



**Testimony of Dennis R. Pierce  
National President  
Brotherhood of Locomotive Engineers and  
Trainmen  
Before the House Subcommittee on Railroads,  
Pipelines and Hazardous Materials.  
Surface Transportation Reauthorization  
March 8, 2022**

**TESTIMONY OF DENNIS R. PIERCE  
NATIONAL PRESIDENT, BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS AND TRAINMEN  
PRESIDENT, TEAMSTERS RAIL CONFERENCE**

**BEFORE THE  
HOUSE TRANSPORTATION & INFRASTRUCTURE COMMITTEE  
SUBCOMMITTEE ON RAILROADS, PIPELINES, AND HAZARDOUS MATERIALS**

**“Stakeholders Views on Surface Transportation Board Reauthorization”  
March 8, 2022**

Good morning, Chairman Payne, Ranking Member Crawford, and Members of the Subcommittee. I appreciate the opportunity to appear before you this morning.

My name is Dennis Pierce, and I am the National President of the oldest trade union in North America, the Brotherhood of Locomotive Engineers and Trainmen, which was founded in 1863 and represents 32,769 members. I am also the President of the Teamsters Rail Conference, of which the BLET is the founding Union.

The subject of today’s hearing is to get the “Stakeholders Views on Surface Transportation Board Reauthorization.” I have several comments and observations regarding the BLET’s views on a national scale. My comments today will focus on freight rail and mostly Class I Freight Railroads. Our members also carry millions of passengers on Amtrak, commuter, and intercity passenger railroads. We should not forget that commuter rail carries 500 million passenger trips a year in the most congested portions of the shared national rail network.

I want to tell you about the members of the BLET. These people are proud and hard-working Americans. They have worked careers where pride is derived from the role they play in moving America’s freight safely and on time. To call BLET members essential is as much a fact as calling a spine essential to the skeleton. The service of all railroad workers is the product that

supports American commerce. But there is a problem that is forcing our members to lose pride in their work. And the pride in the service they provide America is being replaced with the misery and contempt they hold for their employers at the Class 1 Railroads in the country.

There was a sea change in the economic philosophy underpinning rail service when Class 1 Railroads switched to a business model known as Precision Scheduled Railroading (“PSR”). Do not be confused by the term for this business model — it is *not precise, not scheduled, and not railroading*, that is until you focus on the members I represent. They are indeed being “railroaded.” The vast majority of our members do not work scheduled jobs. They work on call at randomly chosen times dictated by rail management, and in many cases, with little if any advance notice of when that call will come. In recent years, they have been subjected to harsher and harsher attendance policies that demand they work day in and day out. These policies subject our members to disciplinary consequences, including termination, even if they take time off because they are too sick or too tired to work safely. The policies are destroying the family lives of our members, even to the point of destroying their very families.

This is all part of the railroad business philosophy of extreme “leanness”, which means furloughing employees to rock-bottom staffing and forcing the remaining employees to always work without scheduled days off, without paid sick days and without access to true access to FMLA to make sure that the work that should be done by a larger workforce is done by a small but harried workforce. Our members still believe in providing the best service to the customers who rely on rail car pickup and delivery, but their opinions on how to accomplish that are not wanted. Railroad work has always been hard, but hard workers need time off with their families that they can count on. These railroad operating employees are literally the ones who bring your goods to you. If you bought it, our members brought it.

The Class 1 Railroads themselves have abandoned a customer service, pro-growth business model in exchange for a short-term growth Wall Street model. This involves pushing an operating ratio below 60% to return the other 40% to investors, managers and CEO's—which results in furloughs and risky operations.

Speaking of adding risk and strain to railroad operations, railroads are running trains with typical lengths in excess of 3 miles (15,000-17,000 ft.) and those trains can also weigh 15,000 tons or more. Some trains have reached lengths of more than 20,000 feet long. The trains are getting longer to facilitate making the work rolls shorter. Twice the train length, half the employees, with new strains added daily to an infrastructure not designed for this business model

Simply put, PSR has transformed railroad companies into finance operations that happen to own railroads. Safety professionals are being supplanted by finance managers. Reporting unsafe conditions is discouraged because it might cause a delay that could affect a managerial bonus. The collateral damage to good service by railroads is not news to this committee. The Transportation and Infrastructure Committee has called for a study from the General Accounting Office about PSR's effects because of the myriad of complaints from labor, shippers, the public and the industry alike.<sup>1</sup> Not all railroads, and not all railroad managers, want to use this model. Some still want to see their business grow because their customers are happy with their service and their employees are happy to do their jobs and to work for their employer. But over the past several years, it has been Wall Street that calls the shots; managers who don't go along with this approach leave or are forced out.

