



THE  
NATIONAL  
INDUSTRIAL  
TRANSPORTATION  
LEAGUE

229334

April 19, 2011

Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington, D.C. 20423

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Office of Proceedings  
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Public Record

Re: STB Ex Parte No. 542 (Sub-No. 18), *Regulations Governing Fees for Services*

Dear Ms. Brown:

The National Industrial Transportation League ("League" or "NITL") hereby submits its comments in response to the Notice of Proposed Rulemaking ("NPRM") of the Surface Transportation Board ("Board" or STB") served on February 15, 2011.<sup>1</sup> In the NPRM, the Board proposed to reduce and codify the filing fees for certain formal complaints alleging unlawful rates or practices of carriers. Specifically, the Board proposed to reduce the fee for "all other formal complaints, except competitive access" from \$20,600 to \$350. It also proposed to formally adopt the fees for Stand-Alone Cost rate complaints and Simplified-SAC rate complaints at \$350.<sup>2</sup>

The League commends the Board for taking this step to eliminate the likelihood that some shippers may be discouraged from seeking relief from potentially unlawful practices and rates of carriers due to the substantial cost involved with filing a complaint at the Board. By setting its filing fees at a more reasonable level, the Board is eliminating a significant barrier that currently limits access to the Board's adjudicatory proceedings.

The League is one of the oldest and largest national associations representing companies engaged in the transportation of goods in both domestic and international commerce. The League was founded in 1907, and currently has over 600 company members. These company members range from some of the largest users of the nation's and the world's transportation systems, to smaller companies engaged in the shipment and receipt of goods. The majority of the League's members include shippers and receivers of goods; however, third party intermediaries, logistics companies, and other entities engaged in the transportation of goods are also members of the League. The League's rail shippers are from a multitude of industries, including chemicals / petroleum, agricultural, forest products and paper, and steel, among others. Thus, the League has a very substantial interest in ensuring that the Board sets appropriate filing fees.

As the Board noted in the NPRM, high fees have a chilling effect on whether a company may file a formal complaint to obtain relief from allegedly unlawful practices of carriers. Today, shippers that challenge an unlawful practice must pay \$20,600 to adjudicate their claims. Smaller companies are

<sup>1</sup> *Regulations Governing Fees for Servs.*, STB Docket No EP 542 (Sub-No. 18) (served Feb. 15, 2011).

<sup>2</sup> *Id.* at 2.

especially discouraged by the current, high fee since they may not be able to afford both a high filing fee, as well as the substantial litigation costs required to adjudicate the complaint.

The chilling effect associated with high filing fees is especially problematic because the Board cannot police unlawful rates and practices on its own. Rather, complaints are the only mechanism available to formally adjudicate potentially unlawful practices by carriers. While carriers might claim that lowering the fee will give rise to frivolous or weak claims, that is simply not the case. Even with a lower filing fee, an administrative litigation before the Board still may cost tens to hundreds of thousands of dollars. This situation causes potential complainants to carefully evaluate the validity of their claims.<sup>3</sup>

For these reasons, the League urges the Board to issue a final rule adopting the changes in the NPRM. The proposed fees are essential to ensuring that companies have meaningful access to the Board to address potentially unlawful practices and rates.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bruce J. Carlton", with a long horizontal flourish extending to the right.

Bruce J. Carlton

President and CEO  
The National Industrial Transportation League

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<sup>3</sup> In the NPRM, the Board notes that many entities that are not able to resolve informal complaints never elevate their complaints to the formal level. *Id.* at 3.