Positive train control: Who pays?

CSX, UP make moves to shift costs to customers. But will the regulators allow it?

Wrecked CN ore trains await cleanup north of Two Harbors, Minn., on Sept. 30, 2010, after colliding head-on. Positive train control has the ability to prevent such wrecks, but that doesn't mean it'll be cost-effective. Duluth News-Tribune: Clint Austin

On Sept. 30, 2010, two Canadian National iron ore trains, one loaded and one empty, collided head-on amid the remote pine forests of northern Minnesota. The three-person crew of southbound train U-78982-30 had been ordered to wait at Highland, site of a passing siding 14.8 miles north of its destination at Two Harbors, Minn., for a northbound to arrive.

For reasons unknown, the crew didn't wait, but proceeded toward Two Harbors, and as their train rounded a curve, they came face to face with train U-78983-30. The resulting collision injured all five crew members, but fortunately, nobody was killed.

Such crashes are rare, but not unheard of. A similar crash two years earlier, this one involving a violated signal rather than radio-issued paper authority, led Congress to mandate that railroads install positive train control on an estimated 73,000 route-miles of track by 2015. The technology would theoretically catch an impending violation of authority, whether issued by radio or signal, and prevent it from occurring. As the industry works to implement positive train control, its leaders are seeking a solution to a vexing problem: how to pay for it.

The law did not address the financing of PTC, and Class I railroads will spend a bundle. The Federal Railroad Administration estimates they will invest $5.8 billion in capital to install the technology, then spend another $3 billion to $8 billion over the next 20 years to maintain it. That money will come right out of the capital budgets of railroads.

"We don't have an endless source of money," CSX chairman Michael Ward told *Railway Age*. "Clearly, PTC is going to be displacing other worthy projects. I would rather use that money to buy new locomotives and new cars, upgrade track, and put in siding extensions."

So, like other railroads, CSX is maneuvering to get some of that PTC money back. As contracts with its shippers came up for adjustments late in 2010, CSX planned to insert clauses giving it the right to invoke PTC surcharges. When CSX will activate such surcharges and which shippers would pay them is not known, and CSX declines to comment. Contract rates are not regulated or published, as both parties agree to them voluntarily.

Clearly, shippers of toxic commodities are worried. The Chlorine Institute even commissioned an analysis that asserts railroads will reap huge savings as a result of PTC, including less fuel consumption and better train utilization, and so don't need to be repaid. The institute's study is refuted by the FRA's own analysis and one by the consulting firm Oliver Wyman, commissioned by the Association of American Railroads. Both studies concluded that the business benefits of PTC in its present form are negligible, or roughly $1 of benefits for every $22 spent.

In the absence of a contract, shippers pay common-carrier rates published by railroads and, in some cases, regulated by the Surface Transportation Board. In early 2010, the STB refused to let Union Pacific build into its public tariff for moving chlorine from Utah to Arizona the expected costs of installing PTC on its routes [see "Hazmat Fight Turns Acid," TRAINS, December 2009]. "We do not generally require shippers to provide carriers a return on investments not yet made," the board majority wrote.

UP returned to the STB this fall, asking it to require Class I railroads to report all PTC-related spending. The railroad's reasoning is that the only way to quantify what's actually spent on PTC is to collect the spending data and put it before the board. Only then, UP says, can costs be passed on to shippers commensurately.

When a shipper challenges a public tariff rate, it's the board's job to determine whether the rate is reasonable. That judgment hinges on the costs of providing the service. To determine a railroad's variable cost for a movement, the board relies on the Uniform Rail Costing System, a database established in the late 1970s. But the system doesn't consider the actual costs related to specific shipments. So when a railroad makes huge investments required because it carries toxic inhalation hazard commodities, those costs won't be well reflected in the board's data. UP appears to be setting the stage for asking the board to consider the costs of positive train control in determining reasonable rates.

