Leadership testimony, mobilizations by members expose abuse by carriers

Members of SMART Transportation Division joined other members of rail labor in rallies across the nation in response to Class I carriers’ continued delay in negotiating a new rail contract and the ongoing scourge of Precision Scheduled Railroading (PSR).

In an unprecedented move, the 13 rail labor unions engaged in the national negotiations have become a united front — the United Rail Unions — to stand in solidarity in this round of negotiations that began in November 2019.

In addition, members of multiple unions came together to demonstrate, including at the Berkshire Hathaway shareholder meeting in late April in Omaha, Neb., where BNSF Railway parent company’s head Warren Buffett crowed about the carrier’s record profits, even as they target workers with its draconian “Hi-Viz” attendance policy.

A second major protest happened May 10 outside...
Bill considered to put Santa Cruz workers under California PERB

A bill under consideration in the California Legislature would place employees of the Santa Cruz Metro under the umbrella of the state’s Public Employment Relations Board (PERB) to foster improved relations between public employees and management.

S.B. 957 was introduced in the state Senate by state Sen. John Laird (D) on March 17 and passed that body May 23. At the time of publication, it had passed through a committee vote by the California General Assembly and awaited full consideration.

The bill’s advance has happened in part thanks to the work of members of SMART-TD Local 23 in Santa Cruz, California State Legislative Board Director Louie Costa and General Chairperson James Sandoval (GC-SCM).

“The bill will protect Santa Cruz Metro workers from unfair labor practices moving forward,” Sandoval said. “It’s been a two-year project, and we still got work to do. This is absolutely huge.”

S.B. 957 would require employers and employees of the district to adjudicate complaints of specified labor violations before PERB as an unfair practice instead of in the superior court. By requiring the district to adjudicate claims before PERB, the bill would impose a state-mandated local program that would serve to harmonize relations between SCM management and labor.

“PERB jurisdiction will give us free oversight to make sure Metro bargains with our union in good faith during negotiations and gives us recourse in the event Metro commits unfair labor practices,” Sandoval said.

Members of the Santa Cruz Board of Directors received the appreciation of TD Local 23 and SEIU Local 521, which also represents some SCM employees, for their support in getting the bill moved. Among those thanked were Kristen Petersen, Shebreh Kalantari-Johnson, Jimmy Dutra, Air Parker, Manu Kawasaki, Rebecca Donovan, Donna Meyers, Alta Northcutt and Laird.

Driving home our point

Continued from Page 1

the North American Rail Shippers (NARS) annual meeting in Kansas City, Mo.

Many SMART-TD members and officers participated in the rallies, including Vice President Chad Adams, Kansas State Legislative Director Ty Drago and New Mexico State Legislative Director Don Gallegos. TD Auxiliary President Kathyrn Seegmiller and many other union members, spouses and supporters spent hours outside and around the Kansas City Marriott Downtown.

President Jeremy R. Ferguson also testified before the Surface Transportation Board on April 25 and before the House Subcommittee on Railroads, Pipelines and Hazardous Materials June 14. A video recapping the most-recent testimony is available for viewing on the SMART YouTube channel by following the QR code accompanying this story.

Further grassroots actions have been planned, the details of which can be found online.

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What YOUR UNION is doing for YOU

Here is a list of recent arbitration victory reports reported to SMART Transportation Division’s leadership.

General chairpersons who wish to report a recent success should email Vice President Alvy Hughes (ahughes@smart-union.org) for Bus Department victories and Vice President David B. Wier Jr. (dwierj@smart-union.org) for railroad victories.

SMART-TD Vice Presidents David B. Wier Jr. and Jamie C. Modestt report that the organization has received numerous favorable decisions from cases arbitrations under the First Division of the National Railroad Adjustment Board. Of the many cases that the organization received sustainting decisions on from the First Division, the cases referenced below are of significant interest:

- In NRAB First Division Award Nos. 30919 and 30920 (Deinhardt, 2022), a conductor and a conductor-in-training were both dismissed from Union Pacific Railroad for allegedly being dishonest when their train was placed in emergency and purportedly being dishonest when their train was in emergency. The evidence presented to the claimant was privy to the fact that the locomotive engineer initiated an emergency brake application on the train.

- In NRAB First Division Award No. 30940 (Gray, 2022), a locomotive engineer was terminated on Pacific Railroad a conductor for purportedly failing to protect his employment on a full-time basis. Although the carrier determined the claimant’s employment on March 31, 2020, it reinstated him to service without compensation for lost wages and left the discipline entry on his work record on Sept. 21, 2021. After subjecting the record of the claimant to a detailed scrutiny, the board determined that the carrier failed to introduce substantial evidence into the record of the formal investigation to support the charges. Having reached this conclusion, the board awarded the claimant compensation for his lost earnings and removed the discipline entry from his record.

- In NRAB First Division Award No. 30952 (Neumeier, 2022), Union Pacific Railroad terminated a conductor based on an alleged charge of being dishonest in his use of time off under the Oregon Family Leave Act (OFLA). The carrier argued that the claimant misused the OFLA for his ex-wife’s home to bring him back to his residence to care for another person. Nevertheless, the claimant marked off on the date in question to retrieve his sick son from his ex-wife’s home to bring him back to his residence to care for him. After reviewing the facts and circumstances of the instant case, the board concluded that the carrier failed to support its charge against the claimant with substantial evidence. Thus, the board reinstated the claimant to his former position with the carrier and awarded him compensation for his lost earnings.

- In NRAB First Division Award No. 30953 (Neumeier, 2022), Union Pacific Railroad terminated a conductor for allegedly being dishonest when he purportedly failed to report for his assigned job and claimed pay for time not worked. After reviewing the record of this case, the board determined that a procedural irregularity committed by the claimant deprived the claimant of a fair and impartial investigation. In this regard, although a company officer was listed on the notice of investigation as a witness, the hearing officer failed to call the manager to the formal inquiry as a witness. Because the manager was identified in the notice of investigation as a witness, the board concluded that the claimant possessed firsthand knowledge of the matter under investigation. Under the circumstances, the board determined that the claimant’s failure to have the excluded manager testify at the formal investigation was a fatal procedural error, warranting overturning the discipline assessed to the claimant. Arriving at this determination, the board reinstated the claimant to his former position and awarded him compensation for his lost wages. GO 887 General Chairperson Gary Crest and GO 887 Vice General Chairperson Todd Campbell progressed this case to the NRAB First Division.

