

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 770 (Sub-No. 1)

URGENT ISSUES IN FREIGHT RAIL SERVICE—RAILROAD REPORTING

Decided: June 13, 2022

Digest:¹ The Board is requiring BNSF Railway Company, CSX Transportation, Inc., Norfolk Southern Railway Company, and Union Pacific Railroad Company to correct deficiencies in their service recovery plans and provide additional information on their actions to improve service and communications with customers.

Rail network reliability is essential to the Nation’s economy and is a foremost priority of the Board. Recently, the Board has heard from a broad range of stakeholders about the significant challenges they have experienced as a result of inconsistent and unreliable rail service. These challenges include substantial increases in problems arising from tight car supply and unfilled car orders, delays in transportation for carload and bulk traffic, increased origin dwell time for released unit trains, missed switches, and ineffective customer assistance. Prior to the initiation of this proceeding, the Board received reports, from the Secretary of Agriculture, Senator Shelley Moore Capito, and other stakeholders, about the serious impact of these service trends on rail users, particularly shippers of agricultural and energy products.² At the same time,

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² See Letter from Hon. Thomas J. Vilsack, U.S. Dep’t of Agric., Mar. 30, 2022, Reciprocal Switching, EP 711 (Sub-No. 1); Letter from Hon. Shelley Moore Capito to Board Members Martin J. Oberman, Michelle A. Schultz, Patrick J. Fuchs, Robert E. Primus, & Karen J. Hedlund (Mar. 29, 2022), available at www.stb.gov (open tab “News & Communications” & select “Non-Docketed Public Correspondence”); Letter from the Nat’l Grain & Feed Ass’n to Board Members Martin J. Oberman, Michelle A. Schultz, Patrick J. Fuchs, Robert E. Primus, & Karen J. Hedlund (Mar. 24, 2022), available at www.stb.gov (open tab “News & Communications” & select “Non-Docketed Public Correspondence”); Letter from SMART-Transp. Div. to Chairman Martin J. Oberman (Apr. 1, 2022), available at www.stb.gov (open tab “News & Communications” & select “Non-Docketed Public Correspondence”). Since this proceeding began, the Board has received additional reports from Senators about significant rail service disruptions. See Letter from Hon. Kevin Cramer, Tammy Baldwin, Chuck Grassley,

the Board has been closely monitoring weekly rail service performance data submitted pursuant to 49 C.F.R. part 1250.³ The data validate the anecdotal information reported to the Board; key performance indicators, such as system average train speed and average number of trains holding per day, indicate performance is well below historical norms. Trends in the data demonstrate that service is not improving. Since the beginning of 2022, and through the data for the week ending May 27, 2022, there has been no material, sustained decline in trains held per day due to crew or locomotive availability for BNSF Railway Company (BNSF), CSX Transportation, Inc. (CSXT), Norfolk Southern Railway Company (NSR), or Union Pacific Railroad Company (UP) (collectively, the Carriers). Additionally, during this period, the data submitted to the Board has shown increased terminal dwell and reduced average train speed for the Carriers. A number of these carriers have failed to reverse their increased use of embargos due to congestion. Together, these metrics indicate operational and service challenges that are significantly and negatively impacting the rail network.

BACKGROUND

In response to the Board's May 6, 2022, decision in this docket (May 6 Order), the Carriers submitted the first week of required performance data and related service recovery plans on May 18 and May 20, 2022, respectively.⁴ The data, which were not all reported consistently and accurately, nonetheless provided the Board with new insight into the location and extent of service problems. The service data revealed even more extensive service delays and reliability problems than captured by the Board's existing data collection program. For example, one carrier reported failing—more than half of the time on average—to deliver rail cars in manifest service within 24 hours of the original estimated time of arrival (ETA).⁵ (NSR Performance Data at Row 163, May 18, 2022.) The same carrier reported failing—about one-third of the time in multiple operating divisions, on average—on its first-mile/last-mile (FMLM) service (i.e., Industry Spot and Pull). (NSR Performance Data at Rows 66, 68, May 25, 2022.) Another

Shelley Moore Capito, Sherrod Brown, M. Michael Rounds, Patty Murray, Joni Ernst, Marco Rubio, Tammy Duckworth, Mike Crapo, James Risch, Tina Smith, Mark Kelly, John Hoeven, John Kennedy, Joe Manchin III, Roger Marshall M.D., Amy Klobuchar, Mike Braun, & Richard J. Durbin to Chairman Martin J. Oberman, May 24, 2022, Urgent Issues in Freight Rail Serv., EP 770; Letter from Hon. Alex Padilla & Dianne Feinstein to Chairman Martin J. Oberman, June 1, 2022, Urgent Issues in Freight Rail Serv., EP 770.

³ Rail service data collected pursuant to 49 C.F.R. part 1250 is available on the Board's website at <https://www.stb.gov/reports-data/rail-service-data/>.

⁴ Pursuant to 49 U.S.C. § 11145(a)(1), the Board may require rail carriers to file annual, periodic, and special reports with the Board “containing answers to questions asked by it,” and, pursuant to 49 U.S.C. § 1321(b)(3), the Board may obtain from carriers “information the Board decides is necessary to carry out subtitle IV.”

⁵ As the Board has stated previously, a missed original ETA—without more—does not necessarily indicate a service issue. See Demurrage Billing Requirements, EP 759, slip op. at 17 (STB served Apr. 6, 2021). However, this statistic is troubling given the many other indicia of service issues present here.

carrier reported failing—more than one-third of the time on average—to deliver grain and ethanol unit trains within 24 hours of the original estimated time of arrival. (UP Performance Data at Rows 183, 187, May 18, 2022.)

Furthermore, the data submitted in this docket show a concerning high occurrence of re crews due to trains arriving late at terminals. For example, data submitted by BNSF and UP show that approximately 10 percent of crew starts were re crewed between May 6, 2022, and May 27, 2022. (See generally BNSF Performance Data at Row 51, May 18, 2022, May 25, 2022, June 1, 2022; UP Performance Data at Row 55, May 18, 2022; UP Performance Data at Row 50, May 25, 2022, June 1, 2022.) For certain operating divisions in that period, the re crew rate was as high as 24 percent. (BNSF Performance Data at Row 44, June 1, 2022.) The data corroborate testimony from railroad employees and labor representatives. See, e.g., Hr’g Tr. 126:6-12, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770. The Board is concerned that the data indicate unpredictable rail service, increased congestion, and increased challenges for railroad employees.

