Federal Railroad Administration Openly Hostile to Worker Concerns

After assuming office in 2017, the Trump Administration appointed three acting Administrators to head the Federal Railroad Administration (FRA) within a year. Then in February 2018, lifelong rail industry executive Ron Batory was appointed. Throughout this time, FRA has taken positions that veer away from the agency’s previous stance on a number of key issues of importance to rail workers. While neither of the previous FRA Administrators—Sarah Fienberg or Joe Szabo—were champions of rail labor, Batory and company are cut from a different cloth altogether, clearly hostile to workers, firmly in the pocket of Wall Street, the American Association of Railroads (AAR) and the rail industry powers-that-be. A quick glance at what the FRA has been up to in these last few years shows the Agency’s bias against rail labor, one clearly in favor of rail management.

ECP Brakes: One of the most promising safety technologies developed this past generation is Electronically Controlled Pneumatic (ECP) Braking. According to SMART-TD National Legislative Chair John Risch, “...They are the greatest safety advancement I have seen in my 40 years in the railroad industry.” There is no doubt that ECP brakes would advance rail safety, save lives and reduce property damage. It has been successfully implemented in numerous countries. ECP has numerous advantages over traditional air brakes including: initiation of simultaneous braking on every car in the train; elimination of in-train forces while braking; continuous monitoring of every car in the consist for brake performance and potentially other functions including journal temperature; reduction of stopping distance by up to 70%; allowance for partial (graduated) release of the brakes; and a reduction in property damage when derailments are incurred. The previous FRA administration had ordered the equipping of hazardous materials trains with ECP braking. The new FRA rescinded the order and found that “there is no evidence that ECP braking is superior to conventional braking.”

Two-Person Crews: In March of 2016, the FRA announced Proposed Rulemaking to require a minimum of two crew members for most all railroad operations. Until this past May, the new administration did nothing to advance the rule. Meantime, states were taking the initiative, with Colorado (March 2019) and Nevada (May 2019) joining four previous states in mandating a minimum of two persons on a train crew. With a multitude of other states poised to adopt similar legislation, FRA chief Batory finally withdrew the proposed rule-making altogether, simultaneously declaring that all state laws were null and void, claiming they are preempted by the FRA, which sets no standard for train crew staffing. In one fell swoop, the Agency had erased a decade of debate, discussion and insight into the important question to rail workers and rail safety as outlined above, Batory seemed unconcerned about increased prospects for train break-ins, derailments, runaways, blocked crossings, impediments to emergency services, track capacity issues, or train delays as a result of this practice.

Liquified Natural Gas by Rail: In spring of 2019, the Trump Administration announced plans for a hurry-up approval process to ship unit trains of highly explosive Liquified Natural Gas (LNG) by rail. To date, Batory has not objected to the rushed-up timeframe, nor issued any declarations that would ensure worker and community safety. RWU submitted a statement this summer to the Pipelines and Hazardous Materials Safety Administration suggesting limits on train length, beefed up track inspections, and mandatory two-person crew minimums, among other actions, to ensure safe movement. Given his stance on other issues (see above), it is unlikely Batory will take a hands-on approach to this issue either.

Mexican Train & Engine Crews: In July 2018, over the objections of the unions of the operating crafts, Kansas City Southern began the practice of allowing Mexican train crews to operate trains across the border and into the United States. The FRA has apparently given its blessing to this unsafe practice. This past summer, the FRA told a federal court that the unions should simply withdraw their lawsuit which demands that the FRA intervene and declare the practice illegal under engineer and conductor certification laws of the U.S.

Conclusion: While many railroaders for decades have been cynical about the role of the FRA, seeing it as long ago being “captured” by the very rail industry it is supposed to regulate, the FRA of the last few years appears worse than ever, elevated to an even higher level of pro-business, pro-carrier outlook, while simultaneously becoming more anti-union and anti-worker in its rulings and dealings. Given its recent positions on issues of importance to rail workers and rail safety as outlined above, the FRA is certainly not the place for us to seek assistance.