

House Transportation and Infrastructure Committee
Subcommittee on Railroads, Pipelines, and Hazardous
Materials

Testimony of
United Transportation Union

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Good Morning!

Chairperson Ms. Brown, Ranking Member Mr. Shuster, and Members of the Subcommittee, on behalf of the men and women that are operating the trains moving on our nation's railroads today, I want to thank you for giving us the opportunity to testify on our priorities for rail freight and passenger services today and in the future.

My name is James Stem. I serve in the capacity of National Legislative Director for the United Transportation Union (UTU) with our office located here in Washington, DC. I also have the assignment of coordinating our participation with the Federal Railroad Safety Administration Rail Safety Advisory Committee (RSAC), at the direction of UTU International President Mike Futhey.

I am here today representing President Mike Futhey, and the values of our 70,000 plus active members of the UTU. We sincerely appreciate the opportunity to offer our input directly to the Rail Subcommittee.

I first would like to express our appreciation to this Subcommittee for addressing many major safety issues in our rail industry during the last session. The Rail Safety Improvement Act of 2008 that originated in this Subcommittee will provide a much higher level of safety in our industry. The process of implementing the requirements of that new law has just begun. We will keep you posted on the application of the provisions in that law and will work with you on further improvements in safety. The new law addressed many significant safety issues and there remain other areas that need attention.

We would also like to take this opportunity to offer our encouragement and support for full funding for the Federal Railroad Safety Administration (FRSA). The FRSA has received many new mandates in the Rail Safety Bill of 2008 that will require additional resources. Our message this morning is focused on safety of the operations for freight rail and passenger railroads. The significant safety improvements contained in the Rail Safety Bill cannot be implemented fully without the needed resources, especially in the immediate future. We look forward to new opportunities to work with you, with the full Committee, and with the Appropriations Committee to make sure Rail Safety continues to be a top priority.

Roles of Freight and Passenger Rail

Freight and passenger rail services in the U. S. economy have played a central role in the development of our nation. From providing the spine for westward population settlement, and commercial and industrial development in the latter half of the 19th century, to transporting troops, arms, and supplies during World War II, the Korean War, the Vietnam War, and our latest deployments in the Persian Gulf region, the railroad industry formed the central core of the country's transportation system.

The last half of the 20th Century saw an industry in decline and in crisis, in part because it failed to change with the times, and in part because other competing modes – most notably aviation and highway – received substantial Federal assistance that enabled them to erode rail's share of freight and passenger traffic. Even after decades of erosion, however, the railroad industry entered the 21st Century as a key component of our nation's transportation infrastructure.

As we look forward, a balanced transportation policy serves our nation's needs. A national policy that demands the best use of our limited fuel resources while providing sustainable and environmentally friendly transportation must take priority over expediency. The environmental link to national transportation policies finds that railroads provide the "greenest" options.

Historically, the railroad industry also has provided hundreds of thousands of middle class jobs. The passenger and freight rail industry by its very definition, provided jobs in many rural areas all over our nation. As we discuss ways to both stimulate our economy and also to provide middle class jobs, including rail at the core of the infrastructure piece of the recovery plan is a sound investment.

The role of Amtrak and high speed rail services in the future transportation needs of our nation is integrally woven into our balanced and environmentally sound transportation policy. Amtrak is an essential component of our national transportation system and must be properly funded to allow the system to grow with the demand for service. Our nation needs redundancy and reliability in our transportation system. Never was the reliability issue greater than in the days after 9/11 when our

airspace was shut down, our roads congested, yet Amtrak was able to bring families back together.

For many Americans who are unable to drive, and for whom flying is not an option, Amtrak serves as a vital link for business, friends, and family. The demand for rail passenger service and ridership continue to grow every year. With the unpredictable price of fuel in the global market, rail passenger options must be part of our overall strategy. Moreover, Amtrak and our commuter rail authorities support many thousands of middle class jobs in numerous communities around the country.

Impact of Current Economic Crisis

While the current economic crisis has already taken a severe toll on railroad workers, particularly operating employees, the overall health of the industry is sound, especially among Class 1 railroads. The financial reports for the fourth quarter of 2008 indicate that our Class 1 railroads enjoyed significant growth both in their net profits and in a reduction of their operating ratios, even in the face of falling traffic levels.

As of this writing, an average of 12% of our operating workforce is in furlough status, with more furloughs expected by the end of January. In addition, many other mechanical, clerical, and shop craft forces are facing furloughs. Also, many rail employees who have not been furloughed are now required to work in different locations and in different jobs. There are many safety concerns that follow this process, because many employees are now working in crafts or positions that have different types of physical demands than their routine job assignment.