- In Public Law Board Awards No. 7966 (Keating, 2022), the board adjudicated a change to the organization and the Belt Railway Company of Chicago regarding whether employees could be subrogated against the carrier’s insurance policy when exercising their contractual right to observe forty-eight (48) hours to select a new assignment following being displaced by a senior employee. In this dispute, the board noted that Article 10(g) No. 4(c) of the 1957 local agreement expressly mandates that employees will be allowed forty-eight (48) hours to select a new assignment following being displaced by a senior employee to select another job assignment. Recognizing that Article 10(g) No. 4(c) of the 1957 local agreement contains clear and unambiguous contractual language, the board maintained that the negotiated language prevailed over the carrier’s unilaterally implemented attendance policy. To that end, the board held that any administration of discipline to an employee for taking forty-eight (48) hours to select a new job assignment by a senior employee is at odds with the plain language expressed in the 1957 local agreement. Ultimately, the board sustained the organization’s position that the carrier must allow a displaced employee forty-eight (48) hours to select another job assignment. GO 065 General Chairperson Stelios Paras and International Vice President Brent C. Leonard handled this case before Public Law Board 7966.

- In Public Law Board Awards No. 7986 (Javits, 2022), the board adjudicated the propriety of a dispute centering on BNSF’s proposed changes to Article IX of the Oct. 31, 1985, UTU National Agreement for multi-directional interdivisional service at Superior, Wis. The crux of the organization’s argument hinged on the fact that interdivisional service was already established at Superior, Wis., prior to the carrier’s issuance of its latest proposal. By reason thereof, the organization vehemently argued that the carrier was not seeking to establish new interdivisional service at the subject location, but, rather, it was attempting to modify the rules and working conditions on existing interdivisional service. In resolving the subject dispute, the board adopted the organization’s argument that the carrier’s position was unsupported by Article IX of the 1985 UTU National Agreement because new interdivisional service was not being implemented. According to the Board, the carrier, rather than attempting to establish new interdivisional service, was merely attempting to consolidate multiple pools of employees into a single pool by seeking to alter existing interdivisional service. As such, the board held, this is counter to the express terms of Article IX of the 1985 UTU National Agreement. Based on its findings and analysis that the carrier’s proposal and unilateral changes to interdivisional service did not comport with Article IX of the 1985 UTU National Agreement, the board ordered the carrier to reinstate the parties to interdivisional service as in effect prior to the carrier’s imposed notice.

- In Public Law Board Awards No. 7966, Award No. 1 (Morgen, 2002), the board adjudicated a change to the organization and the Belt Railway Company of Chicago regarding whether employees could be subrogated against the carrier’s insurance policy when exercising their contractual right to observe forty-eight (48) hours to select a new assignment following being displaced by a senior employee. In this dispute, the board noted that Article 10(g) No. 4(c) of the 1957 local agreement expressly mandates that employees will be allowed forty-eight (48) hours to select a new assignment following being displaced by a senior employee to select another job assignment. Recognizing that Article 10(g) No. 4(c) of the 1957 local agreement contains clear and unambiguous contractual language, the board maintained that the negotiated language prevailed over the carrier’s unilaterally implemented attendance policy. To that end, the board held that any administration of discipline to an employee for taking forty-eight (48) hours to select a new job assignment by a senior employee is at odds with the plain language expressed in the 1957 local agreement. Ultimately, the board sustained the organization’s position that the carrier must allow a displaced employee forty-eight (48) hours to select another job assignment. GO 065 General Chairperson Stelios Paras and International Vice President Brent C. Leonard handled this case before Public Law Board 7966.

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SMART GENERAL PRESIDENT’S COLUMN

With unity, we all can help SMART grow

Since our founding, we have fought for basic worker protection on the job for generations of workers — at SMART, at our predecessor unions and across the labor movement. Over the years we have achieved many victories and suffered through turmoil and struggle in our constant effort to represent the members who are the lifeline of our union. Through it all, we have never lost sight of our basic purpose: to represent the workers who came together to protect and build a path to a better future for themselves and their families. We continue that work today. Retirement security, infrastructure investments for our communities, investments in public transit, two-person crew laws, operator safety — all of these have been fought for in recent years. When the last administration and its allies were in power, they kept us at a distance. They tried to devitalize our apprenticeship programs and personnel; they refused to work with labor and your union on protecting the livelihood of our families.

Today, the landscape has changed. Our work with our elected allies in Congress, and in states and communities across the country has brought project labor historic pension relief in the American Rescue Plan; and a bipartisan infrastructure bill, which specifically includes the largest ever investment in public transit, meaning more work and protections—along with a potential national two-person crew regulation.

None of this was possible under the previous administration — and make no mistake, all our gains will come under attack if they are allowed to come back to power. We continue to work with the current administration, who have rewarded our votes with an unprecedented open-door policy; they listen to and ACT on SMART’s legislative priorities, which we put in place to work for YOU! Besides our legislative progress, we still have work to do to fulfill our bedrock purpose of representing all workers; our promise of solidarity for all.

Each one of us has the choice, in how we engage with our fellow members, to shape this union’s future. As a labor organization, formed by workers to protect and pursue gains at work, it would go against everything SMART values and represents to not welcome all of our union brothers and sisters, including those yet to become members.

Only when we stand united across all sectors of our union, and on every worksite across North America, will we be able to realize our full potential for ourselves, our union and the future of our families.

Fraternally and in Unity,

Joseph Sellers Jr.
General President, SMART

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TRANSPORTATION DIVISION PRESIDENT’S COLUMN

We are speaking truth to those who will listen

By Jeremy Ferguson

On April 26th I testified on behalf of SMART Transportation Division before the Surface Transportation Board (STB) to shed light on the devastating effects Precision Scheduled Railroading (PSR) has on rail labor and rail customers. Joining me in testifying for our union were General Chairperson Matt Burkart (GCA-341 – BNSF), Local Chairperson Steve Groot (Local 329 – Boone, Iowa) and Local Chairperson Chris Bond (Local 513 – Gainesville, Texas). These men did an outstanding job in describing to the STB just how egregious the effects of the Class I railroads’ PSR scheme have been on rail customers and employees.

At the hearing, I testified that the Class I carriers are a main contributor to the supply-chain issues plaguing the country. From the appalling attendance policies to the carriers’ refusal to recall furloughed employees, to their glaring lack of investing in locomotives and equipment out of storage to meet the demands of their customers, the railroads have hamstringed themselves into a service and workforce nightmare that has contributed to inflation and hurt our nation’s economy.