As noted above, the Board issued the May 6 Order directing BNSF, CSXT, NSR, and UP to submit recovery plans detailing how they intend to improve service on their respective freight rail networks. The Board required this action as an immediate step toward addressing the significant service problems reflected in freight rail service performance data routinely submitted to the Board, as well as those described by rail users and other stakeholders at the Board’s hearing held on April 26 and 27, 2022. At that hearing, the Board received testimony showing that multiple carriers are experiencing poor service metrics,⁶ explaining that carriers’ poor service was directly tied to crew shortages,⁷ and documenting the numerous serious effects of such poor performance for many rail users whose businesses are central to the country’s well-being.⁸ The Board required that the Carriers’ service recovery plans do the following:

1. Explain the specific actions that each carrier will take to improve service. As part of this information, the Board made clear its expectation that each carrier:

⁶ Loop Capital Markets Ex. at 15, Urgent Issues in Freight Rail Serv., EP 770.

⁷ See, e.g., Hr’g Tr. 424:134-156, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770 (“There is no other reason why the company is not performing other than we do not have conductors on the train.”).

⁸ See, e.g., Nat. Grain & Feed Ass’n Written Testimony 1-3, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770 (remarking on the doubling of trip times for NGFA members and the impact of longer trips on the grain industry); Am. Fuel & Petrochem. Mfrs. Written Testimony 1-4, Apr. 28, 2022, Urgent Issues in Freight Rail Serv., EP 770 (discussing the impact of poor service on captive shippers and especially consumers); Occidental Chem. Corp. Comment 2-3, Apr. 28, 2022, Urgent Issues in Freight Rail Serv., EP 770 (noting the effect of service disruptions as they relate to chemicals and public health); see also Hr’g Tr. 37:21-38:16; Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770; Hr’g Tr. 579:8-12; 678:13-19, Apr. 27, 2022, Urgent Issues in Freight Rail Serv., EP 770.

- a. Explain how it intends to remedy its current labor shortage and avoid future labor shortages; and
 - b. Report on any of the carrier’s plans to lift current velocity restrictions, as well as any plans to increase the power on its through trains—rather than to limit the use of that power—so that each such train has the capacity to travel at track speed, and if there is no such plan, to explain why.
2. Identify the specific metrics—and associated targets—by which each carrier will evaluate its progress toward improvements in service. The Board directed that each carrier:
- a. Explain the carrier’s selection of each key service performance indicator, including: (i) how each is defined, (ii) what it indicates, and (iii) why it is selected;
 - b. Submit a time series of key service performance indicators for the past 36 months;
 - c. Include a target that the carrier expects to hit at the end of the six-month reporting period for each indicator selected;
 - d. Include, at a minimum, an indicator and target for FMLM service and trip plan compliance (TPC) performance; and
 - e. Explain how the carrier arrived at, and will meet, each target.

The Board explained that the service recovery plans would “promote industry-wide transparency, *accountability*, and improvements in rail service.” May 6 Order, EP 770 (Sub-No. 1), slip op. at 4 (emphasis added). It further noted that the information would “help the Board better understand the current service problems, progress being made to resolve them, and whether additional regulatory action by the Board is warranted.” Id. Through the service recovery plans and their follow-on progress reports, the Board has given the Carriers an opportunity to show their commitment to improved service—to the Board, each carrier’s own customers, and the broader public—and to demonstrate progress. Sustained and measurable progress is crucial due to the Carriers’ representations that it will take time to restore service levels to reliably meet demand. Id. Perhaps most importantly, the Board has given the Carriers an opportunity to show how they each intend to *resolve the service problems themselves*.⁹ Self-correction minimizes the need for further regulatory intervention and, according to hearing testimony, is the Carriers’ preferred option. See, e.g., Hr’g Tr. 849:9-18, Apr. 27, 2022, Urgent Issues in Freight Rail Serv., EP 770. In the broader scheme of possible regulation, requiring individualized service recovery plans—and ones, like those ordered by the Board, that give the respondents considerable flexibility in selecting performance metrics and targets—allows for a carrier-specific approach to improve the availability of information to the Board, the Carriers’ customers, and the broader public.

⁹ The Board has in the past indicated its preference for “private-sector initiatives and private-sector solutions” to service problems, as well as its preference not to intervene unless a carrier fails to rectify the problem itself. Joint Pet. for Serv. Ord., 2 S.T.B. 725, 730 (1997)..

In the face of the serious service problems discussed above, the Carriers failed, in varying degrees, to provide service recovery plans that met the Board's stated expectations. In some instances, the Carriers refused or otherwise failed to provide the required information. In other instances, the Carriers provided information responsive to a particular requirement, but without sufficient detail. These omissions are inexcusable.

Although the Carriers should have viewed the general nature of the May 6 Order as an opportunity to demonstrate that some level of trust in their individualized, specific private sector solutions was warranted, the Board now finds it necessary to further direct the Carriers to provide information the Board, as well as each carrier's own customers and other interested persons, needs to better evaluate current service problems and determine what further action may be necessary. The Board provides that direction below and specifically details those aspects of the previously filed plans that are deficient. The Board will require that the Carriers cure their initial plans' respective shortcomings in revised submissions. To be clear, in the event the Board determines a carrier has failed to comply with this order, and/or the May 6 Order, it may be subject to monetary penalties. *See, e.g.*, 49 U.S.C. § 11901(e)(3); 49 U.S.C. § 11901(a) (providing a penalty of \$5,000 per violation for knowingly violating an order of the Board, or \$8,736 adjusted for cost-of-living, and providing that a separate violation occurs for each day that the violation continues); 49 C.F.R. § 1022.4(b) (setting forth the cost-of-living adjustments).

