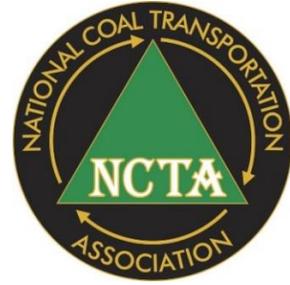




Freight Rail  
Customer Alliance



THE  
NATIONAL  
INDUSTRIAL  
TRANSPORTATION  
LEAGUE



October 8, 2020

The Honorable Ann D. Begeman Chairman  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20423

The Honorable Martin J. Oberman  
Vice-Chairman  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20423

The Honorable Patrick J. Fuchs  
Board Member  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20423

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

Dear Chairman Begeman, Vice-Chairman Oberman, and Board Member Fuchs,

On August 31, 2020, 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, "FRCA"), wrote you regarding the importance and lack of EP 724 information regarding railroad first-mile/last-mile performance outside of unit trains.

On September 10, 2020, the Association of American Railroads ("AAR") sent its response disagreeing with FRCA's proposal. Mr. Kenny Rocker of Union Pacific Railroad ("UP") wrote separately to FRCA on September 21, 2020, stating that UP already provides last-mile, first-mile service metrics at the individual customer level and that aggregate data would not be meaningful as

to local service levels or useful to customers. FRCA is submitting this letter to reply briefly to the AAR and UP responses.

The AAR and, less directly, UP submit that what FRCA seeks would impose unjustified reporting burdens, uniform data-collection is not practicable, the data would not be meaningful, and consumers already possess adequate remedies for service problems. FRCA respectfully submits there is far more common ground than may appear and that the AAR and UP appear to have misunderstood or misstated what FRCA seeks and why.

First, the AAR appears to agree that first-mile/last-mile data, outside of unit trains, is not being reported under EP 724 and thus represents a blind spot to the Board. The AAR also does not suggest that such performance is unimportant, and UP appears to recognize its significance in terms of trying to make it available at the individual shipper level. Those are the twin premises of FRCA's request, and they are not disputed.

Second, FRCA is not seeking to create undue burdens. One premise of FRCA's request is that the carriers already collect the data. UP's letter confirms as much. Such data appears essential for PSR in terms of moving cars and not just trains, and the related shift of cars from unit trains to manifest service. The data has more recently acquired additional importance for managing the impacts of Covid-19. Reporting based on data that the railroads already collect, because they consider it important, will impose little, if any, additional burden on the carriers. FRCA suggested that OPAGAC/RCPA first discuss with the railroads what data they are already collecting and have available. Other options to develop the information include direct railroad-shipper discussions, a Board-supervised technical conference, an order under 49 U.S.C. § 11145(a) requiring disclosure of the available data, a rulemaking proceeding, and/or shipper discovery. FRCA and these other aligned associations are prepared to participate as needed.

Third, a lack of data uniformity among carriers, as claimed by the AAR, is not necessarily a problem, and may well be a virtue. Carriers do not have identical systems or traffic mixes and do not run their systems identically. Differences in data collection likely stem from system differences and do not render the data unreliable or unusable in any way, especially for measuring fluctuations in performance. Differences likely reflect factors that each carrier considers more important to its respective market and customer base. In that regard, the existing EP 724 reporting is not identical among carriers. The key point remains that the Board now receives no data at all about a segment of service that is vital, particularly for smaller and non-unit train shippers.

Fourth, FRCA's focus here is by design on aggregate performance, not individual movements. The aggregate data bears on the overall adequacy of service, and fluctuations in the aggregate data will help the Board to monitor whether the carriers are deploying adequate resources in light of trends in volumes, the economy, and operating conditions. Again, the Board now receives no data at all regarding this aspect of service that is vital for many shippers. Use of aggregated data also removes any confidentiality concerns. FRCA recognizes that how the data is aggregated will be a significant issue, and that individual samples within that average will vary, but those are the case with any average, including the existing EP 724 reporting.

Lastly, the AAR references the availability of remedies for individual shippers under contracts and the common carrier obligation. As the railroads know very well, many shippers, particularly smaller and carload ones, lack the leverage to negotiate contractual service protections. The common carrier obligation, which does not apply to exempt traffic, is usually difficult to enforce, especially for those same shippers. The bigger point is that the Board has an interest in and even a responsibility to ascertain whether carriers are meeting their common carrier obligations in the aggregate. The Board cannot carry out those functions if it has no data, as is the case now.

Otherwise, the enhanced Shipment Management dashboard referenced by UP appears to date from early 2018, <https://www.up.com/customers/announcements/customernews/generalannouncements/CN2018-2.html>, and has not resolved individual shipper concerns about service, demurrage, etc. The same is true of UP's more recent APIs, <https://www.up.com/customers/announcements/customernews/generalannouncements/CN2020-6.html>. UP's measures may be well-intentioned, but they have not helped many shippers, do not begin to demonstrate that UP is providing adequate service, and certainly do not constitute data that the Board can rely upon for ascertaining the adequacy of service.

In short, the data is needed and likely already exists, but is not being shared with the Board. Little burden attaches to reporting data that the carriers already compile and utilize. Aggregate data is exactly what is needed for this purpose and eliminates any confidentiality issues. There is more than enough justification for the Board to begin the process.

Thank you for your continued consideration.

With best regards,



Freight Rail Customer Alliance

National Coal Transportation Association

National Industrial Transportation League

Private Railcar Food and Beverage Association, Inc.

cc: Lucille L. Marvin, Director,  
Office of Public Assistance, Governmental Affairs and Compliance  
Surface Transportation Board

Ian Jefferies, President & CEO  
Association of American Railroads

Kenny Rocker, Executive Vice President, Marketing & Sales  
Union Pacific Railroad