



**Verbal Remarks as Prepared  
Chris Jahn  
President and Chief Executive Officer**

Surface Transportation Board  
Public Hearing on Urgent Issues in Freight Rail Service  
Docket No. EP 770

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Chairman Oberman, Vice Chairman Schultz, and Board Members Fuchs, Primus, and Hedlund, thank you for holding this important hearing to discuss urgent rail service issues. I am Chris Jahn, President and CEO of the American Chemistry Council.

ACC represents more than 150 of America's leading chemical companies. Our members manufacture a wide variety of chemicals, polymers, and related products that make our lives and our world healthier, safer, more sustainable, and more productive. The business of chemistry supports over 25% of the U.S. GDP and directly touches nearly all manufactured goods. In addition to supporting a vast supply chain, our members help create more than half a million skilled, good-paying American jobs.

Today, I will discuss how serious and persistent rail service failures harm our industry's manufacturing operations and magnify broader supply chain disruptions. I will share the results of a recent ACC member survey, as well as additional feedback indicating that problems are only getting worse. I will also outline actions that the Board should take to address service issues and to help prevent a repeat of this unacceptable situation.

Chemical and plastics shippers are among the largest freight rail customers, shipping 2.1 million carloads in 2020. And the expansion of U.S. chemical manufacturing means our transportation needs are growing. With announced investments of more than \$200 billion and over 350 chemical manufacturing projects, we expect to add 200,000 railcar shipments per year by 2030.

Data released by the Association of American Railroads (AAR) reveal that chemical railcar loads recently hit an all-time high. This growth is not new or unexpected. As noted by John Gray, AAR's Senior Vice President for Economics and Policy, "The strength today is a function of the billions of dollars invested in increasing chemical production

capacity, particularly in the Gulf Coast region, over the last decade. Clearly, chemical demand is also encouraged by an economy that is now starting to strengthen.”

This growth is good news for our industry, America’s manufacturing base, and the economy as a whole. And it should be good news for the freight railroads that carry this traffic. However, ongoing rail service problems are putting the brakes on both our current production and future growth.

Late last year, ACC surveyed its members about supply chain and freight transportation challenges across all modes. Companies reported delays and service challenges across Class I railroads, with severe problems in certain areas. At that time, 78% of rail users reported longer transit times, 60% reported missed switches, and 46% reported reduced service days.

At the end of March, ACC completed an update of this survey. Unfortunately, the results show that rail service for chemical shippers continues to deteriorate. Overall, 39% of companies report that, since the 3rd quarter of 2021, rail transportation delays and service challenges had gotten worse. Only 8% indicated that the situation had improved. Compared with the original survey, even more companies reported longer transit times, missed switches, and reduced service days.

As examples, one member reported transit times in the first quarter increased more than 15% over the pre-pandemic baseline. Another reported a degradation in Norfolk Southern’s switch performance in the Louisville area, with late switches and a failure to switch all cars called in from serving yards. Another member reported that UP had cut service to a transloading facility in California from twice per day to once per day. When fluidity decreased, UP increased the demurrage fees.

Delayed, inconsistent, and inadequate service, largely driven by crew shortages, mean lost production for our members and their customers. This further constrains supply chains for thousands of downstream products. As stated by one company,

*We've seen multiple instances where our plants had to slow down due to our inventory being too high, while our customers had to shut down due to a lack of product, all as a result of logistics issues."*

Poor rail service has forced other companies to shift traffic to different modes where possible. Three quarters of ACC members report that they have shifted some cargo from rail to truck to address short term emergency situations. One company shipped over 150 trucks in the first quarter to prevent customer shutdowns from delayed arrival of their rail shipments.

While in a few situations companies are structurally moving to truck, such a shift is generally not in the long-term interest of the shipper or the customer. It should not be in the railroad's interest either.

Poor service has also forced some ACC members to use additional railcars to support the same level of business. This not only increases costs and inefficiency for the shipper, it further strains the rail network. This is a stark reminder of the unfulfilled promise that precision scheduled railroading would benefit both railroads and shippers.

Most strikingly, in recent weeks, UP has asked customers, including some of ACC's largest members, to reduce shipments. UP has further threatened to impose a permitting system if these customers do not meet reduction targets. This has left rail

customers scrambling to accommodate the railroads, while devoting extraordinary resources to keep their own production running.

The problems we are experiencing today are not solely the result of the COVID-19 pandemic. Years of railroad decisions to cut staff, eliminate switch yards, and slash customer service resources have gutted network resilience, making service crises like this one entirely predictable, if not inevitable.

We cannot rely on railroad promises that they have turned a corner and will fix these problems. The Board must adopt proactive reforms to help prevent and mitigate the next rail service crisis.

First, STB should require railroads to report meaningful data on “first mile/last mile service.” Such data would provide rail customers and the Board with better insight into disruptions at the customer level so they can be proactively addressed. We urge the Board to consider the specific metrics and reporting requirements offered by ACC and other shippers, and to move forward with this critically important rulemaking.

Second, STB should impose greater accountability on railroads for service failures. A starting point would be to adopt rules in EP 768 making a railroad accountable for inefficient use of private cars in much the same way that shippers are held accountable for inefficient use of railroad-owned assets. The Board should also consider additional forms of reciprocity that hold railroads accountable for first-mile/last-mile service.

Finally, the best way for the STB to head off future service problems is to promote greater rail-to-rail competition. In particular, the Board should finalize long overdue rules for reciprocal switching. Competition can drive innovation and increase efficiencies

in the rail industry—just as it does throughout all sectors of the U.S. economy. Competition can also fundamentally change the relationship between railroads and shippers. With a legitimate risk of losing business to competitors, railroads will be more responsive to customer needs and more willing to negotiate service terms in contracts.

AAR recently issued a statement characterizing calls for pro-competitive rail reforms as nothing more than attempts to “appease the rent seeking interests of the chemical sector and its allied shipper interests.” It may seem strange for a service industry to publicly attack its own customer base. But such treatment is par for the course for rail shippers that have no competitive transportation options.

In 2017, my predecessor Cal Dooley testified before the Board in response to specific service problems on CSX. The concerns he highlighted nearly 5 years ago foreshadowed the broader concerns faced by shippers now. I will close my testimony by quoting from his remarks.

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

Thank you again. I would be happy to answer any questions.