BEFORE THE

UNITED STATES DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

FRA WAIVER PETITION DOCKET No. FRA-2018-0049

Brake System Safety Standards for Freight and Other Non-passenger Trains and Equipment, End-Of-Train Devices

(49 C.F.R. Part 232)

May 21, 2020

STATEMENT OF RICHARD A. JOHNSON, GENERAL PRESIDENT,
BROTHERHOOD OF RAILWAY CARMEN DIVISION
TRANSPORTATION COMMUNICATIONS UNION/IAM

3 Research Place
Rockville, Maryland 20850

I. Introduction.

My name is Richard A. Johnson. I am the General President, Brotherhood Railway Carmen Division, Transportation Communications Union (BRC) and a National Vice President of the Transportation Communications Union (TCU/IAM). I have been a Carman for 49 years, beginning in 1971 on the former Milwaukee Road at Bensonville, Illinois, and I am personally familiar with the Federal Railroad Administration's (FRA) regulations that set forth safety standards for rail equipment.

BRC appreciates this opportunity to participate in the regulatory process, and brings to that process an enormous wealth of experience and practical knowledge in the area of railroad safety. Our experience has taught us that full compliance with FRA's safety regulations is the surest way to improve railroad safety and, to that end, BRC will address the safety and other issues raised by this petition for waiver.

BNSF Railway (BNSF) has petitioned FRA for an expansion of its waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 232.15, 232.213, and 232.103(f). On April 12, 2019, FRA granted BNSF a test waiver to conduct a pilot program on a segment of their system to "demonstrate that the use of wheel temperature detectors to prove brake health effectiveness (BHE) will improve safety, reduce risks to employees, and provide cost savings to the industry."

BNSF states the test waiver committee for BHE has been actively reviewing the data generated by BNSF over the past six (6) months, and during that time BNSF has tested more than 600 trains. BNSF believes that the testing has been a success and wants to expand the testing of the Southern Transcon trains between Chicago, IL, and California. Accordingly, BNSF requests FRA approval of two (2) expansion initiatives which were each reviewed and approved by the test waiver committee: (1) The addition of additional origin/destination Southern Transcon locations; and (2) expansion to the BNSF Northern Intermodal route through Havre, MT. For the reasons provided below, the BRC requests that FRA deny BNSF's petition to expand the test waiver.

II. Discussion.

BNSF's petition to expand the test waiver should be denied. BRC representatives have attended all the test waiver committee meetings, participated in all the conference calls regarding the test waiver and challenged BNSF's position on the processes that needed to be implemented to collect accurate information for the test waiver database. Below is a summary of test results on the current test waiver that is relevant to our comment.

Summary of 148 Trains over BHE Detectors from 08/27/2019 to 10/23/2019:

-Trains Bypassing Inspection at Belen, NM 77 (52 percent)

- 95 percent Effective Brakes and bypassed intermediate inspection at Belen, NM

-Trains Failing Inspection 24 (16 percent)

- 85 to 95 percent Effective Brake – Belen, NM completed intermediate inspection.

-Trains Receiving "No Test" 47 (32 percent)

- Air Brakes applied Late / Crew Failed to Brake / Duration of Braking Insufficient / Excessive DB Utilized / Crew Stopped on Detector etc. – Belen, NM completed intermediate inspection.

Summary of 554 Trains over BHE Detectors from 08/27/2019 to 03/11/2020:

-Trains Bypassing Inspection at Belen, NM 308 (56 percent)

- 95 percent Effective Brakes and bypassed intermediate inspection at Belen, NM

-Trains Failing Inspection 126 (23 percent)

- 85 to 95 percent Effective Brake – Belen, NM completed intermediate inspection.

-Trains Receiving "No Test" 120 (21 percent)

- Air Brakes applied Late / Crew Failed to Brake / Duration of Braking Insufficient / Excessive DB Utilized / Crew Stopped on Detector etc. – Belen, NM completed intermediate inspection.

