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AVP, Government Affairs
Genesee & Wyoming Railroad Services, Inc.

TR-200536

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VIA WEBSITE (efiling.utc.wa.gov)

Amanda Maxwell
Executive Director and Secretary
State of Washington
Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

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State Of WASH.
UTIL. AND TRANSP.
COMMISSION

Re: Docket No. TR-200536

Dear Ms. Maxwell,

I'm writing on behalf of Cascade and Columbia River Railroad (CSCD), Olympia & Belmore Railroad (OYLO), and Puget Sound and Pacific Railroad (PSAP). Each of these companies are Class III short line freight railroad companies, affiliated with Genesee & Wyoming Inc. These comments are in response to the rulemaking proposal by the Utilities and Transportation Commission (Commission) as it relates to implementing H.B. 1841 and Minimum Crew Size on Certain Trains. These three railroads in Washington State are each small businesses that employ hardworking and dedicated railroaders whose mission is safely moving the freight Washington residents depend on every day.

H.B. 1841 and the subsequent rulemaking process promulgated by the Commission ignores the unique operations of short line railroads in Washington. In a recent report prepared for the Washington Joint Transportation Committee, the critical role short line railroads play in the state was described saying:

"Short line operations play a vital link in the freight network, linking Class I Railroads with ports, industries, agriculture, and other customers to provide a seamless network connecting Washington to the nation and the world. Short line railroads are also crucial to smaller markets or industries that may be without rail access entirely."¹

Concerns of these three small freight railroads with the rulemaking process fall into four categories:

1. Smaller freight railroads face both robust truck competition and an on-going need for reinvestment into their infrastructure. Freight railroading is one of the most capital-intensive industries in the U.S., and investments are necessary to maintain competitiveness. However, as the proposed rule is now written it would arbitrarily require a specific train crew size based on train speed. This could lead a small freight railroad to maintain its tracks to a lower speed limit. Unfortunately, the result would be a

¹ Assessment of State Support for Short Line Rail Infrastructure, pg. 9

freight service that is less competitive with trucking and Washington residents coping with an ever-increasing number of trucks on public roadways.

2. The definition of a short line company in the proposed rule is perplexing. To be clear, CSCD, OYLO and PSAP are individually their own legal entities, and are considered as such by both the Federal Railroad Administration and the Surface Transportation Board (STB). Each is considered a separate Class III short line common carrier freight railroad. They do not physically connect, and each have their own unique sets of on-line customers. Each has its own financial statements, and the revenue earned by each railroad determines the amount of capital reinvested by that railroad. Employees of each railroad operate under operating timetables specific to their own railroad. Furthermore, there is no legitimate basis to attempt to classify a short line railroad based on its ownership structure for the purpose of operational regulations. I believe this is unprecedented in the U.S. rail industry.
3. In a similar fashion, the proposed regulation arbitrarily and needlessly attempts to redefine “Class I”, “Class II”, and “Class III” railroads. These definitions are determined by the STB under section 1201.1–1 of title 49, Code of Federal Regulations. The proposed language is not compliant with the current definitions as provided by the STB. It is important to note that the definitions created by the STB are not in any manner arbitrary; a recent adjustment in these classifications followed a period of study, public comment, and review by the STB. There is no justification for the definitions developed by the STB not to be used.
4. In a freight environment already strained by global supply chain woes and labor availability, the proposed rule would create an arbitrary and erratic process resulting in new operating mandates. Concerningly, there is no requirement for the mandates to be based on an unbiased factual analysis. Railroads could be required to use additional crewmembers simply at the behest of the Commission without any guidance on how the process would work or how the Commission would determine that more crew members are needed. Furthermore, the proposed rulemaking serves as a significant contradiction to the authority of the Federal Railroad Administration in determining minimum crew size standards.

The freight needs of Washington shippers will not change if the rule is adopted as written, but short line railroads will be faced with a regulatory environment that at its best discourages investment and at its worst simply makes it impossible to sustainably invest in and operate a short line railroad in the state. Rather than enjoying the environmental and safety benefits of shipping freight by rail, Washington shippers could be forced to use alternative modes including trucking. The result for consumers and taxpayers will be increased wear and tear on public roadways, reduced public safety, greater greenhouse gas emissions, and higher prices.

On behalf of the CSCD, OYLO, and PSAP railroads, I urge the Commission to withdraw this rulemaking proceeding.

Respectfully,



Ross R Lane