Following the testimony at the April 26 and 27 hearings documenting the significant ongoing problems with Class I service, which left no doubt as to the negative (in some cases, disastrous) effects the Carriers' failures have had on rail customers' businesses, the Board expected the Carriers would have proceeded in good faith by providing plans that would actually help the Board, the Carriers' customers, and the public evaluate the current problems facing the rail network, the details of what the Carriers are doing to fix these problems, and whether and when those efforts will be sufficient to remedy the significant problems with Class I service. While some of the plans submitted on May 20 were more detailed than others, none of the plans, when viewed in their entirety, fully accomplished those goals. *See May 6 Order*, EP 770 (Sub-No. 1), slip op. at 3-5. The Board required submission of recovery plans containing specific action items, metrics, and targets, in part, because the Carriers' past assurances that they would have the necessary resources in place to provide consistent and reliable rail service have proven hollow.¹⁰ The Carriers' responses to the May 6 Order are insufficient to assist the Board, rail

¹⁰ For example, on June 9, 2021, BNSF's CEO Katie Farmer wrote to Chairman Oberman, stating: "BNSF has and will continue to take the steps to ensure we have the right resources to meet new demand levels while providing consistent and reliable service." On June 11, 2021, UP CEO Lance Fritz wrote Chairman Oberman, stating: "Union Pacific is well-positioned to deal with the nation's economic recovery in 2021." He added: "Our pipeline of train crew, yard, and maintenance employees is robust, and these employees are qualified to fill future positions throughout our network." On June 17, 2021, CSXT CEO James Foote wrote to Chairman Oberman, stating: "We are committed to . . . having the right resources in place to meet anticipated demand and investing in our network to ensure safe and reliable operations." And on June 18, 2021, NSR's then-CEO James Squires wrote to Chairman Oberman stating that

customers, and other interested persons in evaluating the sufficiency of the Carriers' actions to seriously and strongly confront their service problems, which further justifies and necessitates the filing of revised service recovery plans.

Finally, the Carriers either complied belatedly or failed to comply fully with the weekly and monthly data collections required by the May 6 Order. Two carriers were almost a week late in their April 2022 employment data filing—and even with the additional time, one carrier's filings had deficiencies so serious that the data was rendered functionally useless. Furthermore, prior to the due date for the first reports, the Board took the time and care to provide the Carriers with a template file and technical documentation for both the weekly service data and the monthly employment data, resources that are meant to improve the quality and consistency of data reporting in this docket. And yet, the vast majority of the weekly filings have not followed the technical guidance and templates provided by the Board. While a few carriers have shown improvements in their filings, those improvements flow from several weeks of dialogue with Board staff. These shortcomings are inhibiting the Board in its efforts to analyze the data and meet its regulatory responsibilities. The carriers must treat the data reporting requirement with the seriousness and diligence called for by the prevailing challenges in the freight rail network. Doing so is necessary to rebuild trust and inform the Board, the Carriers' own customers, and the broader public.

DISCUSSION AND INSTRUCTIONS FOR REVISED SERVICE RECOVERY PLANS¹¹

1. General Instructions for Revised Service Recovery Plans

In the service recovery plans, the Board required an explanation of “the specific actions that each carrier will take to improve service.” May 6 Ord., EP 770 (Sub-No. 1), slip op. at 4. This qualitative portion of the service recovery plan is the Carriers' opportunity to explain—with specificity—the cause of network congestion and delays, the geographic locations where the problems are most severe, and the specific and concrete actions the Carriers will take—over time—to mitigate and eventually resolve those problems.¹² Importantly, at the April 26 and 27 hearing, all participants—carriers, rail users, rail labor, and Wall Street industry analysts—agreed that the principal underlying causes of the network congestion are shortages of labor and

NSR had efforts underway “to ensure we have the people and equipment we need to provide the service our customers expect.” This correspondence is available on the Board's website at <https://www.stb.gov/news-communications/non-docketed-public-correspondence/>. These assurances clearly proved unreliable, as these Carriers are now all operating at “service crisis” levels. Hr'g Tr. 390:2, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770.

¹¹ The Board is also publishing an updated Paperwork Reduction Act notice related to this decision in the Federal Register.

¹² The Carriers are also expected to advise the Board immediately through the Board's Office of Public Assistance, Governmental Affairs and Compliance (OPAGAC) about any specific service disruptions that threaten public welfare, such as energy supply, animal feed, and public water supply. The Carriers should also inform the Board of the corrective action they are taking to mitigate the disruption.

(to a lesser extent) equipment. See, e.g., Hr’g Tr. 76:14-15, 109:14-22, 195:4-12, 293:4-7, 382:3-11, 398:17-20, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770. Given this broad consensus, the Carriers should not use their service recovery plans to simply repeat those accepted truths and profess a commitment to hiring, as by and large they did in their May 20 submissions, but they should use their service recovery plans to explain precisely how those shortages are causing service problems and how the Carriers intend to obtain and deploy their resources to fix those problems: i.e., *specific* actions to improve service. The Carriers either failed to respond to this portion of the order or provided such minimal detail that neither the Board nor anyone else can meaningfully evaluate the Carriers’ efforts—and commitment—to restoring the reliability and consistency of their freight rail service in a timely manner.

In particular, the Board expected the Carriers to explain both how they intend to remedy their *current* labor shortage and avoid *future* labor shortages. To be clear, given the massive workforce reductions undertaken both before and during the pandemic, this means identifying the labor force level needed to meet demand *and* the labor force level needed to successfully mitigate service disruptions caused by future events. This dynamic was discussed at length during the hearing and Board Members asked pointed questions about the Carriers’ plans for future work force levels. See, e.g., Hr’g Tr. 302:20-306:16, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770; Hr’g Tr. 832:4-842:12, Apr. 27, 2022, Urgent Issues in Freight Rail Serv., EP 770. However, the Carriers did not identify the workforce *level* they intend to achieve to meet demand and, most importantly, they failed to detail their efforts to avoid future labor shortages. May 6 Ord., EP 770 (Sub-No. 1), slip op. at 5.

The Board will clarify its May 6 Order to specifically require that, in addition to the number of employees they intend to hire (not accounting for attrition), the Carriers provide labor force targets for employees actually on the job¹³ in six months and in one year (using the same timeframe starting point as their key service performance indicator targets),¹⁴ broken out by transportation (train and engine), maintenance of way and structures, maintenance of equipment and stores, customer service employees, and all remaining personnel. The Carriers must also provide detailed information about their plans, if any, to incentivize hiring and retention, including identifying—with specificity—the policies and incentives they intend to use to maintain an adequate labor supply along with an explanation of how those measures will attract and retain personnel. The Carriers must also report data about trainees and employee absences. The Carriers will now be required to include,¹⁵ in their monthly employment data and service

¹³ This signifies those employees that are not furloughed. Carriers are directed to separately specify the total number of people that will be on the “extra-board” of employees who are available to cover for regular employees.

