

**OPENING STATEMENT of
CHARLES D. NOTTINGHAM, CHAIRMAN
COMMON CARRIER OBLIGATION HEARING –
TRANSPORTATION OF HAZARDOUS MATERIALS
STB Ex Parte No. 677 (Sub-No. 1)
July 22, 2008**

Good morning and welcome. Today we will hear further testimony on the common carrier obligation, the topic of a prior Board hearing held on April 24 and 25. During those two days of testimony we heard from a number of parties discussing specifically how the common carrier obligation applies to the transportation of hazardous material. It is on that more narrow topic that we will hear further testimony today.

For those who may be attempting to read the tea leaves, I will say at the outset that I have not called this hearing with any specific outcome or proposal in mind. There is much discussion in the written testimony regarding whether the Board has the ability to determine the scope of the common carrier obligation. I would respond to that testimony by noting that it is certainly within the Board's authority to define what we will consider to be a reasonable request for service – and there is room for discretion within that analysis. However, it is not my intention at this point for the Board to eliminate the common carrier obligation as it applies to the transportation of hazardous chemicals.

Instead, I hope to hear in the testimony today how the parties involved in this segment of the transportation industry can work together to find solutions to

the liability challenge that the transportation of these commodities presents. I think we can all agree that for many hazardous materials, including TIH, rail is the safest and most efficient mode of transportation. But we have also heard that the railroads fear ruinous liability in the event of an accident involving TIH. The potential bankruptcy, closure or sale of a railroad due to liability exposure is more than an academic concern to this Board. A railroad bankruptcy and liquidation would likely disrupt commerce, eliminate jobs, hurt railroad customers and stockowners, and would likely result in less competition in the market for rail service. We have an obligation to ensure that the risk of such a scenario is minimized.

Our hearing notice focused in large part on obtaining input into potential policy solutions to this liability issue. I hope to hear today about the Price Anderson model and how it could be applied here, the role of the Board in developing a solution, and the basis for the wide range of views held by our stakeholders as it relates to this matter.

It is my hope that, as you hear each other's testimony today, as well as the views expressed by myself and my fellow Board members, we can get closer to finding a policy solution to the very real challenge this issue presents. Let's not permit a resolution of this very important issue to be held captive by the policy agenda of any one particular interest group.

Finally, just a few procedural notes regarding the testimony itself. As usual, we will hear from all the speakers on a panel prior to questions from the Commissioners. Speakers, please note that the timing lights are in front of me on the dais. You will see a yellow light when you have one minute remaining, and a red light when your time has expired. As you can see from the published schedule, we have quite a few witnesses appearing at this hearing. Therefore, I will be keeping an eye on the clock and ask that you please keep to the time you have been allotted. I assure you that we have read all of your submissions, and there is no need to read them here. After hearing from the entire panel, we will rotate with questions from each Board Member until we have exhausted the questions. Additionally, just a reminder to please turn off your cell phones.

I look forward to hearing the testimony of the parties. I would now like to turn to Vice Chairman Mulvey for his opening remarks.