



Statement of Cal Dooley of the American Chemistry Council

Surface Transportation Board
Public Listening Session on CSX Service Issues
October 11, 2017

Introduction

Good morning. I am Cal Dooley, President and CEO of the American Chemistry Council. On behalf of ACC, I want to thank you for holding this listening session and for the Board's active role in response to the widespread and ongoing service disruptions on CSX.

ACC represents the leading companies in the business of chemistry. The U.S. chemical industry is a \$768 billion enterprise, one of the largest exporting sectors and one of the largest customers of the U.S. freight rail system. Our industry is experiencing tremendous growth, with over 318 announced new manufacturing projects representing a total of more than \$185 billion in new capital investment. According to the Census Bureau, investments in chemical manufacturing represented nearly 50% of total construction spending on manufacturing projects in 2016. Our members need a reliable and competitive rail network to support this tremendous growth in U.S manufacturing and the economic activity and job creation that comes along with it.

I would also like to thank the ACC member companies and other rail customers for coming here today to share their experiences and concerns regarding CSX service. It is important for the Board to hear in greater detail the extent of these service

failures and the very real negative impacts that many companies have been forced to shoulder.

My testimony will help shed more light on these problems by sharing feedback that we have received from many other impacted companies that are not able to participate today. I will also outline additional actions that the Board should take to address the CSX service issues and to help prevent a repeat of this unacceptable situation.

CSX's rail service problems harm our members' business operations

I want to highlight some examples of how the CSX service failures have harmed the large, medium and small companies that ACC represents. This is particularly important in light of the claims that Mr. Harrison made in his August 16 letter to me. In that letter, he said that concerns raised by ACC and a broad group of other rail shipper organizations were “unfounded and greatly exaggerated.”

Our concerns are very real, and reflect serious and ongoing problems specific to CSX. Numerous ACC member companies have reported delivery delays of 15 days or more and incidents of cars sitting in storage yards for over 30 days. Furthermore, because CSX customer service was so unresponsive and uninformed, our members have been unable to tell their own customers when delayed shipments might be delivered.

These service disruptions have serious economic consequences. Companies whose businesses are built around rail service have been forced to send emergency truck shipments, increasing costs for both the shipper and customer. For many more companies, even this flawed option isn't available.

Delays have led to rail car shortages and forced some companies to consider adding cars to their fleet. This is the exact opposite of the benefits that CSX promised to deliver with its “precision railroading” model.

Some service problems have been so extreme that company sites and customer facilities have been forced to shut down operations. One company was forced to shut down a gulf coast facility during Hurricane Harvey, solely because they had not received their normal flow of empty cars prior to the storm. Another company documented over 100 shipments that were customer shut-down situations.

Many of these problems were the entirely foreseeable result of service changes implemented by CSX. However, because many changes were imposed with little or no advance warning, customers could do little to plan for or attempt to mitigate the damage to their businesses.

We are not reassured by CSX’s claims that it has “turned a corner”

Last month, CSX announced performance metrics indicating service was no longer declining and claiming the company had turned a corner. While these metrics are somewhat encouraging, stabilizing – or somewhat improving – performance isn’t good enough when the baseline is the disastrous situation CSX created over the summer.

Furthermore, the improvements touted by CSX do not fully square with what we know customers are experiencing on the ground. While some ACC member companies have reported that individual problems have been resolved by CSX, there is still a long way to go. As one company stated, “We are not seeing any improvement at this time and we do not have any expectations on when CSX will begin to provide their previous level of customer service.”

STB must prepare for and prevent a repeat of this unacceptable situation

The Board's direct engagement with CSX, the Rail Customer Assistance Program staff's tireless work with individual shippers, and today's listening session are all helpful steps to address this crisis. However, the Board must also consider proactive, long-term actions to help prevent and mitigate the next crisis.

First, we urge the Board to utilize its Congressionally-authorized authority to investigate the underlying causes of CSX's service disruptions as well as the long-term impacts of its operational changes. With fewer switch yards, fewer operations personnel and fewer customer service resources, ACC members question whether CSX's rail network is sufficiently resilient against emergency situations, or even the coming winter weather. A formal STB investigation is the most viable way to answer those questions.

Second, STB should reconsider its procedures for providing emergency service relief. While an individual shipper may petition the STB for an emergency order on a specific issue, this complex and piecemeal approach simply is not designed to alleviate the type of widespread service disruptions experienced across the CSX network. The Board should adopt an expedited process to provide alternative service options to *groups of impacted shippers* when a carrier is experiencing regional or system-wide service problems.

And finally, we urge the Board to address the fundamental problem of outdated policies that insulate railroads from market forces. CSX's indifference to its customers would be almost unimaginable for any company operating in a truly competitive environment. The reality is, most ACC members that ship or receive materials on CSX have no competitive transportation options available to them.

One of the best ways for the STB to head off future service problems would be to enact overdue reforms to promote greater rail-to-rail competition. In particular, the Board should adopt workable procedures to provide reciprocal switching to shippers that lack access to competitive service. Competition offers a far better way to address rail customer concerns than government intervention and can lead to innovation and increased efficiencies—just as it does throughout all sectors of the U.S. economy.

Thank you again for holding this session. If I could leave one thought with you it would be this - the Board should not consider its job done until the STB has ensured an environment where rail shippers have meaningful competitive options, and are never forced to accept unacceptable service.