The carriers say that longer trains will fix the problem. However, longer trains ARE part of the problem. When a train is too long to fit in a siding and causes congestion in an area, block- ing public crossings for hours on end, then that is a problem. When a train is too long and blocking rights of way with out multiple moves, that is a problem. When a train has an issue on route and the conductor and engineer cannot communicate via radio because they are not designed to function at these extended lengths, then THAT IS A PROBLEM. Not only that, but it’s a problem that is easily fixed by one of these three options – 1. The carriers operate trains that properly fit in the existing track structure; 2. They build longer sidings and yard tracks; or 3. The government creates and enforces regulations that makes it illegal to run trains that do not fit current rail infrastructure, generate enormous delays and safety issues for the general public, block crossings, and that do not exceed the operating limits of safety equipment, including hand-held radios, end-of-train devices and braking systems to name but a few. These common-sense solutions we put forth at the STB could help relieve congestion and enable goods to get from Point A to Point B much quicker. With the current bottlenecks that carriers have caused, goods are held up for days or longer while the delays wreak havoc on businesses and the economy.

More than 20 shippers and affiliated groups echoed our testimony to the board, bringing more evidence that PSR is terrible for our nation.

What’s more, at a time when the vast majority of U.S. employers are providing incentives and changes to retain and recruit employees, the rail carriers institute backwards attendance policies that have made life so unbearable for our members that they are leaving in droves. What was once the gold-standard of middle-class jobs can no longer compete with places that pay less, but the quality of life is improved. It used to be unheard of for a vested railroader to leave the industry mid-career. Now it is starting to become the norm. New hires? They see what is going on and leave, sometimes before they even finish training as they figure out quickly that the rail carriers simply do not care about providing any type of quality of life to its employees. All because of the draconian policies put in place as a result of PSR and railroads’ efforts to do more with less.

I told the STB that PSR is about corporate greed and lining shareholders’ pockets. I testified with other members of our labor and customers about the harm PSR has done to employees, businesses, and the country as a whole.

Chairman Martin Oberman, STB Member Robert Primus and the rest of the board heard us loud and clear. I’m confident they will stay vigilant and do all they can to mitigate the enormous damage done by the carriers and their profit first, employees and customers last mindset.

After the hearing, the STB took a small but positive step May 6th and ordered BNSF, CSX, NS and UP to develop service recovery plans as a result of the severe deterioration caused by PSR. On June 13th, the STB issued another order directing the carriers to correct what the STB says were deficiencies in the submitted plans. It’s a start. But, sadly, there are no easy fixes to what the carriers have done. We are cautiously optimistic of what the future holds and applaud the efforts of the STB.

I took my testimony a step further and complained directly to Congress during the freight railroad safety hearing held June 14 by the House Subcommittee on Railroad, Pipelines and Hazardous Materials. At the hearing, I let the representatives know what was really going on, and I further reiterated that PSR is the main culprit behind the safety issues we’re seeing on the railroad today. I showed them the numbers — the loss of life and career-ending on-duty injuries — that have increased since PSR has been implemented. I told them that we are past sounding the alarm. We have moved on and are screening for help, and it is time for them to step up and do their jobs and rein in the railroads so that our brothers and sisters can make it home safely.

Our lives depend on a safe workplace, and not one that has profits placed before it. I just hope and pray they heard me and the others from labor testifying with me before things get any worse.

Here’s some good news: Finally, after 14 years, the Federal Railroad Administration (FRA) is putting into action a provision from the Rail Safety Improvement Act of 2008 requiring that the railroads implement “Fatigue Risk Management Programs.” We have been telling anyone who’d listen for years that this key part of the law needed to be implemented, and the FRA under the Biden administration has finally heard us. The FRA posted a Final Rule June 13th to be effective July 13th, requiring railroads to develop and implement fatigue risk management programs approved by the FRA. This mandate also requires that the carriers MUST consult with and reach an agreement with affected unions on the contents of their plans. This gives us a direct seat at the table, and I can assure you that we will use this process to address safety issues including changes that must be made to attendance policies that push workers beyond exhaustion, destroy work-life balance and do not stop the epidemic of worker fatigue.

As for contract negotiations, we have been in National Mediation Board (NMB)-mandated sessions for three weeks now with the carriers. After each session with the carriers making one insulting offer after another, the Coordinated Bargaining Coalition and the Brotherhood of Maintenance of Way/SMART Mechanical Coalition pleaded with the NMB for a proffer of arbitration to move things along. Finally, on June 15th, the NMB acquiesced and put forth a proffer. As going to arbitration means a binding contract would be put forth by an outside party, with no guarantee of an agreement that our members will find palatable, the United Rail Unions have turned down the proffer of arbitration and are in a 30-day cooling-off period at this writing. During this period, it is expected that President Biden will appoint a Presidential Emergency Board (PEB) to help settle the contract dispute. To learn more about the process set forth in the Railroad Labor Act, I encourage affected rail members to visit our website.

We held our first bus-focused Regional Training Seminar (RTS) April 25-28 with LACMTA Locals 1563, 1564, 1565, 1607 and 1608 at the SMART Local 105 (sheet metal) hall in Glendora, Calif. The first three days consisted of local officer training that was similar but more robust than what has been previously provided at regional meetings. On the 28th, we held a town hall with a mock local meeting demonstration followed by a Q&A session in the afternoon where I, General Secretary-Treasurer Joe Powell, Bus Vice President Aly Hughes and California State Legisla- tive Director Louis Costa were on hand to answer any questions put forth by the members. I especially would like to thank Sheet Metal Local 105 for its hospitality, SMART Local 105 Treasurer Pete Lara for his assistance in making this event a success, Local 1563 Secretary Sandra Pineda for her assistance in donating left-over food to the local home- less shelter, and all who attended this meeting. I look forward to coming back.

If you feel that your local could benefit from a Regional Training Seminar, please contact your state legislative director or general chairperson and see the article on the following page about our new education efforts.

I want to take this opportunity to also remind members to sign up for an account on our new Member Portal. There you will find important updates on any upcoming meetings and the very latest about the national rail con- tract negotiations.

Stay safe everyone, God bless, and have a great summer!

