



American Short Line and Regional Railroad Association

April 18, 2022

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

Re: Docket No. TR-200536

Dear Ms. Maxwell,

The American Short Line and Regional Railroad Association (ASLRRA), on behalf of itself and its member railroads, responds to the rulemaking by the Utilities and Transportation Commission (Commission) to implement House Bill (HB) 1841, Chapter 170 of the Laws of 2020, at WAC 480-62-255, “Minimum Crew Size on Certain Trains.”¹ ASLRRA is a nonprofit trade association representing the entrepreneurial owners and operators of short line and regional railroads throughout North America. Short line freight is a critical part of the U.S. freight network. The nation’s approximately 600 short line carriers provide the first and last mile service for one in every five cars moving each year. Operating nearly 50,000 track miles, or 30% of freight rail in the U.S., they play a vital role in the transportation network. ASLRRA previously provided comments on September 4, 2020, December 18, 2020, and June 7, 2021 in this proceeding. ASLRRA incorporates by reference here its comments previously submitted as well as the comments of its members the Cascade and Columbia River Railroad, Olympia & Belmore Railroad, and the Puget Sound and Pacific Railroad.

H.B. 1841 and the Commission’s rulemaking proposal to implement remain preempted by the ICC Termination Act of 1995 (ICCTA) 49 U.S.C. § 10501(b). Additionally, the Federal Railroad Administration has announced its intention to

¹ See House Bill 1841 Rulemaking Proceeding Docket No. TR-200536; available online at: <https://www.utc.wa.gov/v/docs/Pages/HB1841Rulemaking-TR-200536.aspx>

promulgate regulations addressing minimum crew size under authority delegated to the agency in the Federal Railroad Safety Act.²

Further, WAC 480-62-255 is clearly inconsistent with the well-established STB railroad classifications. WAC 480-62-255 uses ambiguous phrases such as “owned” and “operated” to distinguish certain short lines that may be affiliated with other short lines through a holding company structure without an appropriate understanding of the fact that these short lines are discrete legal entities. There is no justification offered in the proposed rulemaking, based on relevant safety and performance history, to differentiate between Class III short line railroads based on ownership structure in a flawed effort to mandate two crew members.

Also, WAC 480-62-255 suggests that Class III short line operations would be excluded from the crew size restrictions because they would choose to operate at speeds less than 25 m.p.h., qualifying for an exemption from the minimum crew size requirement. The regulations therefore create a financial disincentive for small railroads to invest in their infrastructure, upgrade their track, and improve their performance times. With absolutely no safety benefit, this proposal simply strikes at the heart of short line railroads’ ability to compete with trucks for freight business in the state of Washington.

Finally, WAC 480-62-255 states that the commission may order railroad carriers to increase the number of railroad employees, to require additional crewmembers, or direct the placement of additional crewmembers. It does not provide any regulatory guidance on how this process would work, nor does it provide any process by which a railroad may appeal any such order. On its face, WAC 480-62-255 gives the commission unfettered ability to dictate train crew staffing in Washington, which will result in an increase in the cost of shipping commodities by rail in Washington, which could then force a modal shift of traffic from rail to the less-environmentally friendly and more dangerous option of trucks on the highway .

ASLRRRA urges the Commission to withdraw this rulemaking proceeding.

Respectfully submitted,



Sarah Yurasko
General Counsel

² See “Train Crew Staffing,” RIN 2130-AC88. Details available in the Unified Regulatory Agenda, available online at: <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=2130-AC88>.