

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**Ex Parte No. 714**

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**INFORMATION REQUIRED IN NOTICES AND PETITIONS FOR EXEMPTION  
CONTAINING INTERCHANGE COMMITMENTS**

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**Comments of the American Chemistry Council**

**December 18, 2012**

The American Chemistry Council (ACC) submits these comments in response to the Notice of Proposed Rulemaking served by the Surface Transportation Board (the Board) on November 1, 2012. ACC represents the leading companies engaged in the business of chemistry. ACC members apply the science of chemistry to make innovative products and services that make people's lives better, healthier and safer. ACC is committed to improved environmental, health and safety performance through Responsible Care®, common sense advocacy designed to address major public policy issues, and health and environmental research and product testing. The business of chemistry is a \$760 billion enterprise and a key element of the nation's economy. It is the largest exporting sector in the U.S., accounting for 12 percent of U.S. exports. Chemistry companies are among the largest investors in research and development. Chemical products constitute the second-largest commodity sector in terms of rail tonnage and freight revenue.

ACC understands the circumstances under which “interchange commitments” – also referred to as “paper barriers” – exist in the short-line sector of the rail industry. As summarized by the Board in this docket, those commitments are “contractual provisions included with a sale or lease of a rail line that limit the incentive or the ability of the purchaser or tenant carrier to interchange traffic with rail carriers other than the seller or lessor railroad.” ACC believes that paper barriers clearly inhibit potential competition between Class I carriers for line-haul service to shippers/receivers located on short-line railroads.

The Board’s current rules require that the parties to a proposed transaction involving an interchange commitment must inform the Board and file a confidential copy of the agreement.

The Board notes the effects of the rules it adopted in 2008 on the disclosure of interchange commitments. Now, the Board proposes to enhance those rules to provide for the disclosure of certain basic facts: shippers/receivers that have used the line over the past two years, the number of carloads originated/terminated, which other railroads could interchange traffic with the short-line operator in 49 C.F.R. §1180.4(g)(4)(C), (D) and (F). Another important proposal would be in 49 C.F.R. §1180.4(g)(4)(E): carrier certification that notice of the transaction and the interchange agreement have been provided to shippers/receivers.

Additional elements of the Board's proposal, which would be filed under seal, go to the underlying economics of the transaction: 49 C.F.R. §1180.4(g)(4)(G), (H) and (I). A change in case captioning would provide further notice that an interchange agreement is involved.

ACC applauds this initiative by the Board. Although it will not remove existing paper barriers, it will allow for more open and expeditious handling of future transactions that include paper barriers.

In conclusion, ACC appreciates this opportunity to comment on the newly proposed rules for disclosure of information on railroad interchange agreements.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tom Schick". The signature is fluid and cursive, with a large initial "T" and "S".

Thomas E. Schick  
Senior Director  
American Chemistry Council  
700 Second St., NE  
Washington, DC 20002  
202-249-6408  
[tom\\_schick@americanchemistry.com](mailto:tom_schick@americanchemistry.com)