Fraternally,

Jeremy R. Ferguson
President, Transportation Division
President Jeremy Ferguson’s Chief of Staff Jerry Gibson took some time to answer questions about the August SMART Leadership Summit and the new, more nimble Regional Training Seminar (RTS) model.

Q. What's happened to the nimble Regional Training Summit and the new, more answer questions about the Gibson

Q. What's going on with the San Francisco meeting in New York City, Regional Business Agents opportunity in 2020. Last

Ferguson presented the idea since he has take-

negatives, we knew what we

big meeting in one place

model where local officers

The question raised was, are they really “regional” then? The conclusion was that the old training and meeting model where local officers were expected to attend one big meeting in one place once a year had run its course.

So, after reviewing all of the hurdles, positives and negatives, we knew what we needed to do, so President Ferguson presented the idea to the TD Board of Directors, whose members voted unan-

imously to make the change.

Q. What were some concerns?

Well, we knew that the COVID-related safety requirements that the City of San Francisco placed on us would create an issue. We understand that some of our officers and members have elected not to be vaccinated, and you had to provide proof that you were vaccinated and boosted to enter the facility. No exceptions. Add that to the trend of reduced attendance, it made it very difficult to sign contracts for room, food and beverage guarantees. If 400 people are going to attend, and only 400 actually do, we still pay for 600. We need to be very aware of how every last dollar of our members’ dues money is being spent, and the financial pressures that the organization has been experiencing at all levels — local, state and national, are significant. It takes a considerable investment in time, expense, and personnel to put one of these together. In addition, we heard loud and clear the long-standing concerns from many of our locals that these meetings have become a huge financial burden. No one disagrees that the training is wanted and in demand, it is simply a matter of “Can our local afford it?” It has become a paradox, we can’t afford to go, but we cannot afford not to either.

Q. Is the San Francisco meeting the same as the old regional meeting?

It’s not. In short, the old format is being replaced with two separate, but needed, training and meeting structures. Starting in 2022 and into the foreseeable future, a single annual meeting will be reserved for general commitment and state board executive officers. It will allow our SLB and GC officers to convene, attend training and presentations developed specifically for them, as well as provide a venue to discuss their complex issues in depth. It ensures we are all on the same page, provides an opportunity to freely exchange solutions, and discuss what we need to tighten up. That’s never been done before and is long overdue. It will also be a joint meeting with their Sheet Metal counterparts. One of the inten-

Q. What's a Regional Train-

In 2021, there were four Regional Training Seminars held, each unique with a true “regional” feel to them. Some were two-day events, and others were three. All were within a reasonable driving distance of a number of locals and offered training for all local officers: presidents, trustees, secretary-treasurers, legislative representa-

Q. What's Regional Train-

model differ?

As mentioned previously, the RTS is focused on local officer training, but more than that, we can be flexible and more specifically target particular concerns by craft, carrier and geographic locations. We’re able to focus on an issue important to a region and can adjust the length and types of training to be more in tune with what people in that location want. Something that’s happening in Chicago might not be a concern for someone in Laramie, Wyo. The same goes for areas where we have more bus, passenger and transit members. Their concerns are not the same as the places where the vast majority of our members work on freight railroads.

Q. Is an RTS “less” than the old meeting?

Well, I think we covered this, but in short, only in travel time and cost. The complaints about the prohibitive financial investment and time going to the single “big” meeting have become louder and it was time to react. With the new format, we come to you. Ideally, we want on average 20 to 30 officers attending each class (president, LR, S&T, LC), so I guess we can expect the participants will be less, but that allows for more intimate training, so that should not be viewed as a negative. It is a true collabora-

President Jeremy Ferguson had to appear remotely before attendees at the San Antonio Regional Training Seminar because he was in mandatory in-person mediation concerning the National Freight Agreement per the National Mediation Board as the meeting took place.
2PC bill makes it to N.Y. governor

The two-person crew bills introduced in New York state, Assembly Bill 1297B and Senate Bill 306B, have passed both chambers of the state Legislature as of Tuesday, May 31. Both bills have been introduced into Senate Bill 3953 and were on the desk of Gov. Kathy Hochul (D) for signing.


When the bill becomes law, it would make New York the 11th state with two-person crew legislation on the books. It would be the first state since Illinois in 2019 to have successfully shepherded such rail safety legislation through.

“This is a big accomplishment, and a lot of effort went into this by a lot of members and others, which I want to offer my deepest thanks,” N.Y. State Legislative Director Sam Nasca said.

KANSAS

In late April, members joined Kansas legislators and Gov. Laura Kelly at the state capitol in Topeka, where Gov. Kelly officially proclaimed April 28th “A Day of Honor and Remembrance for Railroad Workers” in the state.

Along with witnessing Kel- ly sign the proclamation, Legislative Representative Mike Scheerer of Local 94 (Kansas City), Troy Fansher of Local 1503 (Marysville), Nick Davis of Local 527 (Coffeyville), Kansas State Legislative Director Ty Dra- goo, Alt. SLD Chad Hen- ton and Kyle Brooks of Local 1503 joined the governor to discuss the vital role railroaders play in the state and in the nation at- large – as well as honor, recognize and remember the ultimate sacrifice some railroaders have made.

“This reflects our ongoing relationship with Kansas’ government, the recognition that rail labor is vital to the state, and that we are appreciated,” Dragoo said.

“It is a proud day for Kansas’ SMART Legislative Board.”

Dragoo also noted that Gov. Kelly has been a steadfast champion of TD members and all of rail labor throughout her time in state government. “She has proposed the two-person crew regulation and has been a steadfast wall of support when legislation is directed to harm our jobs,” he explained.

Q&A with Chief of Staff Jerry Gibson on the changing educational offerings available to TD membership

Continued from Page 6

Q: If an officer can’t make it to a seminar, are there online educational offerings?

Absolutely, as I stated, President Ferguson wants training made available to members and officers alike. Understanding that we work varying schedules and learn in different ways, he asked that it be in different formats, times, and places, and it started with the overhaul of our SMART website and the addition of our new Member Portal. This portal allows us to protect member-only information, including training videos and supporting docu- ments, for the very first time. We have developed SMART University, an online video training module that was launched for these very rea- sons. SMART U. offers 24/7/365 training options for our members and officers. We have recruited subject experts who have completed an extensive amount of work. Many of the topics covered at the meetings are available online, and it is our plan to continue to add to it as sug- gestions are made and topics become known. I think each and every member and offi- cer will find something of value at SMART U. In fact, May 24 marked the rollout of the Membership 101 portion of SMART Uni-

TD — SMART University: Membership 101

By logging into the Member Portal of the new SMART website, TD members can access the SMART University series of videos 24 hours a day, seven days a week.