¹⁴ The Board recognizes that circumstances can change substantially in a year and that such changes could affect or supersede the one-year labor force target that the Carriers will provide in response to this direction.

¹⁵ In the May 6 Order, the Board encouraged the Carriers to include, in the service recovery plans and service progress reports, data on the number of train, yard, and engine (TY&E) employees that began training and the number that completed training in 2022. May 6 Ord., EP 770 (Sub-No. 1), slip op. at 5.

recovery plans: (i) how many trainees entered training; (ii) how many trainees dropped out of training; (iii) how many trainees completed training; and (iv) how many trainees are currently in training.¹⁶ Carriers should report the data for each railroad operating division to the maximum extent practicable in addition to reporting on a system-wide basis. Finally, the Board directs the Carriers to provide additional context for their employment numbers, such as by including data in their plans and progress reports on the daily average number of employees not available for service, and if feasible, the cause for such unavailability (e.g., vacation, COVID-related, unexcused absences).

From a broader viewpoint, none of the railroads discuss their recovery plans from an overarching service design perspective—in other words, whether and how expectations or limitations built into their current operating plans may be affecting their recovery efforts. For example, senior executives consistently refer to maintaining a “balanced” network, which purportedly allows them to leverage resources and realize efficiencies. Seemingly, however, as freight traffic returns to the network, it does so at various levels, at different locations, in different time frames without the ratatability that is implicit in the railroads’ “balanced” operating plans. Thus, crew and locomotive resources may be improperly aligned with fast and ever-changing market conditions. For the railroads to address any misalignment, while fulfilling assurances that they intend to compete aggressively for additional business, it may require that they engage in a reevaluation of service design. The Board therefore expects the railroads to supplement and discuss their recovery plans taking into account their service designs.

During the hearing, several labor representatives indicated that the Carriers could increase velocity, which would in turn improve service to customers, by removing throttle restrictions and by relaxing stringent horsepower per ton optimization parameters that leave trains underpowered. Hr’g Tr. 126:17-128:5, 152:11-155:12, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770. Board Members discussed this issue with Carrier representatives at the hearing. Hr’g Tr. 450:8-452:15, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770; Hr’g Tr. 880:17-885:19, Apr. 27, 2022, Urgent Issues in Freight Rail Serv., EP 770. In the May 6 Order, the Board asked the Carriers to report on any plans they have to lift current velocity restrictions, and to increase power on through trains. Initially, UP completely failed to respond to this inquiry. (See UP Serv. Recovery Plan.) Certain other carriers’ responses were deficient, as explained in detail below. The Carriers are also directed to supplement their original responses specifically to address the following issues: (1) whether utilizing additional power on through trains would allow the railroad to maintain velocity when power at existing levels breaks down; and (2) whether removing velocity restrictions, or otherwise adding power, would improve service and reduce congestion, and, if not, why.¹⁷

¹⁶ These requirements will only apply to BNSF, CSXT, NSR, and UP. OPAGAC will provide the Carriers with a revised sample template that should be used for submission of the monthly employment data. The Carriers are directed to resubmit their April monthly employment data using the revised template.

¹⁷ If a carrier is prioritizing a sustainability goal, such as those related to Environmental, Social, and Governance ratings, over near-term service improvements for its customers, or other

Furthermore, while each of the Carriers defined the specific metrics by which they would evaluate performance, and briefly explained what those metrics indicated and why they were selected, each of them could have explained—and now will be ordered to explain, with precision—how the specific remedial actions they intend to take will translate into enhanced performance on each of those metrics.

In addition, the Carriers must include with their revised recovery plans the 36 months of data that was required to be filed by June 3, 2022, at a weekly level in order to allow for comparison to their forthcoming metrics.¹⁸ Including this information with the plan itself provides context and will give the Board and the public a clearer sense as to the Carriers' pre-pandemic performance and week-to-week variability. This in turn will allow the Board and others to better evaluate the adequacy of the Carriers' ongoing recovery.

The Board also recognizes that there are actions the Carriers can take to improve service that would not be reflected in the metrics previously required under the May 6 Order. Most importantly, in this proceeding, and others, the Board has received disturbing reports from shippers about their inability to obtain current information about when to expect car delivery. Some shippers report that calls to their railroad are not returned, or the local railroad representative states that they are unable to provide specific updated information. It has also been suggested that some railroads have significantly reduced customer service department staffing, with communication between the railroad and its customers clearly suffering as a result. It should go without saying that if a train arrives outside of expected delivery windows and without adequate notice, the shipper may have insufficient employees to process the arriving cars and return them to service in a timely manner, further disrupting plant operations and overall system efficiency. It is crucial that railroads keep their customers informed on a timely basis of when actual service can be expected. We are therefore directing the Carriers to include in their revised service recovery plans the steps they are taking to improve customer service, including the provision of timely responses to customer inquiries about delays in meeting expected ETAs, as well as the hiring of additional customer service representatives who are familiar with shipper needs and can resolve issues.

2. Individual Carrier Instructions for Revised Service Recovery Plans

Below, the Board provides an evaluation of each of the Carriers' service recovery plans and provides specific directions to each Carrier.

business objectives such as volume growth, it should provide more information on its environmental initiatives to explain its choices.

¹⁸ This data should be submitted in a machine-readable format, rather than as a PDF document.

a. BNSF

BNSF provided the most comprehensive service recovery plan of the Carriers. Unlike other carriers, BNSF identified broad actions that it will take to improve service, including bringing additional crews and locomotives online to match resources to volume and reducing excess cars on its network to clear congestion and move customers' freight. (BNSF Serv. Recovery Plan 2-4.) BNSF, however, could have provided greater specificity, as discussed in the preceding section. BNSF will be required to provide further explanation as to why and where its customers are experiencing service disruptions, how it intends to eliminate those disruptions (other than briefly saying it will deploy more resources and reduce car counts), and on what timeline it intends to eliminate those disruptions.