Summary of 24,337 Cars over BHE Detectors from 08/27/2019 to 03/11/2020:

-Cars Passing the BHE Test 22,827 (93.8 percent)

-Cars Failing the BHE Test - Cold Valves 1,242 (.05 percent)

-Cars Failing the BHE Test - Hot Valves 268 (.01 percent)

As you can see from the information provided above, the collection of data is in its infancy stages of this pilot program; spanning the time frame of approximately a half of a year. As such, the pilot program is still lacking crucial data to establish that trains can actually operate the entire route while maintaining a 95 percent effective braking system. In fact, data has not been collected to study the BHE between the Belen, NM test equipment and the destination of

the designated trains. Even if it was, the data BNSF has presented proves the trains only have a 52 to 56 percent pass rate to maintain 95 percent effective brake system at mid route, not the entire route. Without further data that includes information from origination to destination, the current data fails to prove trains can complete the routes with a 95 percent effective braking system.

Accordingly, the parameters of this program are still being determined and requests for more data collection are still being made. If the expansion of the test waiver is permitted at this point in time, the message sent would be that FRA supports a 50 to 60 percent safety achievement record for the rail industry.

With the above information in mind, BRC will now specifically address BNSF's requests to expand the test waiver on BNSF's Southern Transcon route and to include its Northern Intermodal route in the test waiver. First, in regards to the carrier's Southern Transcon route, only 52 to 56 percent of the trains bypassing inspections at Belen, NM have had 95 percent effective brakes since August 27, 2019. Now, BNSF requests adding the following locations to its test waiver on the Southern Transcon route to increase the braking improvements on the intermodal equipment, increase the number of waiver trains, and enable more locations to complete the automatic single car tests (ASCTs). These locations may be an origination or destination point for an intermodal train that qualifies under conditions of the waiver and will pass through the existing test detector sites on either side of Belen, NM:

> Phoenix, AZ; Alliance, TX; Houston, TX; Logistics Park, Kansas City, KS; Memphis, TN; Atlanta, GA; St. Louis, MO; Omaha, NE; Amarillo, TX; Lubbock, TX; and Albuquerque, NM.

Moreover, these locations would also be subject to the same requirements for the training completion of all related work groups and would not be "turned on" until the training records are provided to the test waiver committee.

As far as adding additional locations to the test waiver on the Southern Transcon route, BNSF's reasoning is to increase the braking improvements on the intermodal equipment that is not destined to Los Angeles, CA or Chicago, IL by enabling more locations to complete the ASCTs and to have this data officially included in the test waiver database. As to the additional trains on the Southern Transcon route, the results of the testing that has occurred from Los Angeles, CA or Chicago, IL is only in the 50 percent range. There has only been a slight increase in the number of trains that are passing the BHE inspection since the start of the waiver. To allow additional locations and trains to or from these locations to operate under this waiver would not be beneficial other than to allow BNSF to operate more trains at longer distances without the proper inspections. Simply put, BNSF's selling point to add locations to the test waiver on the Southern Transcon route to increase the braking improvements on the intermodal equipment and enable more locations to complete the ASCTs is without merit since the carrier can use the data from the BHE detector and repair the equipment at Belen, NM or at the intermediate inspection points.

Next, we will address BNSF's requests to expand its waiver on the carrier's Northern Intermodal route. BNSF's position during the last test waiver committee conference call on March 27, 2020, was that by allowing trains in cold weather climates to operate under this test waiver, the data collected from the trains would assist in the test committee's assessment and comparison of how the freight and BHE equipment is affected in different climates and conditions. In that same conference call, BNSF also stated that the carrier has installed BHE detectors on the its Northern Intermodal route and requested some trains and the data collected from these trains along this route be included in the BHE test waiver for trains operating in a cold weather climate and to test other than intermodal train sets. BNSF also proposed that the processes and parameters would follow all conditions of the Southern Transcon BHE Program.

However, based on the information provided above, it is not clear that adding the Northern Intermodal route to the existing test waiver is the right course of action at this time. Instead, the more appropriate goal should be to increase the percentage of Southern Transcon trains bypassing inspections at Belen, NM with 95 percent effective brakes to improve from a success rate of 52 to 56 percent to a much higher success rate under the current format before expanding the test waiver to the Northern Intermodal route.

III. Conclusion

BRC always welcome the opportunity to participate in the regulatory process. Safety issues addressed in this process are among the primary concerns to the carmen. In accordance with our commitment to maintaining safety on the nation's railroads, BRC suggests that FRA deny the BNSF petition to expand the test waiver.