University, an online video training module that was launched for these very rea- sons. SMART U. offers 24/7/365 training options for our members and officers. We have recruited subject experts who have completed an extensive amount of work. Many of the topics covered at the meetings are available online, and it is our plan to continue to add to it as sug- gestions are made and topics become known. I think each and every member and offi- cer will find something of value at SMART U. In fact, May 24 marked the rollout of the Membership 101 portion of SMART Uni-

Q: What if a local officer wants to attend a Regional Training Seminar?

We encourage locals and their officers to reach out to their general committee and state board offices of jurisdic- tion. They can also reach out to the President’s Depart- ment in our office. Last year, it was the GCs and SLDs reaching out to us once the word got out. Going forward, I think the best way to deter- mine where and when to schedule one will be based

Follow the QR code above with your smart device to create your Member Portal account.

and GC levels also are not being left out. There is a full resource of SMART U. training videos available to them that was launched in mid-June. There’s a link from the Mem- ber Portal that’s visible from the Membership 101 resource that they can follow or they should have been emailed instructions on how to access the officer portion of SMART U. If not, contact us here at the TD office and we will get you started.

Suggestions for future videos can be emailed to the TD President’s Department at president_TD@smart-union.org.

We’re excited about these changes and hope that they prove to be useful while pro- viding a stronger foundation for our union.
GO 386 defeats attempted BNSF pool consolidation

An arbitrator’s recent decision in Public Law Board 7986 case brought by the SMART Transportation Division against BNSF resulted in a victory over the carrier. (See Page 3 for details).

General Chairperson Larry Miller (GO 386) initiated Section 3 arbitration with the assistance of SMART-TD Vice Presidents John Whitaker and Jamie Modesitt. Tim Flynn, 1st vice chairperson of GCA-386 also was heavily involved in the case.

“GC Miller and the rest of GO 386, as well as Vice Presidents Whitaker and Modesitt, should hold their heads high and be proud of this win,” SMART Transportation Division President Jeremy Ferguson said. “We need to remain focused, persistent and maintain our determination that we will hold carriers accountable while batting as a unit against their unjust impositions such as these. This is a huge success for SMART-TD once again and shows we are defending the agreements and protecting members rights to a fair and reasonable interpretation of agreements, especially as we start down the same path of arbitration for the Hi-Viz attendance policy.”

Members of SMART-TD Local 832 (Superior, Wis.) and 1175 (Duluth, Minn.), through their respective state legislative boards, issued a letter expressing gratitude to those who successfully argued the case: “We would like to take a moment to thank General Chairperson Larry Miller and 1st Vice Chairperson of GCA-386 Tim Flynn for their unwavering hard work, which resulted in a favorable ruling for our members regarding the contested Article IX that was imposed upon us in Superior, Wis. “Our local membership as a collective felt we were being unfairly disenfranchised from longstanding agreements put in place to create equitable outcomes for all parties tasked with supporting the multiple customers who depend on our ability to service their needs year-round, 24/7. Whether it’s spring flooding events or 45 degrees below zero, agreement stated all parties would work together to create a reliable pact that our customers and community could count on. “Somewhere along the way, that alliance was broken, and with it our resolve. A feeling of isolation, dismay and resentment fell over the membership, yet we carried on for multiple years. So did Larry, Tim and others to make our voices heard. It would be easy to dwell on the negative impacts and feelings ofanimosity that soon arose after and during this time. Looking forward, hopefully with collaboration this ruling creates an opportunity to once again bring everyone into the fold and create an environment of inclusivity instead of isolation.”

“Larry, Tim and everyone behind the scenes we haven’t named, we want to thank you for never losing sight of what this favorable outcome would mean for the working environment and overall mental well-being of the Superior, Wis., terminal and their families. Once again THANK YOU!”

“We are proud to have you in our corner and grateful for your representation throughout this time.”

L-1892, Houston, Texas

From left, Local Chairperson Jim Boehm, Vice Local Chairperson Ruben Sanchez, Vice President Jenkins Gbawar, Legislative Representative Butch Boggess and Secretary & Treasurer Robert Maldonado take a photo in front of the Alamo in a break from the Regional Training Seminar held June 8 to 10 in San Antonio.

“We made new friends from other locals in Texas along the way. We represented our local well with active participation. Hats off to the general chairpersons, state legislative directors, DLCs and many others for putting on this event!” Maldonado said.

L-311, La Crosse, Wis.

The local’s longtime legislative representative pulled the pin, retiring on March 31.

Brother Rick Hauser served some 20 years in the U.S. Navy and followed that with 20 years at the BNSF in La Crosse. State Legislative Director Andy Hauck had fond memories of working with Brother Hauser in the Capitol in Madison.

“He and I, we would go in there and try to do the whole ‘good cop, bad cop’ thing, but we couldn’t,” Hauck recalled with a laugh. “There was no good cop.”

Hauser was a frequent presenter at regional meetings and he gave his all to the membership, Hauck said.

“His persistence and dedication will be sorely missed by the SMART-TD,” Hauck said. “We’re thankful for all the Ricks out there that make this union great. Please keep up the good work!”

We wish Brother Hauser a long, happy and healthy retirement.

L-1589, New Brunswick, N.J.

The local lost a leader with the passing of General Chairperson Ronnie Alan Harmon (GCA-FTB) in February at age 65.

Brother Harmon joined our union in 2014 upon becoming a motor coach operator for First Transit and became general chairperson in December 2018. Brother Harmon was a gifted singer and founder of the gospel group Armad and Dangerous where he was a dynamic first tenor.

His faith was very important to him and he was a member of Mount Olive Baptist Church in Plainfield, N.J.

He is survived by his wife of 41 years, Joan Yvonne Beverly, and many other relatives, as well as his union brothers and sisters. SMART-TD mourns the loss of this dedicated union leader.

L-171, Aurora, Ill.

Matt Hanson, vice president and alternate legislative representative of the local, is throwing his hat into the political arena again, running for state representative for the newly drawn 83rd Illinois House District.

Running as a Democrat, he faced a primary challenge on June 28 and won the nomination for the district.

