

**House of Representatives Subcommittee on Railroads, Pipelines, and Hazardous Materials
March 8, 2022, Hearing on Stakeholder Views on Surface Transportation Board Reauthorization**

Question for the Record from Representative Jesús "Chuy" Garcia:

Mr. Pierce, in your testimony you note the harm from Precision Scheduled Railroading to workers, including recent attendance policies implemented by railroads because of PSR.

Congresswoman Marie Newman and I recently sent a letter to the BNSF railroad which implemented their Hi-Viz policy earlier this year. We asked BNSF to address concerns about the Hi-Viz policy that unions raised to Rep. Newman and myself.

Can you explain the BNSF Hi-Viz attendance policy and why your members and others have strong concerns?

Response by Dennis R. Pierce, National President, Brotherhood of Locomotive Engineers and Trainmen:

The BNSF Hi-Viz attendance policy is just one more outgrowth of PSR style railroading. At its core, the policy forces employees to work additional shifts short of termination, all part of a concerted effort to force fewer employees to do more work. Like similar policies on CSX and Union Pacific, these policies have been forced upon the employees, with all the Class 1 Rail Carriers refusing to negotiate with our Union on these workplace issues.

As background, the vast majority of BLET's members do not work scheduled jobs, nor do they have scheduled days off. 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, our members have been subjected to unfairly punitive attendance policies that demand they work around the clock every day. Like a similar policy on CSX and Union Pacific, the BNSF Hi-Viz attendance policy subjects 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.

These policies are also understaffing the railroads and destroying the supply chain with no regard for the impact on shippers.

The workforce is stretched too far, and there is no elasticity to handle even the slightest unplanned events, and they happen daily.

While the Union Pacific policy assesses points when employees are unable to report for work, the BNSF Hi-Viz attendance policy is a point-based system that starts each employee with 30 points, and then deducts points when employees are unable to report for work. Point accrual is capped at thirty and if any employee exhausts all their points they are subject to discipline or possible dismissal. This forces an employee into a disciplinary situation just for trying to take time off. As noted above, these same employees are on call 24/7 and are now being forced to work day after day, never having access to scheduled day off.

Congress should be very concerned about the impact that policies like Hi-Viz have on the Nation's supply chain. This is not just a BNSF issue. Most, if not all, Class 1 Railroads have draconian attendance policies that put workers at risk for working in heightened states of fatigue. These policies also force workers to report for work when they are ill, as there are few if any exceptions to point deductions or points assessed when to sick to work safely.

Policies like these have led to thousands of rail workers either resigning or being terminated just to have some quality of life outside of work. Compounding the rail carriers' inability to hire new employees is the fact that the Unionized employees of Class 1 Rail Carriers have not had a negotiated wage increase since July 1, 2019, almost three years ago. Even with Rail Carriers reporting record earnings, they have stonewalled the Unions at the national bargaining table for well into the third year, refusing to recognize the contribution that these employees make to the nation's supply chain. These Rail Carriers do not care if, or how, they negatively impact the supply chain, but the entire Nation pays the price when goods do not arrive on store shelves when they should.

Question for the Record from Representative Rick Crawford:

1. Please identify and explain your organization's position and opinion on reciprocal switching. Would you advocate for any revisions should the proposed rule be reconsidered?

Response by Dennis R. Pierce, National President, Brotherhood of Locomotive Engineers and Trainmen:

I have attached BLET's submission to the Surface Transportation Board opposing additional rules allowing for so called reciprocal switching. In short, the reciprocal switching changes being discussed are not the "silver bullet" for shippers that some claim they are. Railroad infrastructure is not like the Nation's highway system. In most cases, only one rail carrier has rail access to any given shipper. Allowing shippers to force an additional rail carrier onto that singularly owned railroad does not change that the owning railroad will still manage the operation of the involved rail line. In many cases, the rail line is too congested to get any shipment to the shipper. We know this because rail carriers already have STB regulated "trackage rights" in certain instances where one rail carrier runs over the rails of another to service a customer. In many cases, the last train moved by the owning railroad is the train operated by the foreign carrier operating on trackage rights. Adding another layer of access at the whim of a shipper does guarantee any improvements to customer service.

Question for the Record from Representative Rick Crawford:

2. Will the reciprocal switching rule impact the movement of goods and the supply chain?

Response by Dennis R. Pierce, National President, Brotherhood of Locomotive Engineers and Trainmen:

As noted in my previous response, allowing addition rail carriers onto another rail carrier's rail lines does not guarantee any improvement to the movement of the nation's goods. Regardless of who delivers the rail cars, it is the owning railroad that may park a 3-mile-long train on top of the only access point to a given shipper for days on end. Railroads are not like highways, and current

rules governing where cars are interchanged between rail carriers come with the tools, if enforced, that better address customer service without adding any new rules. In reality, the bigger problem for shippers is that PSR style railroading doesn't actually seem to care if or when any shipper gets its rail cars delivered. Self-imposed employee shortages, coupled with the complete mismanagement of the current work force and the operation of the owning roads will not be improved by what is being proposed.