As for hiring and training specifically, BNSF emphasizes an "aggressive 2022 hiring plan" to meet "anticipated needs," and notes that it hired 402 TY&E employees thus far in 2022, 229 TY&E employees have completed training, and another 209 TY&E employees are due to complete training in the next 90 days. (BNSF Serv. Recovery Plan 2.) This is helpful information, but for the reasons given above, the Board finds it necessary for BNSF to provide more discussion regarding the level of total workforce it needs to meet demand, and the workforce it needs to handle future growth and withstand the potential shock of future events. The Board notes that, despite BNSF's assurance in June 2021 that it would have "the right resources to meet new demand levels," see supra note 10, it now acknowledges that "the accelerated demand experienced beginning in 2021 outpaced [BNSF's] ability to quickly flex up resources to handle the volume surge." (BNSF Serv. Recovery Plan 2.) Accordingly, it is essential for BNSF to identify its specific "anticipated needs" and indicate how many employees, in total, BNSF expects to be employed six months and one year from now, broken out by transportation (train and engine), maintenance of way and structures, maintenance of equipment and stores, customer service employees, and all remaining personnel. This information will show whether BNSF intends to hire beyond the 402 workers it hired this year to restore the TY&E workforce to its pre-pandemic level.

BNSF addressed the Board's request for information on whether it had any plan to lift velocity restrictions so that through trains may travel at track speed. BNSF answered the Board's inquiry indirectly, as its representation that it has no intention of systematically suspending its fuel conservation program indicates that it has no such plan. (BNSF Serv. Recovery Plan 8.) And BNSF's contention that running trains faster would do more harm to service performance than good indicates that it has no intention of increasing power on its through trains. (Id.) If the Board is incorrect in these assumptions, or if BNSF's response requires further explanation, BNSF should so indicate in its revised recovery plan. In addition, carriers have reported velocity problems when existing power on a through train breaks down. It has been argued that, by utilizing additional power the railroad would be able to maintain velocity when such events occur. BNSF has stated that "[t]he speed at which a train traverses the line of road between two terminals is rarely a substantial factor limiting the transit time of a customer's shipment" and that "running all trains a little faster along the road and bunching them up at terminals would do more harm to service performance than good" (Id.) Although the Board recognizes that removing velocity restrictions may not necessarily improve service,

(see id.), BNSF should elaborate on its responses to the points raised in this order in its revised service recovery plan.

BNSF identified its metrics for measuring service improvement (including FMLM and TPC performance), defined those metrics, and explained what they indicate and why they were selected. However, in its revised service improvement plan, BNSF must provide more context as to why it selected these metrics and then link them to the specific actions it intends to take, as discussed above. Furthermore, with respect to TPC performance, BNSF stated that it would only provide an “aggregate system average” with respect to its service recovery plan. (See id. at 6-7 & n.2 & Ex. A.) In keeping with the May 6 Order, the Board expected the Carriers to break out TPC targets and 36 months of historical data by manifest, unit, and intermodal train types, with further disaggregation for various types of unit trains. In its revised service improvement plan, BNSF will be required to provide the requested targets and data, if possible, or explain why it is unable to do so. The Board also directs BNSF to explain how its service recovery plan will lead to improvements in TPC in each of the categories required by the Board in Item 7. May 6 Ord., EP 770 (Sub-No. 1), slip op. at 4-6.

While BNSF explained that the target for each of its metrics reflects performance “during times when we are providing service at levels our customers are more accustomed to from BNSF,” (BNSF Serv. Recovery Plan 5), it did not identify when that performance was achieved and for how long it was sustained. BNSF should do more to provide the details as to how it plans to meet its self-identified performance targets.

BNSF must also include in its revised service recovery plan the steps it is taking to improve customer service, including the provision of timely responses to customer inquiries about delays in meeting expected ETAs, as well as the hiring of any additional customer service representatives who are familiar with shipper needs and have the ability to resolve issues.

b. CSXT

Although CSXT references some general actions it will take to improve rail service, such as “conductor hiring and resolving crew shortage issues in certain locations on the network,” (CSXT Serv. Recovery Plan 5), the Board clarifies that CSXT is required to provide more detailed information, including the geographic regions and underlying causes of increased congestion on its network, and CSXT’s planned concrete actions to resolve these problems.

Regarding workforce levels, the Board appreciates CSXT’s informing the Board that it intends to restore its TY&E workforce to pre-pandemic levels by the third quarter of 2022. Pursuant to this order, however, CSXT will also be required to specifically identify labor force targets for employees actually on the job in six months and in one year, broken out by transportation (train and engine), maintenance of way and structures, maintenance of equipment and stores, customer service employees, and all remaining personnel.¹⁹ CSXT’s representation

¹⁹ The Board appreciates that CSXT voluntarily provided the Board with information on TY&E employee hiring projections through year end. Pursuant to this order, CSXT will be required to include the projections identified above as part of its revised service recovery plan.

that it will continue to hire to stay ahead of attrition and to “meet the needs of its business growth” is not an adequate specific response to the Board’s requirement that the Carriers explain how they intend to avoid future labor shortages. Detailed projections are especially relevant given CSXT’s failure to meet past commitments to have sufficient resources in place to respond to anticipated demand. See Hr’g Tr. 398:10-13; 401:11-14; 406:2-9, Apr. 26, 2022, Urgent Issues in Freight Rail Serv., EP 770; supra note 10.

CSXT responded to the Board’s inquiry regarding velocity restrictions and power on through trains by stating that it has no system-wide velocity restrictions in place. (CSXT Serv. Recovery Plan 5.) As for increasing power to through trains, CSXT argues that such measures would not improve service performance for CSXT. The implication is that CSXT does not plan on increasing power. However, pursuant to this order, CSXT must explain in more detail *why* adding more power to through trains would not improve its service performance. This information is particularly important given that CSXT’s average system velocity has decreased over 20 percent, from 26.6 mph to 21.1 mph, between the week ending December 20, 2019, and the week ending May 20, 2022.²⁰ It may be that CSXT has no plans to increase power or lift velocity restrictions and that it views such actions as having no potential positive effect on its velocity. CSXT must provide further explanation and detail in its revised service recovery plan, particularly explaining its apparent belief that removing velocity restrictions and adding power will not assist the restoration of previous velocity levels.