Brother Hanson, who works as a BNSF engineer, served one term on the Kane County Board and has been very politically active and has helped local and federal candidates during election cycles gather petition signatures, fundraise and assist voter registration efforts over many years. Illinois State Legislative Director Bob Guy said that Hanson has received support from his legislative board through TD PAC and he also has been backed by our Sheet Metal brothers and sisters in the state.

He has received endorsement from the state AFL-CIO and the Teamsters Local 916. SMART-TD congratulates Brother Hanson on winning which primary an in a race that was far too close to call in November!
**GUEST COLUMN**

**Former BNSF employee shares his resignation letter**

By Chad A. Novácek
SMARTTD Local 113

It is with a heavy heart and grave concern for our nation and fellow union members that I share the following admonition deeply rooted in BNSF’s recent “Hi-Viz” attendance policy misadventure.

Unleashed without the consent of SMART-DTD Local 113 officers on February 1, 2022, “Hi-Viz” was ostensibly created to effectuate more predictable line-ups (proven a colossal failure) and allow train crews to know their precise standing vis-a-vis their attendance allotment (data previously available when management was forthcoming, all in the name of remaining “competitive” in the industry.

Prior to Hi-Viz, train crews were effectively “guessed” or “called out” for their unpredictable, on-call 24/7 schedule 75% of the time, which compared with the general U.S. population (and BNSF attendance definitions and expectations before 2002), was highly restrictive and produced its own set of work-life balance challenges.

Hi-Viz now demands roughly 95% availability and is implemented with a point system that many describe as “draconian,” allowing crews approximately 60 days off per month to coordinate life’s pressing responsibilities and maintain a modicum of home life stability (no doubt allowing the precious few weeks of child development within the home). God forbid your daughter’s big tournament or son’s communion falls on a day that strips away a large tranche of your meagerly allotted points. Oh, and don’t get sick (especially under BNSF’s rarely enforced COVID policies) and therein lies the rub.

**Hi-Viz: The systemic toll**

In the wake of Hi-Viz, we have suffered unprecedented systemwide staffing losses (resignations/resignations/resignations) as a direct result. Grim estimates reflect that between 1,200-1,600 workers were lost within the first four months of implementation, sending shock waves throughout local communities and the economy at large.

Scheduling shortages continue to worsen as Hi-Viz continues its carnage, with no end in sight. In effect, our already strained national supply chain infrastructure is being bled dry of essential crews by a coterie of short-sighted CEOs. One could argue this phenomenon is akin to a “parasite bleeding its host to death.”

**Hi-Viz: The human toll**

Overwhelming anecdotal evidence suggests this Hi-Viz policy, promulgated from a perch of comfort, has produced a noticeable uptick in traumatic “trickle down toxicology,” adversely impacting the quality of life of real people with real families (and by extension the communities they live in). I have personally worked with rails suffering chronic depression, perpetual fatigue/burnout and even suicidal ideations as a direct result of our work environment and how we are (mis)treated.

To be sure, we hire onto the railroad accepting and committing to the challenges of an unpredictable and unconventional work environment. “Old heads” however, remember when labor was treated markedly better. A common refrain among rails is that the quality of our work environment has progressively deteriorated since the merger of Santa Fe and Burlington Northern in the mid-90s.

**The moral dilemma of Hi-Viz**

This new Hi-Viz attendance policy has nonetheless deviated from that “frog in the slowly boiling pot” approach and unabashedly ratcheted up our collective pain to the next level immediately. One can only surmise that Hi-Viz’s grue-some set of consequences was intentional, which begins the ques-tion, what kind of people would craft, institute and enforce such a heartless attendance policy? Do the architects of Hi-Viz actually think one or two days of reprove per month is sufficient to maintain a qualified quality of life? Do they care? There appears to be a disconnect, an “empathy gap.”

Perhaps it’s more psychologically palatable for manage-ment to roll out a policy inhospitable for humans if they regarded those of us in the blue-collar class as something other than human. Should we be surprised? After all, in economics courses, we see that labor is described in sterilized abstraction as a “factor of production” along with capital.

What’s more, this notion is corroborated by the searing changes seemingly reflected in BNSF’s recent set of work-life compromises to sub-ject its white-collar exempt employees to the same level of sociopathically-driven codi-fied sadism.

We are basically subjected to a highly destructive, albeit far less fatal strain of what Hannah Arendt coined, the “banality of evil,” as evinced by our very corporate func-tionaries enthusiastically defending and enforcing this palpably barbarous atten-dance policy.

Hi-Viz thus provides a perfect case study into a reckless and compassion-starved corporate “slash and burn” purging of employees and belies an expansion of building efficient, predictable line-ups and a harmonious workflow. Had genuine empathy prevailed at the top of the BNSF C-suite pyramid, Hi-Viz would never have been birthed. Per-haps those with allegiance to moral integrity over ambitious Maivillian loyalty have long ago been filtered out and denied ascension to positions of meaningful influence within the company.

I get it. BNSF’s mandate within this quasi-competitive market is to maximize profits, quench the insatiable appetite of its shareholders and main-tain a status quo brimming with cushy perks and lavish bonuses for its white-collar class. And, as with all unbridled corporate capitalist milieux, “surplus value” will continue to be misallocated to the detriment of the value-cre-ating workers. These prevailing realities however do not go license to jetson human-ity and ethics. Allegiance to virtue and compassion for your fellow human is a choice. Fenomous policies like Hi-Viz will not just stifle power imbalance favoring the carrier prevails. Helping to preserve this power imbal-ance are the mind-boggling legal impediments to exercise what should be an inalienable right to strike.

By now, it must be painfully obvious I can no longer maintain the unbearable exist-ence Hi-Viz has wrought.

As I should, I hereby resign, not secure, running water in many crew rooms, leaking roofs and poor working conditions. He then informed the Michigan DOT of the need for an on-site inspection. The resulting inspection was a dozen other violations discovered and 90 days to remedy every viola-tion or the carrier would face fines for each one not resolved. I hereby resign.

**SAFETY REPORT**

Roach for help. Brother Roach sent a letter to the carrier informing it of the need to address the safety concerns along with the poor working conditions. He then informed the Michigan DOT of the need for an on-site inspection. The resulting inspection was a dozen other violations discovered and 90 days to remedy every violation or the carrier would face fines for each one not resolved. I hereby resign.

Want a stronger union? All you need to do is take part within three months of MDT’s follow-up inspection.

