



NEWS RELEASE
Aug. 6, 2014

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PSC Urges STB To Take Action Against Railroads for Ongoing Rail Delays

BISMARCK, ND – The North Dakota Public Service Commission (PSC) said railroads need to make faster progress on reducing the backlog of grain cars available if they are going to transport last year's crop to market before harvest arrives.

The Commission sent a letter this week to the U.S. Surface Transportation Board (STB) outlining the very serious situation for producers who rely on rail to transport their crops to market. The letter states: "We urge you to take immediate action, similar to your work this spring on fertilizer shipments, and require the railroads to devote more resources to transporting the 2013 and 2014 crop to market this fall so the quality of these commodities is preserved and our producers and elevators don't suffer significant financial harm."

"The railroad's response has been entirely inadequate to address the needs of our producers. This year's crops are ripening, farmers are preparing for harvest, and far too many storage facilities are full or near capacity," Commissioner Julie Fedorchak, who now holds the rail portfolio, said. "The conditions are ripe for a significant problem with the 2014 crop. This demands swift action by the STB."

In mid-July, a survey conducted by the PSC of North Dakota grain elevators showed little progress toward reducing overdue grain cars and moving product to market. More than 90 percent of the Canadian Pacific (CP) customers and 50 percent of the Burlington Northern Santa Fe (BNSF) customers who responded were waiting for more than 60 percent of their cars. The survey also asked how customers were feeling looking forward to the 2014 harvest season and the vast majority of the shippers who use both Burlington Northern and Canadian Pacific either have low or no confidence in the service they are going to get.

At a PSC meeting held April 28, railroad officials outlined plans for catching up with demand by late July but reports being filed weekly with the STB continue to show significant backlogs in grain shipments. The July 25 report shows that BNSF had 2,259 overdue cars. Canadian Pacific's tracking mechanism makes it almost impossible to identify the real number of overdue cars, but the report does show that customers were waiting an average of 11 weeks for cars.

"Inadequate rail service has caused severe financial losses for our producers and elevators on the 2013 crop. Furthermore, inadequate service is already devastating the 2014 cycle because elevators are unable to contract as they normally would if they could count on timely shipping," Commissioner Randy Christmann said. "This is not only a problem for North Dakota because when the grain is dumped on the ground while waiting for transportation, the food supply loses quality and goes up in price. Thus, this is a problem for the whole country."

The PSC will hold a meeting with railroads again on Aug. 7 to receive a status report on eliminating the backlog and a plan for meeting the needs of producers. The meeting will be held at 1 p.m. CDT in the Commission Hearing Room on the 12th floor of the State Capitol Building. The Commission is also exploring legal advice to see what actions can be brought forth in this situation.

North Dakota Century code gives the Commission the authority to represent state interests in direct negotiations with rail carriers and in proceedings before Congress, federal agencies and courts. The Commission's regulatory authority over railroads diminished as a result of the enactment of the federal Staggers Rail Act in 1980 and the Interstate Commerce Commission (ICC) Termination Act in 1995. The 1995 enactment eliminated many ICC functions and transferred all remaining duties to the Surface Transportation Board. However, the Commission has the authority to open a formal investigation into matters within its jurisdiction.

The North Dakota Public Service Commission is a constitutionally created state agency with authority to permit, site and regulate certain business activities in the state including electric and gas utilities, telecommunications companies, power plants, electric transmission lines, pipelines, railroads, grain elevators, auctioneers, commercial weighing devices, pipeline safety and coal mine reclamation. For more information, contact the Public Service Commission at (701) 328-2400 or www.psc.nd.gov.

Note to the media: A copy of the letter to the STB is attached.

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August 4, 2014

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The Honorable Ann D. Begeman
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Re: STB Docket No. Ex Parte 724 – United States Rail Service Issues

Dear Chairman Elliott, Vice Chairman Miller and Board Member Begeman:

The North Dakota Public Service Commission is very concerned about the ongoing delays North Dakota producers and grain dealers are experiencing for rail service. We met with grain dealers, producers and the railroads in April to discuss the backlog of grain that remained at that time from the 2013 harvest. The railroads explained the reasons for the delays and outlined plans for catching up in time for the 2014 harvest.

We have continued to monitor this situation closely wanting to give the railroads time to implement this plan while recognizing that this is a particularly serious situation for North Dakota producers who rely on rail to transport 80 percent of their crop to market. In mid-July, we surveyed North Dakota elevators and the information we received showed little progress toward reducing overdue grain cars and moving product to market. More than 90 percent of the Canadian Pacific customers who responded and 50 percent of Burlington Northern's were waiting for more than 60 percent of their cars.

Information the railroads are filing with your board reveals similar problems. The July 25 report to the STB showed BNSF had 2,259 overdue cars. Canadian Pacific's tracking mechanism makes it virtually impossible to identify the real number of overdue cars, but they do

report customers were waiting an average of 11 weeks for cars. Additionally, we are confused and troubled by reports that more than half of the grain hoppers from both railroads are off line. This presumably means a large number of cars exist to move this grain but are not being used to do so.

We have requested an update from railroads on August 7, 2014 regarding their grain service, a status report on eliminating the backlog and a plan for meeting the needs of our producers to ship their 2014 crop. Barring a major change of course in the next week, we fully expect their response will be entirely inadequate to address the needs of our producers. The reality is, there isn't enough time and the clock is ticking. This year's crops are ripening, farmers are preparing for harvest, and far too many storage facilities are full or near capacity.

The conditions are ripe for a significant problem with the 2014 crop. This demands swift action by the STB. The ramifications are serious for our state's entire agriculture industry and could well have ramifications on our nation's food supply as well. Inadequate rail service has caused severe financial losses for our producers and elevators on the 2013 crop. Furthermore, inadequate service is already devastating the 2014 cycle because elevators are unable to contract as they normally would if they could count on timely shipping. This problem is not only a problem for North Dakota, because when the grain is dumped on the ground while awaiting transportation, the food supply loses quality and goes up in price. Thus, this is a problem for the whole country.

We urge you to take immediate action, similar to your work this spring on fertilizer shipments, and require the railroads to devote more resources to transporting the 2013 and 2014 crop to market this fall so the quality of these commodities is preserved and our producers and elevators don't suffer significant financial harm. Thank you for your prompt attention to this important matter.

Sincerely,



Randy Christmann
Commissioner



Brian P. Kalk
Chairman



Julie Fedorchak
Commissioner

cc: Carl Ice, President/CEO, BNSF
E. Hunter Harrison, CEO/Director, CP