U.S. House Convenes Sub-committee on “All Things Railroad”

Over this past Summer, the House Congressional Committee on “All Things Railroad” held investigative and fact-finding hearings into the State of the Rail Workforce in America. As a subcommittee of the House Transportation Committee, the sub-committee on Railroads, Pipelines & Hazardous Materials has jurisdiction over the Federal Railroad Administration (FRA), Surface Transportation Board (STB), Federal Employers Liability Act (FELA), Railroad Retirement Administration (RRA), the National Passenger Rail Corporation (Amtrak), Railroad Unemployment, and our coveted National Railroad Retirement Investment Trust (NRRIT). When this sub-committee meets, we pay attention.

Recent complaints from all sides over the spread and implementation of Hunter Harrison’s Precision Scheduled Railroading, (PSR), sparked these investigative hearings. In addition to two panels in June, another panel of witnesses testified in July on behalf of disgruntled shippers.

As of January 2019, the ‘all-things railroad’ sub-committee is chaired by Chicago’s Dan Lipinski (D-IL). There are other congressional notables on this committee of thirty-two members including Elijah Cummings, (D-MD), Eleanor Holmes Norton (D-DC); Stephen Lynch (D-MA), and Congressman Peter DeFazio (D-OR). Lipinski is also the chairman of the entire House Transportation Committee and according to the AFL-CIO, DeFazio gets a 93% approval rating on its scorecard.

The hearings lasted hours and are available on YouTube, but let me summarize. The first witness in Panel #1 was Trump’s pick and newly-confirmed FRA Administrator, Ronald Batory. On May 23rd, Batory had abandoned the FRA’s rule-making procedures for minimum crew size. Congressman Stephen Lynch asked Batory, “You had a rule. I thought you had a good idea. Why withdraw the rule?” Batory fumbled for an answer claiming that there was “nothing out there to support a rule” and later, “time doesn’t allow me to answer the question,” and finally admitting, “you’ll have to ask my predecessor.” Watching this unfold during questioning, one could readily conclude that Batory was selected for this position by President Trump for the sole purpose of opening the door to engineer-only and sustaining PSR operations.

Congresswoman Eleanor Holmes criticized Batory for not only abandoning crew size rule-making, but working to pre-empt all State laws regulating crew size. Batory’s response was, “Well, don’t we want to create a level playing field?” Congressman DeFazio equated the adoption of PSR with the recent practice of lengthening train consists, stating that in his home district trains were approaching 15 thousand feet in length. DeFazio asked if the FRA was not concerned about the inconveniences this might cause the American public? Batory responded that the FRA does not regulate train size. He later stated that the sub-committee, “should not get distracted by PSR,” and that it was just, “railroading 101,” concluding that there were “a lot of smart people doing a lot of good work” on the railroads, “let’s rely on the people to figure it out”. DeFazio reminded Batory that was exactly what the regulatory agencies did with Boing and the 737 Max.

Panel #2 of the hearings included the heads of our brotherhoods and unions including Pierce (BLET), Previsich (SMART-TD), Boles (RS) and Sandberg (IAM). Although limited in length, all of the representatives gave excellent testimony in the time they were allotted, covering the many safety compromises created by PSR, from telemetry failures to inadequate line-ups and fatigue issues. Previsich pointed out that the FRA has even failed to implement Pilot Fatigue Projects that were mandated in the Rail Safety Improvement Act of 2008 stating, “The FRA has abandoned railroad workers and the public”.

The sub-committee on railroads wasn’t finished with Panels #1 and #2, and on July 25th convened a further fact-finding ‘Roundtable’ of railroad shippers that included the Freight Rail Customer Alliance, Kinder Morgan, the National Grain & Feed Association, along with a host of others. Many of the complaints would sound very familiar to railroaders nationwide. PSR has severely impacted middle management and the interface between shippers and the railroads, including billing irregularities, lack of reciprocity on demurrage, requiring shippers to block their consists at the point of origin and a 23% reduction of industries being serviced on their original service plans.

One industry spokesperson complained that at UPRR, it was difficult to reach anyone to resolve inaccurate invoices worth hundreds of thousands of dollars. In one case, such a bill was finally resolved, only to receive the same overcharge on the same billing months later. Emily Regis, spokeswoman for the Freight Rail Customer Alliance, stated that the UPRR failed to deliver a contracted number of railcars to a shipper on a regular schedule, only to show up with a hundred railcars a week later. With no on-site storage for the railcars, the majority were returned to a remote yard. Even though it was UPRR that caused the delay, it began charging demurrage on the stored railcars. This is lack of reciprocity on demurrage and the UPRR takes no responsibility for their own failures.

PSR has only compounded these problems. Shippers complained that the STB, which should be in the business of investigating ‘rate challenge’ problems, is a ‘black hole’ where shippers’ challenges take years to resolve and a ‘challenged’ rate is ‘locked-in’ in the interim.

The shippers’ testimonies were a tad bit too polite, so when a number of committee members suggested that re-regulation might be on the table to quell the railroads’ ‘robber baron’ behavior of old, the shippers were quick to deny they wanted any type of bold action of that nature.

In combatting the PSR scourge of diminished rail service, increasingly dangerous operations, and the loss of rail jobs, the shippers complaints about PSR lends credence to our struggle to put an end to Hunter Harrison’s legacy. It is clear by virtue of Batory’s testimony that we cannot rely on Trump’s regulatory agencies and we need to push Congress for the changes we need to re-establish good rail service. As DeFazio points out in the Shippers Roundtable, when it comes to our nation’s railroads, “We should not let a bunch of jerks on Wall Street who term profits, ruin it.”

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