Union participation on every level is what made this happen. Members reported issues, attended meetings and heard local elected officers say month after month to report safety issues to the local officers to handle. Had we not had a couple of good locals working together and a solid Michigan State Legisla-tive Board, none of this would have occurred.

Brother Novácek, a second-genera-tion railroader, joined the union in February 2022 and tendered this resignation notice to BNSF in June 2022.

By Tom Dillon
SMARTTD Local 278 Legislative Representative

“Does our union do for us?”

It’s a statement that I’ve heard all too often the past few years. I think about that for a minute if you would. Without a union, we would be far worse off than what we are today. By simply defining “adversely impacting all of us to make it work. To suc-cceed, we must participate in a system that is put in place to improve working conditions, pay and provide safer environ-ments for everybody involved.

One of the most underrated locally elected positions is the legislative representative position within your locals. Actually it’s as important to your local as a local chairperson is. In many SMART locals across our country, the LR position is not utilized nearly enough. One of the most important things handled by a local’s LR are the many safety issues within your territory. There are plenty of tools and resources readily available within the SMART organization to help mitigate safety concerns. Yet many members don’t know how or where to start, it seems.

Last year, for example, on our territory aside from COVID issues, we were faced with unrealistic demands, poor management, lack of maintenance and manpower all created by the carrier. Complaints regarding safety concerns about the work conditions, poor lighting, close clearance issues from debris, emergency exit signs, doors not securing, running water in crew rooms, leaking roofs and many more were emailed by SMART Local 1438 Legislative Representative Walt Grein and myself to the carrier several times that fell on deaf ears.

Not wavering, our next step was reach out to Michigan State Legislative Director Don Roach for help. Brother Roach sent a letter to the carrier informing it of the need to address the safety concerns along with the poor working conditions. He then informed the Michigan DOT of the need for an on-site inspection. The resulting inspection was a dozen other violations discovered and 90 days to remedy every violation or the carrier would face fines for each one not resolved. I hereby resigned.

Want a stronger union? All you need to do is take part with capital.

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Want a stronger union? All you need to do is take part

www.smart-union.org
Are you getting close to retirement? You can get the TD News & other benefits for $12 a year!
Call 216-228-9400, email arayner-smart-union.org or visit www.smart-union.org

Alumni leader assists on mission trips

By Ken Menges
Retired SMART-TD Mo. State Legislative Director

Life has taken us many places and allowed us to make friends worldwide. Our union has provided our family with life and a great retirement. My wife Carol and I have been blessed with three wonderful children (none have moved back home!) and 12 grandchildren. We have always lived by the adage, "shoot for the stars — you may get lucky and land on the moon!"

We have been blessed to have traveled to all 50 states and have made several trips overseas since retirement. None of this would have been possible had it not been for our union providing us a good wage and good benefits, which allowed us to save for these adventures. Last year I got to fulfill a life’s dream — a medical mission trip to Africa. I got a call from our son, Bryan, an ER doctor in Washington, Mo. He said, "Dad they need another male volunteer and a cook, so I volunteered you!"

And so began an eight-day mission trip to Africa with our son as the lead doctor with Mission: 316, a medical mission organization that exists to transform forgotten communities and provide hope through sustainable healthcare. When we landed at the airport in Ghana, we were in a modern urban area — after a two-hour drive, still in Ghana, we were in the middle of a poor third world country run by tribal chiefs. Over the four days of clinics, the four doctors and nurses treated more than 1,500 men, women and children — almost every child had malaria.

We have no idea how blessed we are! As I helped move the patients through the clinics, they were so appreciative for the help they received — the universal language of the smile is so powerful!

My cooking must have been OK, too — I have been asked to accompany the group again in October for another medical mission trip. Last year, with the help of our union brothers and sisters, and the community support, we were able to get the group back. Here’s to Brother Berry, his family and friends for their support.

Continued on Page II

Following are the names of deceased members who were active TD members or maintained annual membership in the SMART-TD Alumni Association, according to reports received at the TD office. These brothers and sisters will be missed by their many friends and by fellow Alumni Association members.

The Final Call

Useful news and information for our retirees and members of the TD Alumni Association

Alumni Association Member Thomas M. Berry of Local 28 was mistakenly listed as having passed away in the Final Call that was published in the Spring 2022 TD News. Our office reports to us that he is indeed alive and well, and we sincerely apologize to Brother Berry, his family and friends for the error.

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Former Vice President Robert Earley passes away

Robert "Bob" W. Earley of Local 610 (Baltimore, Md.; Wellsville, N.Y.) passed away after a short membership for decades, who served our union’s SMART Transportation Division Alumni Association member and retiree from Local 226 (Moberly, Mo.) who proudly served our union as Missouri’s state legislative director for the better part of two decades, passed away May 4 at his home. He was 80.

Earley began as state legislative director in April 1992 and was re-elected to multiple terms leading the state legislative board until retiring in 2008. He also worked as a conductor for Norfolk Southern.

"He will be remembered for his work ethic, generosity and kindness. He loved life and was young at heart," his family wrote in his obituary. Brother Earley was married to the former Ann Campbell, who survives. Also surviving are two daughters; a son; eight grandchildren; six great-grandchildren; a brother; and loving nieces and nephews.

The SMART Transportation Division offers its sincere condolences to Brother Earley’s family, friends and all who knew him.

Retired Mo. SLD Foster passes away at age 80

William “Larry” Foster, a SMART Transportation Division Alumni Association member and retiree from Local 226 (Moberly, Mo.) who proudly served our union as Missouri’s state legislative director for the better part of two decades, passed away May 4 at his home. He was 80.

Foster began as state legislative director in April 1992 and was re-elected to multiple terms leading the state legislative board until retiring in 2008. He also worked as a conductor for Norfolk Southern.

"Larry was the one early on in my railroad career that got me interested in our legislative department and helped guide me as a new legislative representative and executive board member until his retirement in 2008," said current Missouri State Legislative Director Jason Hayden (Local 1405, St. Louis, Mo.). "His legacy and imprint on this board will never be forgotten, and he will be dearly missed."

A U.S. Army veteran, having served from 1959-68, Brother Foster is survived by his wife of 53 years, Linda; two daughters; four grandchildren and six great-grandchildren.

SMART Transportation Division offers its condolences to Brother Foster’s family, friends and the union brothers and sisters in Missouri who mourn his passing.