CSXT identified its metrics for measuring service improvement (including FMLM and TPC performance), defined those metrics, and explained what they indicate and why they were selected. However, in its revised service improvement plan, CSXT must provide more context for why it selected these metrics and link them to the specific actions it intends to take, as discussed above. In addition, CSXT stated that, although it does not schedule unit train service to destination in the same manner it does for manifest traffic and does not have a corresponding TPC metric for unit trains, it has made a good faith effort for the purpose of weekly reporting to provide data for arrival of unit trains within 24 hours of their profiled runtime to destination. (CSXT Serv. Recovery Plan 2-3 & n.1.) However, CSXT states that it is unable to provide a six-month target for this metric, because “CSX does not otherwise track or analyze this data.” (Id.) Given that CSXT has found a way to provide unit train data for the weekly reporting, it is unclear why it would not be able to set a target for that metric. In its revised service improvement plan CSXT will be required to provide the requested target, if possible, or explain in greater detail why it is unable to do so.

CSXT should also include in its revised service recovery plan the steps it is taking to improve customer service, including the provision of timely responses to customer inquiries about delays in meeting expected ETAs, as well as the hiring of any additional customer service representatives who are familiar with shipper needs and can resolve issues.

While CSXT provided targets that it indicated it intends to meet in six months, its general explanation that it developed those targets by reviewing “historical data in conjunction with

²⁰ This information is provided by the Carriers pursuant to 49 C.F.R. part 1250 and is available on the Board’s website.

current expectations for crew markups over the reporting period,” is a less detailed explanation than the Board expected. See May 6 Ord., EP 770 (Sub-No. 1), slip op. at 4-5 (directing the Carriers to explain how they arrived at each target). CSXT will be required to provide a more detailed explanation in response to this order, as to each target—including, for example, which historical data it used and why, as well as how it calculated adjustments for expected crew markups. Lastly, CSXT must explain more specifically how it would meet each of its self-identified performance targets.

c. NSR

NSR did not identify any specific actions it intends to take to improve service, beyond referencing its “aggressive hiring practices” and its new operating plan, “TOP | SPG.” (NSR Serv. Recovery Plan 1-2.) Although NSR remarks that its operating plan will, among other things, improve service for customers, it provides no detail on how or why that will be the case.²¹ To the extent the May 6 Order was not clear on this point, NSR must do more than simply represent that it has a plan; it must explain and provide the contents of that plan to the Board for the benefit of its rail customers and the broader public. This includes identifying specific sources of congestion and concrete operational actions that NSR will take to resolve those problems, including how specifically it will deploy new hires in its workforce.

With respect to NSR’s hiring practices, NSR provided some detail describing its efforts to train as many new conductor hires as quickly as possible and its efforts to incentivize retention of its current workforce. To the latter point, NSR must do more to explain the extent to which “availability bonuses, retirement deferral incentives, and vacation buy backs” will increase availability and slow attrition. (NSR Serv. Recovery Plan 6.) Moreover, NSR’s failure to explain how to make *new* conductor jobs attractive is not encouraging. (See id. (welcoming “opportunities to think creatively about how careers at our company can make positions at the railroad more attractive” without offering any suggestions).) NSR must provide more detail about how it plans to enhance the attractiveness of those positions.

NSR will be required to provide targets for achieving a TY&E labor force adequate to meet demand.²² Regarding NSR’s efforts to protect against future labor shortages, the Board takes little comfort in NSR’s broad representation that its “hiring goals include sufficient staffing to handle peak budgeted volume with adverse seasonable availability.” (NSR Serv. Recovery Plan 6.) Given NSR’s failure to handle the demand for freight service that followed in the wake of the pandemic (see, e.g., id. at 1)—despite its assurances to the contrary, see supra note 10—NSR must provide the size of the workforce it intends to build to ensure the reliable handling of

²¹ NSR did not submit the “TOP | SPG” operating plan, or a detailed summary thereof, with its service recovery plan.

²² NSR indicated that, as of May 16, 2022, it had 930 conductor trainees “on [its] property.” (NSR Serv. Recovery Plan 6.) The more relevant data point, however, is projected total head count which accounts for attrition. Furthermore, NSR’s expectation that its qualified TY&E headcount will “grow sequentially throughout the year” is not an adequate, or adequately detailed, projection for purposes of the service recovery plan.

that volume. Specifically, NSR must indicate labor force targets for employees actually on the job in six months and in one year, broken out by transportation (train and engine), maintenance of way and structures, maintenance of equipment and stores, customer service employees, and all remaining personnel.

In response to the Board’s request that the Carriers report on their plans to lift velocity restrictions, as well as increase the power on through trains, NSR appeared to answer that it has no such plans, as it represents that it utilizes energy efficiency management systems; however, NSR says nothing about whether it would turn off such systems or otherwise increase power to travel at track speed.²³ (NSR Serv. Recovery Plan 2-3.) Although the Board recognizes that turning off energy efficiency management systems or otherwise increasing power may not necessarily improve service, NSR will be required to explain why adoption of measures to remove velocity restrictions and increase power would not enhance system fluidity, reduce reworks, and ultimately alleviate congestion and improve service, beyond implying generally that such measures would not be “appropriate” in all instances, and may not always “have a positive impact on network fluidity.” (*Id.* at 3.) This lack of detailed explanation is especially disturbing in light of the fact that NSR’s system-wide velocity has decreased almost 25 percent, from 23.6 mph to 17.7 mph, between the week ending December 20, 2019, and the week ending May 20, 2022. This is the greatest diminution in velocity among the Carriers during that time frame. While it appears NSR does not view increasing power or lifting velocity restrictions as an answer to overall velocity issues, it must provide a more detailed explanation with respect to its energy efficient management systems, including why it adopted such a practice in the first instance and why it believes the practice is not a contributing factor to NSR’s ongoing problem of overall system velocity.

NSR identified its metrics for measuring service improvement (including FMLM and TPC performance), defined those metrics, and explained what they indicate and why they were selected. However, in its revised service improvement plan, NSR must provide more network-specific context for why it selected these metrics and link them to the specific actions it intends to take, as discussed above. Moreover, NSR has provided a TPC performance target only for manifest service, and not unit train or intermodal service. (NSR Serv. Recovery Plan 5 (providing an on-time performance target for manifest service, with no mention of unit train or intermodal service).) With respect to unit train service, NSR has also omitted TPC performance data from its weekly reporting. NSR states that it does not generate an original ETA for unit trains and, therefore, does not track the TPC performance data requested by the Board. (NSR Methodology & Explanation for Performance Data 3, May 18, 2022.) However, other similarly situated carriers made an effort to respond to the Board’s data request with respect to this metric.²⁴ The Board now directs NSR to provide a TPC performance target for intermodal

²³ Although NSR states that it does not have a “system-wide velocity restriction,” it does use “energy management tools,” which it has “relaxed” at times where “trains are not meeting expected schedules.” (NSR Serv. Recovery Plan 2-3.)

