

PROGRESS REPORT ON STB REFORM

In an effort to fulfill its Congressional [mandate](#) and follow [recommendations](#) from the National Academy of Sciences, the Surface Transportation Board (STB) has initiated several practical and long-overdue reforms aimed at helping the Board address ongoing freight rail issues. The [Rail Customer Coalition](#) (RCC) issued the following progress report to track the Board's progress with the Coalition's [priorities](#) for rail reform and to encourage the STB to complete its work without interference or further delay.

ENHANCE THE EFFICIENCY OF THE STB

Status: Heading on the Right Track



With strong support from RCC members, Congress overwhelmingly passed the Surface Transportation Board Reauthorization Act of 2015, a landmark step that will allow the Board to function more efficiently and effectively. The new law also increases accountability for the Board and allows the STB to be more proactive in resolving freight rail issues. The STB should continue to move forward on implementing the Act and adopt a series of reforms that will promote a more competitive and reliable freight rail system.

ALLOW COMPETITIVE SWITCHING

Status: Heading on the Right Track



After more than five years of consideration, the STB has proposed new competitive switching rules. The Board's proposal would allow rail customers with no competitive transportation options to request to have their freight moved to a nearby rail line, for a fee, if another Class I railroad is reasonably accessible. Congress has long envisioned switching as a way to promote rail competition, but the STB has never allowed rail customers to access it. The STB should move forward on allowing competitive switching and eliminate its outdated regulatory barrier that has shielded railroads from competing with each other.

REFORM RATE BUNDLING PRACTICES

Status: Picking up Steam



RCC members have long been concerned about railroads using an “all or nothing” approach to contracting rail rates, which can undermine a shipper's ability to challenge unreasonable rates at the STB. In response to these concerns, the STB Reauthorization Act required the Government Accountability Office (GAO) to study railroad contracting practices and report their findings to Congress. As reported by GAO, combining routes together “in one contract can compel shippers to accept some unreasonable rates [that] are not subject to STB oversight.” The STB should carefully consider the GAO findings and adopt appropriate policies to end abusive practices that prevent the Board from fulfilling its statutory obligation.

CLOSE RATE REVIEW LOOPHOLES

Status: Heading on the Right Track



The STB recently proposed restoring access to the Board’s rate review challenge process by ending arcane exemptions that the railroads currently enjoy for certain commodities. Specifically, STB proposed to revoke exemptions on commodities such as iron and steel products, crushed stone and cement. STB noted that the transportation markets for these commodities have changed significantly since the exemptions were adopted, “in ways that point toward an increased likelihood of railroad market power.” The STB should restore the ability of rail customers to access the Board’s resolution process by eliminating these outdated loopholes and by fully examining all remaining exemptions.

PROVIDE ARBITRATION AS AN OPTION

Status: Heading on the Right Track



As directed by the STB Reauthorization Act, the Board has adopted new rules to allow, for the first time, railroads and their customers to utilize a voluntary arbitration program to resolve rate disputes. This important change can help make the STB processes more accessible, workable and effective. While this is a positive step, rail customers still face significant barriers that limit the ability to challenge rail rates. The Board should continue to pursue innovative solutions that will improve the STB’s arbitration procedures.

UPDATE RATE REVIEW STANDARDS

Status: Just Leaving the Station



Fixing the STB’s overly costly and bureaucratic rate review processes is widely recognized as being long overdue. As directed by The STB Reauthorization Act, the Board has: 1) reduced the timeline for processing rate cases under STB’s Stand-Alone Cost (SAC) methodology; 2) initiated a proceeding to explore ideas for expediting rate cases; and 3) released a consultant’s report on alternatives to the SAC methodology. The RCC supports the STB’s new timelines and its consideration of ideas to make SAC cases more accessible to rail customers. However, finding viable alternatives to the SAC process should be one of the STB’s top priorities. We believe the flawed report released by the STB missed the mark and failed to offer the STB any new meaningful ideas. The Board should move forward on adopting a more effective rate review methodology, starting with recommendations from the National Academy of Sciences’ Transportation Research Board.