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<sup>1</sup> <https://transportation.house.gov/imo/media/doc/2021-5-2%20Letter%20to%20GAO%20on%20PSR%20Study.pdf>

## **Railroad Work for Operating Crews**

Railroad Locomotive Engineers operate trains. Conductors or Trainmen are the necessary second set of eyes and ears on the train, and they broadly handle the rest of the train operations from the ground when work on the train needs to be done. If there is an unplanned event, and most trains and their equipment experience unplanned events, the train must stop and be inspected. If that inspection requires a walk to the rear of the train, the train is stopped while the conductor dismounts the train and walks up to 3 miles to the rear inspecting one side. The conductor then switches sides and walks 3 miles back to the leading end of the train to inspect the other side—a six-mile walk. If this happens multiple times in a tour of duty, its simple math to figure how far a conductor might walk. This is not like a walk on a road or sidewalk. It is a walk-through train ballast (rocks) on uneven grades, often during the night, in darkness in poor terrain and bad weather.

Railroad operating crews are subject to the federal Hours of Service Law (“HOS”) that allows them to work up to 12 hours at a time, but also allows for “limbo time,” a concept invented for railroad operating crews by the Supreme Court of the United States.<sup>2</sup> This is important because even though a railroad crew can work 12 hours, that doesn’t mean they get to go home after that. It is normal for them to be forced to wait until the railroad provides them with a ride to get off the train. They often wait for this transportation in remote areas for hours, before being picked up. This then begins another period riding in a vehicle to their final terminal. It is not rare for operating crews to experience total on-duty times of 18 hours or more.

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<sup>2</sup> Brotherhood of Locomotive Engineers v. Atchison, Topeka & Santa Fe R. Co., 516 U.S. 152 (1996).

They are then routinely forced to wait for hours in the cheapest hotel available before being called to repeat that same trip to get home, in many cases days after they left home, only to be forced to repeat that cycle as soon as they are legally rested to do so. It has been said that railroad work was “a decent living, but a terrible life.” This is why.

With wages stagnating while profits skyrocket, and Class 1 rail carriers refusing to come to the bargaining table with fair contract offers, engineer positions are fast becoming underpaid and overworked jobs. Railroaders are fed up with the job cutting and conscription-like attendance policies where they are forced into the terrible choice of either working sick or working tired, or getting fired. Your money or your life. Hedge fund railroading is bad for the employees, but the point here is that poor safety practices and burnt-out workers only leads to poor and inefficient customer service. Our members want to strike, and I do not blame them. The only reason they haven't is because of the law and court orders. However, our members are sick and tired of railroads not being held to the same high standards under the law as their employees (our members) are held. Railroads act this way because they are virtual and geographical monopolies. If you don't like the service on Railroad A, there is not a Railroad B down the street. It is a take it or leave it proposition for the customer/consumer. What about competition and the market forces of capitalism, one might inquire—not on the nations Class 1 Railroads. There are too many barriers for entry to start up your own railroad to compete. This is where the STB comes in.

### **STB can help with service standards**

We know the STB is here to ensure that service from the railroads meets the needs of their customers. But PSR has become a pejorative in the industry and carries with it negative

connotations only, and rightfully so. Rail management weaned on pro-growth strategies saw their years of training and attempts to be a better business and provide for shippers discarded for short term cost cutting and asset extraction.

In practical terms, PSR and PSR-like strategies have led to furloughs, very long trains, clogged ports, and a workforce forced to work beyond the point of safe operations. Operational problems happen daily, such as trains too long to receive proper air-brake testing, and trains so long that they cannot be safely doubled from one yard track to the other because the yard tracks are physically not long enough.<sup>3</sup> Some rail yards have been closed completely and employees furloughed because the rail carriers have lost interest in providing the switching operations necessary to deliver cars to shippers on time.

