runtime of that unit train profile.” (Id.)

¹⁰ 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.)

With few exceptions, CSXT has exceeded its velocity, terminal dwell, TPC, and FMLM targets in recent months. With respect to TPC in the four most recent weeks, CSXT has fluctuated above and below its targets for some unit train traffic (ethanol and grain), but CSXT has exceeded its TPC targets for other types of traffic. CSXT's recent data shows that its performance generally has improved.

For its labor force targets, CSXT stated that it expects to have 7,000 to 7,500 T&E employees over the next one to two years, 4,905 MOW employees in one year, and 2,451 MOE employees in one year. (CSXT Revised Serv. Recovery Plan 10-11.) Although CSXT has not yet achieved its MOW target, it has met its T&E and MOE targets when compared to the March 2023 monthly employment data submitted in this docket.

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 one-year reporting period, NSR stated that it expects to achieve a system velocity target of 22 miles per hour, a terminal dwell target of 21.5 hours, and a local operating plan adherence target of 78%. (NSR Interim Update 5.) For on-time delivery, NSR stated that its targets are 82% for merchandise traffic and 99% for intermodal traffic.¹¹ (NSR Interim Update 5.)

NSR has occasionally met its targets for velocity and on-time delivery since filing its December 2022 Interim Update. In recent weeks, however, NSR has not met its targets for any key performance indicator. According to NSR, several unrelated factors have combined to negatively affect the quality of NSR's service over the last several weeks, leading to "a short-term disruption in [NSR's] terminal dwell and train speed in the merchandise and bulk networks." (NSR Biweekly Progress Report 2, Apr. 21, 2023.)

For its labor force targets, NSR stated that it expects to have 7,613 T&E employees in one year, 4,166 MOW employees in one year, and 2,472 MOE employees in one year. (NSR Interim Update 11.) NSR has met its one-year T&E and MOW targets when compared to the March 2023 monthly employment data submitted in this docket. NSR has not met its MOE target.

¹¹ NSR has stated that it is unable to provide a target for unit trains because they are unscheduled and, because it does not track unit train performance by adherence to the original ETA, it does not have that metric available. (NSR Revised Serv. Recovery Plan 26.)

UP. UP identified car velocity,¹² operating inventory,¹³ cars per carload,¹⁴ FMLM, and TPC as its key performance indicators. (UP Serv. Recovery Plan 3.) At the end of the one-year reporting period, UP stated that it expects to achieve a car velocity target of 207 miles per day, an operating inventory target of 190,000 cars, a system average of cars per carload target of 7.9, and a FMLM target of 91%. (UP Interim Update 4.) For TPC, UP stated that its targets are 70% for manifest traffic, 80% for intermodal traffic, and 81% for aggregate bulk traffic. (Id.)

In recent weeks, UP has exceeded its target for FMLM and its operating inventory has been below its target, signifying that it has made some positive steps towards reducing network congestion. However, UP's four most recent biweekly progress reports indicate that UP's performance is below its target for car velocity on average and that UP has met its target for cars per carload just once. With respect to TPC in recent weeks, UP has met its target for coal unit on average, but UP's performance has been below its targets for other traffic on average.

For its labor force targets, UP stated that it expects to have 13,350 T&E employees in one year, 8,000 MOW employees in one year, and 4,975 MOE employees in one year. (UP Supp. Interim Update 1.) UP's March 2023 monthly employment data in this docket for employees actively on the job indicates that UP is close to meeting its labor force targets, but has not yet met any of them.

Extension of Temporary Reporting Period

As described above, BNSF, NSR, and UP performance data show continued service challenges relative to the targets the carriers set for their own service improvement by the end of the current temporary reporting period. While data submitted in recent weeks show some improvement for some performance indicators, these carriers generally are not meeting their service performance targets on average. Therefore, and because service issues continue to affect the network, the Board finds that it must continue to monitor service performance and hiring efforts. As stated in the October 28 Order, an extended reporting period also is consistent with representations the carriers have made to the Board that restoring service to levels that can reliably handle demand takes time. Extended reporting during the continuing service challenges will also better allow the Board to determine whether additional hearings or other actions are warranted.

¹² UP's car velocity indicator measures the average daily miles a car moves on the network. (UP Revised Serv. Recovery Plan 23.)

¹³ 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.)

¹⁴ 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.)

Accordingly, the Board will direct BNSF, NSR, and UP to continue to submit biweekly service progress reports through the end of the calendar year. The Board will also direct BNSF, NSR, and UP to continue to submit data about trainees in their monthly employment data. See June 13 Ord., EP 770 (Sub-No. 1), slip op. at 7-8.

The Board will not require CSXT to continue to submit biweekly service progress reports or include trainee information in its monthly employment data. CSXT, as discussed above, has been meeting most of its targets for service improvement on a consistent basis.¹⁵ However, CSXT and all Class I railroads will be directed to continue to submit weekly performance data in this docket through the end of the year.¹⁶ As discussed in prior decisions in this docket, 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 or with respect to one carrier 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. For the same reason, all Class I carriers must also continue to submit monthly employment data in this docket, as described in the May 6 Order.

It is ordered:

1. BNSF, NSR, and UP shall continue to submit biweekly service progress reports until December 31, 2023.
2. All Class I railroads shall continue to submit weekly performance data and monthly employment data in this docket until December 31, 2023.

¹⁵ Nothing in this decision should be construed to suggest that the Board finds that the six-month or one-year targets set by any of the Four Carriers are sufficient to resolve the problems currently plaguing the national rail system. These targets were meant to be interim goals, not ultimate goals. Significantly more progress will be needed from each of the carriers to abate the rail service issues that prompted the Board to open this proceeding.

¹⁶ On November 17, 2022, the Freight Rail Customer Alliance (FRCA) and the National Coal Transportation Association (NCTA) submitted a comment in this docket requesting, among other things, that the Board expand service data reporting, make the data reporting permanent, and impose penalties for poor performance. On December 2, 2022, several rail unions (Rail Unions) submitted a comment supporting the requests from FRCA and NCTA and urging the Board to require additional employment reporting. Because the Board concludes that the data it is collecting is sufficient for its regulatory needs at this time, the Board declines to require additional data from Class I carriers. See Oct. 28 Ord., EP 770 (Sub-No. 1), slip op. at 18 n.85 (declining to require additional data reporting as requested by the Allied Rail Unions and Transportation Trades Department). However, as discussed in this decision, the Board will extend the temporary reporting period. In addition, the Board intends to consider, via a rulemaking proceeding, whether to require additional permanent data reporting requirements for service performance metrics.

3. BNSF, NSR, and UP shall continue to include trainee data in their monthly employment data.

4. This decision is effective on its service date.

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