The unfortunate reality of a downturn in business in the rail industry is that the youngest employees are pushed out of the bottom of the seniority lists into furlough status. These usually are the families that are the most financially insecure.

Many of these furloughed employees will be needed by mid-summer in order to meet the requirements from changes to the hours of service law which were included in the new rail safety law. Moreover, there will be strong demand for highly-trained and highly skilled railroad workers when the economy begins to turn around and consumer demand is again on the rise.

As Congress continues the debate about an economic stimulus package, we encourage investments that will produce jobs in our country. We hope that the requirements of receiving any Federal funds will specify traditional job creation, and will neither promote nor allow a "Race to the Bottom" on wages, or elimination of existing jobs.

Unfortunately, at least one railroad is planning to pay for the implementation of the Positive Train Control (PTC) system required by Congress by attempting to operate their trains with only one employee on the train and using Federal funds to accomplish this goal.

Single Person Operation

The rail industry is demanding from their employees and the Federal Railroad Safety Administration the authority to operate trains with only one person on the locomotive. When this demand was first made during the most recent round of national negotiations, the industry provided assurances and indicated that the safety of the operation could be ensured with one person because of a pending development in PTC systems.

When research revealed that system wide implementation of any PTC system was many years and many billions of dollars away, the carriers continued with their demands. One railroad even attempted to receive back door approval for such controversial operations by filing a Product Safety Plan with FRSA that promoted single person operation with a waiver request for a second tier non-vital PTC overlay system.

Single person operation of freight trains involves a completely different analysis of the rail safety equation and a complete reassessment of the overall safety of operations that extends far beyond consideration of this specific issue. The responsibilities of the railroad to operate safely over public crossings, to inspect the moving train at every opportunity, to open public crossings quickly when blocked by a stopped train, and to interact with emergency responders are issues that are not addressed by any PTC system, and such systems were never designed to do so.

A study of the data available on the FRSA website indicates there were a total of more than 17,500 grade crossing collisions between 2002 and 2007. Single person operation also ignores more than 5,000 trespasser incidents from the same period. Clearly, with more than 22,500 documented incidents occurring during these six years, an immediate response from the second operating crew member is essential to protect

the safety of the public. Also, based on industry estimates more than 100 trespasser fatalities each year are ruled as suicides and are not reflected in the FRSA data.

Historically, each train has been considered as a self-contained operating unit that had the capability of moving safely in and out of terminals and sidings, and moving on main track utilizing a variety of train control systems and methodologies. Each train was able to set out defective cars en-route, to provide self inspection and repair for dragging equipment, shifted lading, hot journals, broken coupling devices, sticking brakes, and importantly, the ability to expeditiously open public grade crossings when necessary. Today, each operating crew is trained, equipped, and expected to make simple repairs and take other actions that ensure the safety of their train and the public. Each operating crew is also trained and equipped to interact with local emergency responders following a derailment, a grade crossing collision, a trespasser injury or fatality, and the myriad of operational events that occur daily in over-the-road railroad train operations.

Railroad carriers who desire the authority to operate trains with a single individual are ignoring their responsibility for the safety of their employees, the local communities that they travel through, the local emergency responders, and the general public. PTC systems are not designed to reduce the numbers of hot journals on freight trains. PTC has no effect on reducing the numbers of grade crossing collisions or the striking of trespassers. PTC has no effect on busted air hoses, broken coupling devices, or shifted lading. PTC systems were not designed to interact with emergency responders following a derailment or a collision, or to open a public grade crossing to allow emergency vehicles and the general public to cross.

The current method of operation today addresses these identified safety requirements by having a qualified, trained employee at hand to provide immediate response to critical safety needs. The new rail safety law mandates certification for conductors, so they would have the proper training and skills to respond to these daily events.

With single person operation, if one train sustains any operational failure (grade crossing collision, derailment, hot journal, broken coupling device, etc), then every other train on that route will be unable to open a grade crossing and will be able to make only limited reverse movements. The safety of the entire rail operation is compromised by the creation of this new concept of train movements that are not independent functioning units.

UTU, and other unions, have consistently expressed our safety concerns about this attempt to compromise rail safety. We will keep you up to date on future developments with this controversial issue. We anticipate common sense coming to the rescue and this safety concern going away.