If the board proves unfriendly to railroads in recovering PTC costs, few other options remain. One being considered by some railroads is to sue the federal government, claiming a violation of their Fourth Amendment rights. This amendment to the Constitution prohibits the taking of property without just compensation. The Rail Safety Act of 2008 and subsequent FRA interpretations of it constitute "taking by regulation" of railroad assets, or so the reasoning goes. It would be a novel approach to constitutional law. But that's how big changes get made. — *Fred W. Frailey*

>> ARRIVALS & DEPARTURES

$8 billion tunnel project canceled

New Jersey Gov. Chris Christie halted work on an $8.7 billion tunnel between New Jersey and New York City in October, citing budget concerns. The project aims to give NJ Transit commuter trains into Penn Station more capacity beneath the Hudson River. Because work was already under way, the state will be on the hook for part of its cost anyway, and all federal money will likely have to be returned to Washington.

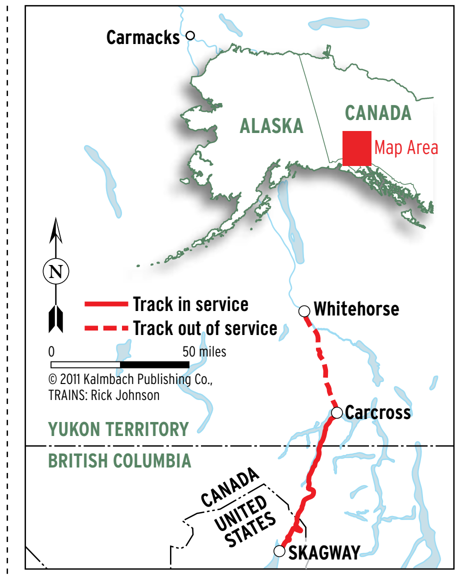
The federal government announced billions in funds to rail projects in October. The funds will launch Chicago-Iowa City, Iowa, passenger trains; fix the Port of Coos Bay, Ore., rail line; expand Boston's South Station; and build streetcar lines in Atlanta and Salt Lake City. The grants are part of general money for high speed rail and the 2009 economic stimulus law.

White Pass targets ore trade

Tourist line wants to re-enter freight business for planned mines

Two newly rebuilt White Pass & Yukon Route shovel-nose diesels negotiate the railroad's picture-perfect line above Skagway, Alaska, on Sept. 21, 2010. David Lustig

Eugene Hretzay. David Lustig



Nearly 30 years after it last hauled freight, narrow gauge tourist-hauler White Pass & Yukon Route Railroad is exploring a return to the business. The move comes as North America's busiest tourist railroad modernizes its locomotive fleet by upgrading its "shovel-nose" General Electric diesels with new Cummins engines [see "Good For 30 More," TRAINS, October 2009].

Two Chinese companies are conducting underground exploration in the Howard's Pass area, on the Yukon-Northwest Territories border. It's said to hold the world's largest known lead-zinc deposit.

As WP&Y President Eugene Hretzay envisions it, he'd extend the line from Whitehorse to Carmacks, Yukon, and meet loaded trucks to transload ore. From Carmacks, the railroad would move ore to Skagway, Alaska, for loading onto ocean-going 30,000-ton ore ships. Hretzay says he'd build the new line standard gauge and install dual-gauge track on the current route to enable the use of heavy railcars, with tourist trains continuing to use narrow gauge and occupying the same alignment as the standard gauge ore trains.

Hretzay estimates the total expansion cost at $300 million, including three-railing the existing line, improving tunnel clearances, and shoring up bridges and trestles. He's lobbying for provincial government help.

Other opportunities in the Howard's Pass area include the potential for mining of a massive high-grade copper vein.

"The key metric we have," Hretzay says, "is that if I pushed a rail line up to Carmacks and ship ore to Skagway, the variable cost is 600 trucks at $1.2 million versus 20 trains costing $240,000. It's a compelling argument to go by rail."

The other justification, he says, is that the government doesn't have to subsidize trucks by fixing the highway every year. "People who love the Klondike Highway are not going to be enamored of a convoy of lead-zinc and copper trucks 24 hours a day."

Meanwhile, WP&Y's shovel-nose locomotives are being overhauled at Global Locomotive LLC in Tenino, Wash. The diesels are being rebuilt to the same specifications as the two units Coast Engine & Equipment Co. rebuilt in 2009. — *David Lustig*

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