All things considered, the strict adherence to PSR and like business models only serves to cause serious service delays to shippers and end of the line customers by deferring or skipping maintenance and inspections, furloughing employees, and closing yards. Whenever there is an upturn in business, or an unexpected event that affects operations, the capacity of the system cannot handle the increases or impediments. The only answer the railroads have consistent with their business model is to make everybody work more, thus their harsh attendance policies forcing employees to do just that. In fact, railroads are now part of the great resignation in this country. On just one class one, over 600 well paid and highly trained employees have resigned in recent weeks as opposed to be threatened with their jobs if they will not or cannot work every time the railroad calls. People cannot work all the time; and machines cannot be made to run

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<sup>3</sup> Doubling a train over involves pulling train cars out of on track far enough so the train may then make a reverse move to couple to another group of train cars in another track to constitute a complete train that can then be air tested and inspected.

without maintenance and inspections. This is a vicious cycle that will only be stopped by a catastrophic accident. We do not want to see that happen and we are here to tell the Congress that the STB can play a role.

### **Recommendations**

BLET believes that STB being responsible to regulate railroads can help by handling service complaints in a timelier and more effective manner without the worry that it would be interfering in commerce; rather, the Board would be helping commerce and the free flow of products carried by railroads. The Staggers Act and the Interstate Commerce Commission Termination Act of 1995 are not sufficient to protect employees, customers, and shippers against a railroad business model where endless cost cutting—at everyone's expense except the railroad itself—is the only plan.

We do not have all the answers on how to accomplish this but suffice to say the rail carriers have shown no interest in our opinions, even though we see events daily that prevent shippers from receiving their goods when they should. That said, some suggestions might be to better define the common carrier (49 USC 11101) obligation so that the existing requirements can be effectively enforced by STB. This could also come with an attendant clarification that Congress affirm that STB is both capable and responsible for enforcement of the railroad's common carrier obligations.

There are limits that railroad unions see as well to STB's role. We do not see STB to have the authority to be involved in any collective bargaining issues or mandating terms of a collective bargaining agreement. But we think that mandating and enforcing good service will result in proper employment levels which will support good rail service.



## **Proposed changes: Reciprocal Switching**

BLET is also not in favor of certain proposals being considered by Congress involving the so-called concept of “reciprocal switching.” This for many reasons. Among them:

We do not support legislation or regulation that expands or provides additional rights to rail carriers for “reciprocal switching,” because it departs from longstanding rules and precedent under our collective bargaining agreements. The detrimental effects on rail employees from potential “reciprocal switching” legislation should outweigh the perceived benefits from “reciprocal switching” that do not actually exist. Also, there are currently regulated means for shippers to use short lines using trackage rights requests.

Another problem with reciprocal switching is that such arrangements could be used to avoid the imposition of protective conditions related to trackage rights approvals when existing workers are adversely affected.

From an operational standpoint, there is no need for any additional rights for shippers to get their goods from railroad A to railroad B. Currently, to get their traffic from one railroad to another all a shipper would need to do is an interchange at a location(s) where it is possible.

In addition, conferring any new rights to a rail carrier will not change the geographical layout and/or the conditions necessary to perform an interchange between rail carriers.

The use of the term “reciprocal switching,” is a misnomer because interchanges are not the same thing as switching. The proper term for getting a shipment from one railroad to another is called an interchange. Interchanges only can occur where it is physically possible in a location with the proper rail infrastructure (e.g., an interlocking, wye). Neither trackage rights nor

“reciprocal switching” change who is the controlling railroad operator is, i.e., dispatching delivery movements will always be managed by the owning railroad; so, allowing access to another railroad will not remedy whatever problems there are with the railroad that owns and controls the tracks.

BLET appreciates the opportunity to testify. We know well the STB cannot remedy safety problems or problems governed by other federal agencies like the Federal Railroad Administration or Department of Labor. It does not weigh in on collective bargaining issues and we do not ask it to. What we want from STB is to lay out strong markers for adequate service, and to have a clear law that can be enforced for making customer service quality a priority. All of the safety issues, risks of longer trains, taxed to the max employees, monopolistic behavior—all of them can be a drag on service. This is where STB should concern itself and this is where Congress can help give STB the legislative tools to ensure that America’s freight railroads provide world class service again.

Thank you.