The use of Federal funds to install a PTC system, while attempting to experiment with single person operation, would disregard the safety of other railroad crews, the communities that are served, and the customers' well being. We strongly encourage Congress to clearly specify how any Federal funds could be used by railroads, and to prohibit the use of any federal funds – whether tax credits, grants, or loans – in a way that would eliminate jobs.

Transportation Worker Identity Card and other Federal Licenses

Congress recently mandated the issuance of a Transportation Worker Identity Card (TWIC). Our rail employees are now involved in obtaining these required credentials. Many rail employees already are required to carry other Federal credentials, such as a Locomotive Engineer Certificate. In the coming months, there will be other Federal certifications issued. Conductor certification has been mandated by the Rail Safety Act, and the possibility of a credential showing a proper level of training for transporting hazardous materials is also a possibility.

UTU recommends that Congress help find a way to coordinate these processes and allow the issuance of one Federal credential, with the required endorsements. A certified engineer or conductor would have a TWIC, with all the other required credentials shown on that single card. This process would use less Federal resources and also simplify the process for railroads and their employees.

Investment in Freight and Passenger Rail

There has been a substantial public benefit from investment in freight and passenger rail for the past 175 years. As America rebounds from the current severe economic crisis, we will need to rely upon safe

and efficient rail freight and passenger transportation more than perhaps at any time in our lives. A sound economic recovery plan that includes rail infrastructure can bring stability both to employment in the industry and to the future of our retirement system.

China has recently dedicated significant levels of funding to build new railroad lines and other transportation infrastructure projects. New passenger lines linking population centers with high speed rail and a significant expansion of the Chinese freight rail network was a significant part of their Stimulus package.

While we continue this debate about how best to stimulate our economy, we encourage a review of history. Dedicating a substantial percentage of stimulus funds to transportation infrastructure projects provide the best long term investment strategy. During the start of the 20th century in our nation, the rapid growth of transportation systems around the country resulted in major economic growth. We support and encourage a much higher percentage of the stimulus package being focused on transportation projects.

In this regard, the concept of public-private partnerships is not a new idea, just new to the rail industry. A few years ago, railroads did not want to discuss shared use of rights of way and shared expense of increases in capacity on that right of way. Today, a sound and balanced transportation policy embraces the concept of mutual benefit and mutual contributions for increases in freight and passenger rail capacities. The growth of commuter rail authorities, and the demand for local commuter rail services, represent a significant growth opportunity for rail employment, as well as a significant expansion of capacity for freight railroads. Operating freight trains on shared trackage during non peak commuter times works very well for both services in many communities today.

I would, however, caution the Subcommittee that new commuter rail transactions have attempted to skirt the Railway Labor Act and create an entity that looks like a railroad, and acts like a railroad, but declares they are not a railroad. This creates a "Race to the Bottom" on wages and benefits for those employees working for the commuter authority, which undermines the safety of that operation. A commuter authority that operates trains needs the same expertise and stability in their employees that every other rail operation requires. We think it is logical for that issue to be settled in advance of the transfer or allocation of any Federal funds.

We hope that the use of Federal funds in support of both passenger and freight rail operations would continue to create job opportunities for our children --a job that is safe, a job that pays a living wage, and a job that provides good health care and a comfortable and dignified retirement. A job that we all hope our children and grandchildren can find, not a temporary job with low wages and no benefits. As you continue the discussion about rail funding, we encourage you to overlay the values of middle class jobs on your requirements.

Rail Accident Investigation

Lastly, I want to speak briefly about the National Transportation Safety Board (NTSB), which is charged with the responsibility of investigating transportation accidents. The safety input of every accident investigation is focused on determining all the causes of each accident, and then using that information to make recommendations for changes in systems, processes, equipment, and training values to prevent similar occurrences.

Recently the NTSB has ignored many rail employees' fatalities and not launched an investigation to determine the cause of the accident that created the fatality. We find that part of the problem with this lack of investigation of fatalities is that the Rail Division of NTSB has been combined with other Divisions, which has obviously diluted their focus on Rail Safety.

We are aware that this Subcommittee does not have authority to control the day to day operations of this Federal Safety agency. We are just sharing our frustrations and our determination to find a solution to this significant safety concern. The pressure coming from within the past administration to stop virtually all rail accident investigations is unacceptable to many different constituencies, and we are sharing our resolve to work with our New Administration to resolve this major issue quickly.

We appreciate the opportunity to speak today, and I will be glad to answer any questions you may have or to clarify my remarks.