

BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
RAILROAD SAFETY BOARD

PUBLIC HEARING ON

DOT DMS DOCKET No. FRA-2006-26175, NOTICE No. 1

OCTOBER 4, 2007

TESTIMONY OF

THOMAS A. PONTOLILLO, DIRECTOR OF REGULATORY AFFAIRS
BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN,
A DIVISION OF THE RAIL CONFERENCE
OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS



Thank you, Mr. Chairman. I'm Tom Pontolillo, Director of Regulatory Affairs for the Brotherhood of Locomotive Engineers and Trainmen, which is a Division of the Teamsters Rail Conference. I appear today on behalf of more than 33,000 active BLET members, most of whom will be impacted by this rulemaking. We appreciate the opportunity to be heard on this important subject.

The docket in this matter already is voluminous and, as you know, includes numerous detailed standards and analyses. Regrettably, we have not completed our review of the entire docket at this time. Therefore, I will limit today's testimony to a couple of general themes. However, we will also be participating in the October 19th Public Hearing and Technical Conference in Chicago, and plan to submit more detailed written comments prior to the close of the comment period.

The BLET has a long and proud history of promoting and working to advance the implementation of technologies that enhance railroad industry safety. We recognize the potential benefits of ECP brake systems — both for our members and for the industry, as a whole — and we applaud FRA in moving forward with a Proposed Rule intended to facilitate broad application of ECP. That being said, we would have preferred that this matter had been referred to the Railroad Safety Advisory Committee for consideration prior to publication of the Proposed Rule, as was done for overhauls to conventional brake systems covered in Parts 232 and 238.

Our general approach in considering the Proposed Rule is founded on two basic principles. The first is the recognition that implementation of ECP will occur on an incremental scale, on limited routes and for specific trains and/or cargoes. Consequently, we expect that — for many years — ECP-equipped trains and those with conventional braking systems will be running side-by-side. On one day, a locomotive engineer will operate an ECP-equipped train. The next day, perhaps, that same engineer will operate a train with a conventional braking system. Another engineer may operate an ECP train for two or three days in a row and then go a week without seeing one again.

The fact that engineers will continue to alternately operate both types of braking systems leads us to urge FRA to craft ECP brake rules that include standards different from current Part 232 only when absolutely necessary from an operational standpoint. Establishing different standards when they are not operationally necessary elevates the potential for human error flowing from confusion if someone inadvertently applies the wrong standard at the wrong time, with the possibility of a very serious negative safety outcome.

Our second principle flows from the first, and provides — in our view — a methodology for determining the circumstances under which an ECP standard that differs from a current Part 232 standard is appropriate. Briefly, this methodology focuses on the following elements:

- (1) Is the different standard necessary in order to foster the broad application of ECP technology?
- (2) Is the current standard so prescriptive that compliance is impossible?
- (3) Is the current standard inapplicable to the new technology, given the way that ECP operates?

Utilizing this methodology distinguishes standards where an alternative is operationally necessary from those that are merely operationally convenient. The result will be a Final Rule that both accommodates increased use of ECP technology and provides a level of defense against inadvertent application of an ECP standard to a conventionally-braked train, and vice versa.

I appreciate the opportunity to present these preliminary comments today, and look forward to providing you with our in-depth review of the Proposed Rule in two weeks. Thank you.