²⁴ See, e.g., CSXT Methodology & Explanation for Performance Data 2, May 18, 2022 (CSXT is reporting arrival for unit trains within 24 hours of their profiled runtime to

service and (if possible) both weekly reporting data and a performance target for unit train service. If NSR is unable to provide the TPC performance data with respect to unit trains, the corresponding six-month target, or both, it will be required to explain this inability in greater detail.

NSR should also include in its revised service recovery plan the steps it is taking to improve customer service, including the provision of timely responses to customer inquiries about delays in meeting expected ETAs, as well as the hiring of any additional customer service representatives who are familiar with shipper needs and can resolve issues.

NSR also did not provide an actual six-month target for its metrics. While it notes that its goal is to restore service to 2019 levels—and while it provides target ranges consistent with pre-pandemic performance—it undertakes no commitment to achieve that goal in the next six months, nor does it otherwise provide a six-month target that it claims is achievable. (NSR Serv. Recovery Plan 2 (“It is uncertain whether Norfolk Southern will achieve [2019 levels] within six months.”).) This failure is particularly significant because it reflects that NSR directly ignored a key requirement of the May 6 Order: namely, measuring short-term progress. The six-month targets are essential given the Carriers’ repeated representations that it would take time for them to restore service to levels that can reliably handle demand. The Board orders NSR to provide clear six-month targets it reasonably expects to achieve. Failure to provide these targets may result in the imposition of monetary penalties. Consistent with the May 6 Order, NSR will be required to explain both why it selected those targets *and* why it has selected restoration of service to 2019 levels as a desirable long-term target, including why it believes service provided at 2019 levels will reliably meet demand.

d. UP

UP’s May 20 response to the Board’s May 6 Order was by far the worst of all the Carriers and reflected an attitude of indifference to the documented effects of its service deficiencies on its customers and of disregard for the Board’s statutory oversight of the freight rail industry. In its original submission, UP openly defied the Board’s direction to provide target indicators by stating that it would provide no such targets, failed to respond to the Board’s inquiry regarding power and velocity, and in many other respects, responded so superficially as to have effectively provided no response at all. UP filed an amended service recovery plan on June 3, 2022, in which it included—without offering any explanation of its prior plan’s blatant shortcomings—an “explanation of [UP’s] fuel conservation methods, in addition to goal ranges for reported key performance indicators.” (UP Amended Serv. Recovery Plan 1 n.1.) UP’s

destination); BNSF Methodology & Explanation for Performance Data 5, May 18, 2022 (for grain, coal, crude, and ethanol unit trains, BNSF’s metric will be expressed as the percentage of the total number of cars placed within 24 hours of the original ETA divided by the total number of cars placed for that category of unit train). As noted above, although CSXT is providing weekly reporting data with respect to unit train TPC performance, it has not provided a six-month target as to this metric. This order requires CSXT to provide the requested target, if possible, or explain in greater detail why it is unable to do so.

amended plan, however, fails to cure many of the problems with its first filing, such as the lack of six-month performance targets, and thus remains deeply flawed. To be clear, in the event UP (or any other carrier) fails to comply with this order, as well as the May 6 Order, it may be subject to monetary penalties. *See, e.g.*, 49 U.S.C. § 11901(e)(3); 49 U.S.C. § 11901(a) (providing a penalty of \$5,000 per violation for knowingly violating an order of the Board (or \$8,736 adjusted for cost-of-living), and providing that a separate violation occurs for each day that the violation continues); 49 C.F.R. § 1022.4(b) (setting forth the cost-of-living adjustments).

As part of UP's amended service recovery plan, it has now provided "goal ranges" for its key performance indicators. (UP Amended Serv. Recovery Plan 1 n.1, 4-6.) UP, however, does not specify whether its "goal ranges" are six-month targets. This omission is particularly disturbing given UP's prior defiance of the May 6 Order. Again, the Board mandated that the Carriers provide six-month targets because their previous generalized assurances proved meaningless. It should be noted that UP based its original refusal to provide targets at all on its stated "belie[f] [that] providing specific projections may distort markets." (UP Serv. Recovery Plan 3 n.3.) UP's vaguely stated beliefs—whatever they may be—do not justify UP's continued failure to comply with this Board's order.²⁵ The Board directs UP to state explicitly, as previously directed, whether the "goal ranges" given in its amended service recovery plan are those it realistically expects to achieve in six months,²⁶ and, if not, to provide clear and realistically achievable six-month targets.

In its May 20 submission, UP also completely ignored the Board's request to provide information on whether it had any plans to lift velocity restrictions or add power to its through trains. In its June 3 amended submission, UP explains that it does not maintain any train velocity restrictions other than those "required for safety based on track and train or rolling stock characteristics." (UP Amended Serv. Recovery Plan 3.) UP, however, discloses that it "does maintain a restriction on locomotive throttle settings" to limit the "amount of locomotive power and inefficient fuel burn that may be used for trains operating above 50 miles per hour." (*Id.*) It is not clear to the Board whether UP's position is that this throttle restriction is not a "train velocity restriction" or that it is such a restriction but is required for safety. UP is directed to explain this seeming contradiction in the revised service recovery plan required under this order, and otherwise address the issues related to velocity and power discussed at supra page 8.

²⁵ UP further stated that its projections are "subject to multiple risks and uncertainties." (UP Serv. Recovery Plan 3 n.3.) To be sure, targets are—by definition—not certain. But by focusing on risks and uncertainties to its rail operations, UP disregarded not only this Board's order but also the business risks faced by its customers, and the economic uncertainty generated by its ongoing struggle to provide reliable rail service, as well as what at least some stakeholders have interpreted to be an indifference to improvement.

