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Sept. 5, 2018

Rail unions file petition against FRA over crews crossing from Mexico into the United States

CLEVELAND, Ohio (Sept. 5, 2018) – The Brotherhood of Locomotive Engineers and Trainmen (BLET) and the International Association of Sheet Metal Air, Rail and Transportation Workers Transportation Division (SMART TD) have filed a joint petition challenging actions of the Federal Railroad Administration (FRA) that allow crews comprised of Mexican nationals employed by a Mexican rail company to operate trains across the United States border and into the U.S. instead of American crews employed by American railroads.

Since July 9, the FRA has allowed foreign crews from Kansas City Southern de Mexico (KCSM), a railroad based in Mexico and subsidiary of Kansas City Southern (KCS), to cross into the U.S. and run trains on the Texas Mexican Railway Company (“Tex-Mex”) line in Laredo, Texas. BLET and SMART TD maintain that this violates long-established federal laws and regulations regarding safety, training, crew qualifications and conduct of locomotive engineers and conductors operating freight trains in the U.S. The FRA is an agency of the U.S. Department of Transportation (DOT), which also is named as a respondent in the petition.

“The Petitioners challenge this conduct as arbitrary and capricious, an abuse of discretion, in excess of the Respondents’ statutory authority and otherwise contrary to law,” the petition states.

There has been no order, waiver, public notice or documentation published by the FRA regarding the actions being challenged. The unions seek to set aside the agencies’ actions and to require that they divulge all internal records detailing the authorization of the practice, including the vetting of the non-U.S. crewmembers by FRA, and the

decision to allow KCSM, a foreign company not incorporated in the United States, to operate across the border into this country.

“FRA’s conduct has generated significant safety concerns,” BLET National President Dennis R. Pierce said. “U.S. crews are held to the highest safety standards while crews coming in from Mexico are held to much lower standards in terms of certification, testing and operating experience. This degradation in safety is unacceptable. Beyond that, while American companies outsourcing jobs to foreign countries is nothing new, all Americans should be angered by this job giveaway on our own soil.”

“We deem it to be unsafe, we deem it to be a threat to American jobs. FRA has not been able to answer simple questions regarding certification and qualification of the foreign crews. Nor have they explained in any way how they plan to enforce American safety rules to hold the foreign crews to the same high safety standards that govern all American railroad workers,” SMART Transportation Division President John Previsich said. “We are not going to let FRA stand aside and ignore their responsibilities while a Class I carrier allows foreign crews to cross the border and jeopardize the safety of our members and the American public.”

The petition was filed in U.S. Court of Appeals for the District of Columbia Circuit.

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The Brotherhood of Locomotive Engineers and Trainmen represents nearly 57,000 professional locomotive engineers and trainmen throughout the United States. The BLET is the founding member of the Rail Conference, International Brotherhood of Teamsters.

The SMART Transportation Division is comprised of approximately 125,000 active and retired members of the former United Transportation Union, who work in a variety of crafts in the transportation industry.