



# STATE OF MINNESOTA

## Office of Governor Mark Dayton

116 Veterans Service Building ♦ 20 West 12th Street ♦ Saint Paul, MN 55155

October 13, 2014

236820

Chairman Daniel R. Elliott, III  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423-0001

ENTERED  
Office of Proceedings  
October 15, 2014  
Part of  
Public Record

Dear Chairman Elliott:

We write this letter with a considerable degree of urgency and concern. As we watch winter come to the State of Minnesota, we have become increasingly alarmed by the service failures of several railroads that serve critical industries in our state.

We are hearing daily from captive shippers across the agricultural, mining, and energy sectors who cannot move products to market or transshipment locations; cannot secure delivery of enough coal to run power plants; and are forced to find extremely uneconomic alternatives, which ultimately lead to higher costs and poorer outcomes for businesses and end-use consumers. The railroads have not provided even minimally adequate levels of rail service.

The Surface Transportation Board (STB) is charged with operational and economic oversight of the nation's freight railroads. As we write this letter, each of the utilities in our state are restricting the operation of coal-fired power plants for the sole reason of conserving existing coal stockpiles — stockpiles that have grown precipitously and dangerously low due to BNSF's ongoing system delivery problems.

Perhaps most concerning, is the fact that the situation appears to be worsening as winter approaches. In one case, a utility has shuttered four power plant units in direct response to reduced coal deliveries related to service issues that began more than a year ago, and is buying replacement power to make up for plant idling. In situations like that, electric customers have had to bear the cost of BNSF's failure to perform. This is untenable and we urge you to take immediate action to drive better outcomes for rail customers, including the utilities in our state that have no transportation alternatives but to wait for the rail carriers you regulate to do better. Waiting and hoping for BNSF to improve its service are bad options in a state like Minnesota, where winter conditions often leave little room for error. Minnesota utilities cannot tolerate watching fuel stockpiles fall to under one week — as they did last winter.

On October 8<sup>th</sup>, the Board issued Order EP 724, which requires all Class I railroads to publicly file weekly data reports, to promote industry-wide transparency, accountability, and improvements in rail service. This is a step forward in better understanding the railroads' various service issues. More transparency will be useful in helping the Board and rail customers better understand current and future service disruptions.

While Order EP 724 is a step in the right direction, more is needed. We recommend that the Board immediately require carriers like BNSF to submit publicly-available coal service

Chairman Daniel R. Elliott, III  
October 13, 2014  
Page 2

recovery plans to the Board, hold the carriers responsible for implementing these plans, and monitor carriers' implementation progress through weekly public reporting. We also recommend that the Board convene a public hearing and invite representatives from utilities, affected States, and the Federal Energy Regulatory Commission, to address the continued impact of poor rail service on electric reliability and electricity costs to consumers, particularly as the upcoming winter fast approaches.

The STB has repeatedly said it "has a range of available tools" under its governing statute to address service problems. While a better understanding of service problems is important, the STB needs to take concrete steps to address the known, current service problems now.

If you have any questions or wish to discuss this matter further, please contact Joanna Dornfeld, Senior Policy Advisor to the Governor, at 651-201-3423, or via email at [Joanna.dornfeld@state.mn.us](mailto:Joanna.dornfeld@state.mn.us).

Thank you for your consideration.

Sincerely,



Amy Klobuchar  
United States Senator



Al Franken  
United States Senator



Mark Dayton  
Governor