²⁶ If UP's "goal ranges" do represent six-month targets, they are not particularly encouraging, as a number of these goals—including those for manifest trip plan compliance, intermodal trip plan compliance, and cars per carload—are strikingly similar to figures achieved in recent months and are far from historical norms. (*See* UP Status Rep., June 3, 2022.)

The importance of the Board’s request relating to the lifting of velocity restrictions is underscored by the fact that UP’s system-average train speed has decreased 9.8 percent, from 26.4 mph to 23.8 mph, between the week ending December 20, 2019, and the week ending May 20, 2022. Related to these issues, while UP indicates that it has added 150 locomotives to the network, a figure it describes as “sufficient for [its] restoration efforts,” and represents that it will prepare 300 additional locomotives to handle expected freight growth, it does not give any detail as to why those figures are adequate to support current and projected freight demand. (UP Amended Serv. Recovery Plan 2.) At the end of 2021, UP had 7,242 multipurpose locomotives available for service,²⁷ and the Board notes that 300 locomotives is about 4.1 percent of the active fleet. Indeed, when UP’s system average train speed was close to 10 percent higher in December 2019, UP reported 7,420 locomotives available for service (after removing 549 locomotives from its inventory count of 7,969 locomotives available for service at the beginning of the year).²⁸ UP must address its velocity-metering plans, whether the additional 300 locomotives can be expected to restore system-average train speed to 2019 levels, and how it will increase locomotive availability to improve service to at least reliable levels.

In a manner similar to BNSF, UP identified increasing and redistributing crews and locomotives, and reducing car inventories, as measures to improve fluidity and decrease congestion within its freight rail network. It also notes its continued efforts to “look for ways to reduce switching demand within the manifest network.” (UP Amended Serv. Recovery Plan 3-4.) However, UP’s plan for improving service is insufficiently detailed. It offers no specifics on operating, service design, or management changes to drive improvement. And while it emphasizes evaluating the most logical and efficient routing options when considering how to reduce switching demand, (*id.*), it offers no detail on what terminals would most benefit from reduced switches and whether those areas in particular are currently suffering service disruptions, and it does not attempt to quantify the potential capacity for fluidity improvement.

As for crew initiatives, UP provides a goal of 1,400 new hires by the end of 2022. That number appears to refer to TY&E, or what UP calls “train service,” employees.²⁹ Pursuant to this order, however, UP must provide, in addition to the number of employees it intends to hire (which does not account for attrition), labor force targets for employees actually on the job in six months and in one year, broken out by transportation (train and engine), maintenance of way and structures, maintenance of equipment and stores, customer service employees, and all remaining personnel. According to UP’s testimony at the hearing, UP expects attrition of 1,000 TY&E employees this year alone. Hr’g Tr. 818:2-3, Apr. 27, 2022, Urgent Issues in Freight Rail Serv., EP 770. A simple hiring projection does not appear to take this exodus into account. Total TY&E workforce projections are also important given that UP does not otherwise provide any

²⁷ See Union Pac. R.R., 2021 Class I R.R. Ann. Rep. R-1 66, https://www.up.com/cs/groups/public/@uprr/@investor/documents/invstordocuments/pdf_up_r1_2021.pdf.

²⁸ See Union Pac. R.R., 2019 Class I R.R. Ann. Rep. R-1 66, https://www.up.com/cs/groups/public/@uprr/@investor/documents/invstordocuments/pdf_up_r1_2021.pdf.

²⁹ UP should inform the Board if the 1,400 number is not limited to TY&E.

information on what efforts it is undertaking, if any, to avoid future labor shortages. This is despite UP's reference to its plans to prepare 300 additional locomotives for return to service in "anticipation of additional growth expected later this year and early next year." (UP Amended Serv. Recovery Plan 2-3.) Workforce projections, including those in the customer service department, are necessary for the Board to evaluate how UP intends to handle this growth from a labor perspective. Finally, UP provided no information on how it intends to meet its hiring needs.

UP identified its metrics for measuring service improvement (including FMLM and TPC performance), defined those metrics, and explained what they indicate and why they were selected. However, in its revised service recovery plan, UP must provide more context for why it selected these metrics and link them to the specific actions it intends to take, as discussed above.

UP should also include in its revised service recovery plan the steps that it is taking to improve customer service, including the provision of timely responses to customer inquiries about delays in meeting expected ETAs, as well as the hiring of any additional customer service representatives who are familiar with shipper needs and have the ability to resolve issues.

Finally, UP's data reporting submissions to the Board include many errors. For example, in its June 1, 2022 submission, UP listed its Report Date as "#####" in both the CSV file and the Excel file it submitted, rather than use the common format for data transmissions with actual relevant dates. Additionally, instead of reporting the weekly number of unplanned reworks, as the May 6 Order requires, UP calculated its own metric, without explanation, called "Weekly Unplanned Rework Per Day (Count)." There is a difference in definition between the average daily reworks and the total reworks incurred over the entire week. While it should not be necessary for the Board to give such direction, the Board in this order instructs UP to devote increased attention and care to its data reporting efforts so that poor data quality and formatting not further impact the Board's assessment of UP's performance. Further, the Board orders UP to resubmit its weekly service data with the errors identified above corrected and otherwise following the template and technical guidance provided by the Board.

Although there is already adequate justification for the Board to impose monetary penalties on UP for its continued violations of the May 6 Order, including in particular its failure to provide six-month target indicators, the Board will defer any decision concerning the imposition of penalties until UP has had an opportunity to correct its filing and comply with the instant order. See, e.g., 49 U.S.C. § 11901(e)(3); 49 U.S.C. § 11901(a) (providing a penalty of \$5,000 per violation for knowingly violating an order of the Board (or \$8,736 adjusted for cost-of-living), and providing that a separate violation occurs for each day that the violation continues); 49 C.F.R. § 1022.4(b) (setting forth the cost-of-living adjustments).

It is ordered:

1. BNSF, CSXT, NSR, and UP shall submit revised service recovery plans on June 23, 2022, containing the information set forth in the May 6 Order, as further elaborated upon and described in this order.

2. On June 23, 2022, BNSF, CSXT, NSR, and UP shall resubmit their April monthly employment data using the revised template provided by OPAGAC.

3. BNSF, CSXT, NSR, and UP must report, as part of their monthly employment data, data about trainees, as described above.

4. On June 23, 2022, UP shall resubmit its previously submitted weekly service data, per the directions given above.

5. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.