

February 9, 2016

The Honorable Daniel Elliott III
Chairman
United States Surface Transportation Board
Washington, DC 20423

The Honorable Deb Miller
Vice Chairman
United States Surface Transportation Board
Washington, DC 20423

The Honorable Ann Begeman
Commissioner
United States Surface Transportation Board
Washington, DC 20423

Dear Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman:

The undersigned groups are writing to you on behalf of the Rail Customer Coalition (RCC) to urge the Board to follow the direction of Congress and implement a set of new reforms without delay. The RCC is a large collection of trade associations representing a broad range of manufacturing, agricultural and energy industries that depend on reliable and affordable rail service to support their operations in the United States. The Coalition has worked closely with Congress to pass reasonable legislation that will help make the Surface Transportation Board (STB) a more viable and effective intermediary between railroads and their customers when rate and service issues exist.

Our collective efforts helped the unanimous passage and enactment of S. 808, the “Surface Transportation Board Reauthorization Act of 2015.” The clear, overarching intent of this legislation is to create a more efficient and effective STB that addresses the growing competitive concerns of freight rail customers. Railroad Subcommittee Chairman Jeff Denham (R-CA), in remarks on the floor prior to passage said he expects the bill “will reform the STB to work more efficiently to better regulate the railroads... (and) streamline and simplify regulatory activities... While the STB has successfully overseen a stronger rail industry, this bill will help the rail industry better serve its customers.”

Transportation Committee Chairman Bill Shuster (R-PA) echoed Rep. Denham’s remarks, saying the bill, “will allow the STB to run more efficiently... it is going to streamline and get these rate [cases] to the STB faster and get us through that process quicker. That is extremely important.” Commerce Committee Chairman Thune (R-SD) said, “Enacting this legislation will make the STB more accountable and effective in addressing rail service and other disputes.” Numerous other Congressional leaders have echoed these sentiments in both parties and both Chambers of Congress, and it is clear that Congress expects the STB to engage in significant reforms to better meet the needs of rail shippers.

Lawmakers have provided an array of new tools and requirements that rail customers expect will improve the utility and effectiveness of the STB in maintaining a balance between freight

railroads and customers that often have no choice in service providers. The new law will modernize the STB so the Board is better equipped to handle today's freight rail challenges by giving the STB investigatory authority, creating a voluntary arbitration system, and requiring the Board to maintain a simplified and more efficient rate review mechanism when a full "stand-alone cost" review is too burdensome.

Many of these changes are long overdue and the RCC will remain actively engaged with Congress and the STB to ensure that the new law is aggressively implemented. To help the Board move forward with these reforms we strongly urge the STB to consider the following recommendations from rail customers:

- (1) Rail customer viewpoints should be included in the required report on rate case methodologies. We look forward to providing useful data and insight into the overly burdensome, costly, lengthy and complex rate case process. One of the principal functions of the STB is to ensure that rates charged to customers remain reasonable when no other service options are available. The lack of a realistic and well-functioning rate review process has contributed to an environment where rail rate increases have nearly tripled the rate of inflation for decades.
- (2) The Board should complete work on key proceedings, including a rulemaking to provide shippers with access to competitive switching. The legislation calls on the STB to provide regular reporting and updates on pending agency actions. The RCC looks forward to the commencement of these reports and providing feedback as to the transparency and effectiveness of the new activity. Clearly, these requirements are intended to shed light on dockets at the STB that have been sitting for many years with no final action taken by the Board.
- (3) The Board should prioritize adherence to the new rate review timeline requirements, which are an important component of the legislation. Rail shippers expect these new timelines will provide for a more useful rate review process.
- (4) The STB should appropriately utilize its authority to initiate investigations into railroad practices that impact rail shippers on a national or regional scale, and order remedies based on the result of these investigations. The Rail Customer Coalition would support the establishment of an independent office at the STB tasked with investigations of railroad industry practices. The STB is required to issue rules related to its new investigatory authority within one year, and the RCC looks forward to engaging with the STB as needed on these new rules.
- (5) The Board should move quickly to promulgate regulations for the expansion of existing STB arbitration capabilities. The Rail Customer Coalition will support the formation of this new and more useful arbitration process, and will engage with the STB as it crafts appropriate rules for utilization of the program.

- (6) The STB should specify how it will implement provisions clarifying that Board members may engage in non-public collaborative discussions, which will help improve Board efficiency immediately.
- (7) For the GAO study of rail transportation contract proposals that contain multiple origin-to-destination movements, the Board should work to educate the GAO on how the bundling of rates into a single proposal can create significant barriers for shippers to bring rate cases to the STB.

The RCC is pleased that Congress has reauthorized the STB and is cognizant that the many new requirements in this law will require additional resources. Our group supports additional appropriations to help the STB meet its Congressionally mandated requirements. Our coalition and its members are committed to working closely with you to ensure that the STB is meeting its obligation to serve as a viable, timely forum to resolve issues for both rail customers and railroads.

Sincerely,

Agricultural Retailers Association

Alliance for Rail Competition

Alliance of Automobile Manufacturers

American Chemistry Council

American Farm Bureau Federation

American Forest & Paper Association

American Fuel & Petrochemical Manufacturers

American Malting Barley Association, Inc.

Association of Global Automakers, Inc.

The Chlorine Institute

Corn Refiners Association

The Fertilizer Institute

Freight Rail Customer Alliance

Glass Packaging Institute

Growth Energy

Institute of Makers of Explosives
Institute of Scrap Recycling Industries, Inc.
International Warehouse Logistics Association
Louisiana Chemical Association
Motorcycle Industry Council Inc.
National Association of Chemical Distributors
National Barley Growers Association
National Corn Growers Association
National Cotton Council of America
National Farmers Union
National Industrial Transportation League
Outdoor Power Equipment Institute
Plastic Pipe and Fittings Association
Steel Manufacturers Association
The Sulphur Institute
Vinyl Building Council
The Vinyl Institute

cc: Chairman John Thune, Committee on Commerce, Science, and Transportation
Ranking Member Bill Nelson, Committee on Commerce, Science, and Transportation
Chairman Bill Shuster, Committee on Transportation and Infrastructure
Ranking Member Peter DeFazio, Committee on Transportation and Infrastructure