

RAILROAD WEEK IN REVIEW

September 15, 2023

“Union Pacific furloughed 94 mechanical employees at shops across the system this week due to soft traffic volumes and a higher number of locomotives placed in storage. The railroad placed 200 locomotives in storage in the second quarter, which UP says has further reduced the need for shop employees. Nearly two-thirds of the temporary furloughs came from four locations: Kansas City, Mo.; Dolores, Calif.; North Platte, Neb.; and Pocatello, Idaho.” — Trains, August 24

“I am writing this letter to express serious concerns about specific and significant risks to rail safety on the Union Pacific railroad. The compliance of the rolling stock (freight cars and locomotives) on the UP network is poor, and UP was unwilling or unable to take steps to improve the condition of their equipment.” — Amit Bose, FRA Administrator, to UP Senior Management, September 8

“The newly proposed regulations would provide for the prescription of a reciprocal switching agreement when service to a terminal-area shipper or receiver fails to meet certain objective performance standards. The proposed standards are intended to reflect a minimum level of rail service below which regulatory intervention may be warranted.” — STB Notice of Proposed Rulemaking, Reciprocal Switching, September 5

Quite the coincidence. In August Union Pacific announced the furloughing of a significant number of mechanical and shop employees. On September 8 FRA administrator Amit Bose wrote UP senior management a letter taking issue with the railroad’s approach to safety. His complaint:

“In July and August, FRA performed a focused inspection of the UP mechanical operations and rolling stock. During the focused inspection, FRA identified a concerning number of locomotives and freight cars operating on the UP network with federal defects. Specifically, the defect ratio of freight cars was 19.93 percent and 72.69 percent for locomotives (which are both twice the national average).”

UP’s Jim Vena didn’t waste any time shooting back. His September 11 letter to Bose points out that “Typically, inspections by the FRA include a focused audit close out with clear findings and action steps, as well as a meeting to discuss any findings and mitigation approaches. Our team has not received an audit close out, which will help us more quickly address the issues raised.”

Moreover, writes Vena, “When unscheduled audits occur in rail yards, it is standard procedure to work with FRA inspectors to ensure the location of the inspections doesn’t cause safety risks for inspectors or employees, or create service interruptions for our customers.

“We are proud of the professional relationships our managers have with local federal inspectors, and it is very common at a location like North Platte to ask the inspection team to go to a different part of the yard if inspections are becoming impactful to service or placing the inspectors at risk.” I’m sure creating an unsafe environment in the name of inspections is not in the FRA mandate.

In my experience, many FRA mechanical inspectors are former Class I employees in those very crafts. And I’ve seen this pattern before. It occurs when the unionized mechanical forces start telling their FRA inspector friends about how “bad” things are. All of a sudden, the FRA inspectors descend in great numbers and find defects on everything. We all know that you can climb on any piece of equipment and find a defect to write up, even something so small as a bent grab iron or a missing blue card. This may be more of a political stunt than any indication of Union Pacific falling down on safety. Here’s why:

As I’ve written before, Bose is a Biden appointee, Biden has called himself “the union president,” and Bose has aspirations for something higher in a second Biden administration if one comes to pass. There is not an opportunity to speak at labor gatherings of which Bose hasn’t taken advantage. Moreover, his UP scold letter is copied to all the union officers with safety responsibilities, but he made no public announcement that might attract the wrong kind of scrutiny. A word to the wise.

The STB’s Notice of Proposed Rulemaking, “Reciprocal Switching for Inadequate Service,” is a tour de force. Its purpose is to “propose a new set of regulations that would provide for the prescription of reciprocal switching agreements to address inadequate rail service.” The Board intends to use “objective standards based on a carrier’s original estimated time of arrival, transit time, and first-mile and last-mile service.”

I’ve read the entire 51-page document and am thoroughly impressed with how well the Board appears to have done its homework. The framework is entirely service-based, as opposed to the previous document that was more mileage based. And you can see the Board has taken to heart much of what they learned in last year’s Urgent Issues hearings and the subsequent correspondence. Some comments with my shortline hat on:

The document appears only to address terminal operations. Inadequate service to captive shippers out on the railroad does not seem to be on their agenda yet. “The newly proposed regulations would provide for the prescription of a reciprocal switching

agreement when service to a terminal-area shipper or receiver fails to meet certain objective performance standards.”

The “new approach” is to focus reciprocal switching reform on addressing inadequate service and goes into great detail defining exactly what that is. The goal is to provide “appropriate regulatory incentives to Class I carriers to achieve and maintain” adequate service on an ongoing basis. No mention of non-Class I carriers.

The proposed rulemaking is concerned only with “manifest” carloads, not unit trains or intermodal jobs. The move is considered complete when the car is actually or constructively placed at the destination. From the wording, I gather that a car delivered to a shortline interchange is considered a completed move. There is nothing about shortline performance in the trip plan.

The Board’s three major areas of concern are service reliability, transit time, and inadequate local service. One can see how these areas of concern can be addressed in a terminal environment. I’m not so sure about a customer served by a branch line local. The assumption appears to be that the originating Class I railroad is handling the line haul and final delivery. It is in the final delivery that the STB wants customers to be able to seek alternative service providers. Nothing about when the originating line haul carrier screws up, but the local service is adequate.

The document does not address the AAR Rule 15 dodge, either (WIR July 14, 2023). This seems to occur when a local crew runs out of time, and rather than making the shortline interchange, takes everything back to the serving yard and files an AAR Rule 15 report. This stops the clock on the trip plan and credits the railroad with the placement according to the original trip plan: “Because some arrival times are calculated based on constructive placement rather than actual placement, the ISP metric also captures aspects of service adequacy that might otherwise be missed.” (page 9)

The rulemaking does not speak to a number of important shortline concerns. Nevertheless, it is a document that is long overdue, and it goes most eloquently to many of the service problems cited at last year’s Urgent Issues hearings. Throughout all the STB invites comments and observations. These are due October 23 with responses in a month or so. It’s a start.

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