Local 1374 member dies in two-vehicle crash returning from work

Local 1374 (New Castle, Pa.) conductor Erik D. O’Brien, 44, lost his life Saturday, May 21, 2022, when his car hit the back of a semi-truck on his way home from work.

A 1986 graduate of Marlinton High School in Allentown, Ohio, O’Brien was a member of the Louisville Baptist Temple, the Civil Air Patrol, the NRA and was a part of the Holocaust Remembrance team. He enjoyed skydiving, going to shooting ranges and spending time with his dog and family.

Brother Maharaj Menges assists on trips

Continued from Page 10

sisters, we were able to purchase more medication than ever before.

I am again asking for your help as we work with those who are less fortunate than us. Last year we were able to purchase $3,000 worth of medicine and supplies for our trip from the proceeds of this event — I would like to buy even more this year!

By donating or sponsoring the Sunset on Sunset run (there is a virtual run option) your donation will go directly to our mission trip in October. Each volunteer pays their own travel expenses, so the money raised from this event will be used to buy medicine and medical supplies that will be used on our mission trip.

Direct any questions or inquiries to me at kmenges@gmail.com or call me at 573-418-2362 if you would like to help out.

Donations can be mailed to the address below or by credit card at Mission318.com/run:
Sunset on Sunset
973 Cobblerstone Dr.
Washington, MO 63090

Ken Menges helps to oversee activities of the SMART-TD Alumni Association. Prior to his retirement in 2016, he was Missouri state legislative director for eight years and has been a proud member of our union since June 1973.
York Railway agreement ratified by membership

Vice President David B. Wier Jr. reports that Local 386 membership working on the York Railway, a Geneseo & Wyoming line, ratified a new agreement March 9. According to Vice President Wier, the new agreement provides for general wage increases (GWI) as follows: 12% GWI upon signing (for the calendar years of 2020, 2021 and 2022), 3% GWI on Jan. 1, 2023, 3% GWI on Jan. 1, 2024, 3% GWI on Jan. 1, 2025, and 3% GWI on Jan. 1, 2026.

In addition, the new agreement provided active employees with a signing bonus, locomotive engineers received an additional $1 per hour, and employees called for brake men positions will be paid at the conductor’s rate.

Wier remarked, “I want to congratulate and express my gratitude to General Chairperson John Osciak for his arduous efforts at the bargaining table to obtain this exceptional agreement on behalf of the membership.”

ENDORSED CANDIDATE ADVANCES

From left, Avery Edwards, Indiana State Legislative Director K.O. Edwards, retired Local 298 member Doug Fyfe and Fyfe’s son, Matt, pose for a photo this spring. Matt, a teacher, won the May 3 primary for Indiana’s Ninth District in the U.S. House and moves onto the November election with the endorsement of LO 17.

Class I rail carriers file their first-quarter earnings reports

Net Earnings: Increased 10% to $1.4 billion from $1.3 billion
Earnings Per Share: N/A – BNSF is not publicly traded

Revenue: Increased 10% to $6.0 billion from $5.4 billion
Operating Income: Increased 8% to $2.04 billion from $1.9 billion
Operating Expenses: Increased 12% to $3.92 billion from $3.51 billion
Operating Ratio: Worsened 0.9% to 64.6% from 63.7%...

Net Earnings: Decreased 7% to $918 million from $976 million
Diluted Earnings Per Share: Decreased 4% to $1.31 per share from $1.37 per share
Revenue: Increased 5% to $3.71 billion from $3.54 billion
Operating Income: Decreased 8% to $1.23 billion from $1.33 billion
Operating Expenses: Increased 12% to $2.5 billion from $2.21 billion
Operating Ratio: Worsened 4.4 points to 66.9% from 62.5%...

Net Earnings: Decreased 2% to $590 million from $602 million
Diluted Earnings Per Share: Decreased 30% to $0.63 per share from $0.90 per share
Revenue: Decreased 6% to $1.84 billion from $1.96 billion
Operating Income: Decreased 31% to $535 million from $780 million
Operating Expenses: Increased 11% to $1.3 billion from $1.2 billion
Operating Ratio: Worsened 1.07 basis points to 70.9% from 60.2%...

Net Earnings: Increased 22% to $859 million from $706 million
Diluted Earnings Per Share: Increased 26% to $0.39 per share from $0.31 per share
Revenue: Increased 21% to $3.41 billion from $2.81 billion
Operating Income: Increased 16% to $1.28 billion from $1.10 billion
Operating Expenses: Increased 24% to $2.13 billion from $1.71 billion
Operating Ratio: Worsened 150 basis points to 62.4% from 60.9%...

Net Earnings: Increased 23% to $188.0 million from $153.4 million
Diluted Earnings Per Share: N/A
Revenue: Increased 10% to $778.2 million from $706.0 million
Operating Income: Increased 15% to $291.1 million from $253.0 million
Operating Expenses: Increased 8% to $487.1 million from $453.0 million
Operating Ratio: Improved 1.6 points to 62.6% from 64.2%...

Net Earnings: Increased 4% to a record $703 million from $673 million
Diluted Earnings Per Share: Increased 10% to a record $2.93 per share from $2.66 per share
Revenue: Increased 10% to a record $2.9 billion from $2.6 billion
Operating Income: Increased 7% to a record $1.1 billion from $1.02 billion
Operating Expenses: Increased 13% to $1.8 billion from $1.6 billion
Operating Ratio: Worsened 2% to 62.8% from 61.5%...

Net Earnings: Increased 22% to a record $1.6 billion from $1.3 billion
Diluted Earnings Per Share: Increased 29% to a record $2.57 per share from $2.00 per share
Revenue: Increased 17% to a record $5.9 billion from $5.0 billion
Operating Income: Increased 19% to a record $2.4 billion from $2.0 billion
Operating Expenses: Increased 16% to $3.5 billion from $3.0 billion
Operating Ratio: Improved 70 basis points to 58.4% from 60.1%

Notes: Operating ratio is a railroad’s operating expenses expressed as a percentage of operating revenue, and is considered by economists to be the basic measure of carrier profitability. The lower the operating ratio, the more efficient the railroad.

All comparisons are made to 2021’s first-quarter results for each railroad.

All figures for CN & CP are in Canadian currency, except for earnings per share.

On December 14, 2021, Canadian Pacific Railway acquired the outstanding common and preferred stock of KCS. Therefore, earnings per share data is not presented because the company does not have any outstanding or issued publicly traded stock.