

STB Chairman Daniel R. Elliott III
National Association of Rail Shippers
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Thank you for inviting me to speak.

These are interesting days for my colleagues and me on the Surface Transportation Board. As you know, our Board is charged with regulating rates, services and practices of America's freight railroad system.

In the three decades since the U.S. freight system was largely deregulated, we've seen a renaissance in American railroading. It has included a record amount

of investment in deteriorating infrastructure. It has made our freight-rail system the envy of the world. And it has turned railroads into some of the most admired and profitable corporations in the nation. Recent infrastructure improvements have included the introduction of new hub terminal facilities and expansion of height restrictions in a number of freight rail corridors, helping to drive this renaissance into the new century, and make service better and faster for rail customers.

Of course, without shippers, railroads would have nothing to haul. Following the Staggers Act of 1980, U.S. shippers saw

their freight bills decline to some of the lowest rates in the world. And for many, service also improved significantly.

While the rebirth of railroading in the past 30 years has highlighted American economic dynamism, it is also an uneven story.

Many shippers contend that deregulation has worked so well that there is now a lack of real competition for many customers. They express concern that mergers have left the country dominated by two regional duopolies who increasingly offer high take-it-or-leave-it rates to

companies who have no other transportation alternative.

Our statutory scheme requires the Board to strike a balance between our role to oversee and protect shipping interests, and simultaneously to ensure that carriers continue to earn revenues needed to maintain the healthy rail network that has developed. All players—shippers and carriers—represent important elements of our nation’s economy, and all play an important role in creating jobs for America.

A lot has changed since the days of the 1970s and early 1980s, when carriers

struggled for survival, and many of the current rules on rail competition, including competitive access, were put in place. Today, we need to look at whether the Board needs to update its rules and procedures in light of the many years and many changes in the rail industry.

As I indicated, the Board's duties include ensuring balanced regulation that enables railroads to continue to be able to invest in their infrastructure. Also, the important goal of helping the environment by taking trucks off the road is happening as we speak. In addition, however, is the need for American companies and farmers to be

able to compete, both domestically and internationally, to grow our economy. And that means being able to ship their goods at reasonable rates in a reasonable timeframe.

Moreover, new dynamics have entered the scene. The Panama Canal expansion, slated for 2014, presumably will change demand for shipping routes and capacity development. Fast-paced changes in certain commodity markets, such as the growth in fracking for natural gas and the increased market for shipping crude oil by rail from Canada and the Bakken, have quickly increased demand for movements related to those commodities. On the other hand, the

recent downturn in the use of coal has caused some railroads to park equipment that is not needed right now.

The question for our agency in this increasingly complex dynamic is, can changes in Board policy help foster greater competition, while ensuring that railroads can continue their needed investments? It is our statutory responsibility to find out.

To help answer that question, the Board held two sets of hearings. Last June, the Board held a two-day public hearing in Washington on the status of competition in the industry. In the course of these two

hearings, dozens of speakers, representing railroads, shippers, members of Congress, and other stakeholders told us what to do -- or what not to do.

Some of the shippers provided suggestions on how the Board could increase competition by increasing competitive access. Others said access is not a silver bullet, and stated a need for continued rate and service oversight.

Competition is not the only issue we are grappling with.

We are also looking at our current exemption rulings, which removed the application of certain statutory provisions governing service and rates from various shippers in the 1980s, a system set in place to enable carriers to compete more expeditiously in an increasingly intermodal marketplace.

At the time, many of those shippers supported the exemptions. However, some of those same shippers now have urged that these exemptions have outlived their usefulness. In February of 2011, we held a hearing for parties to address whether, and if so how, changed conditions in the

industry might warrant revisiting any of the agency's prior exemption decisions. It, too, was well attended, and served as a forum for a wide range of viewpoints.

We will follow the evidence from these sets of proceedings and go where the analysis takes us, however long it takes us to get it right.

Since I was sworn in over two and a half years ago, I have worked hard in other ways, as well, to refocus the Board's mission by making the agency's processes more accessible, less burdensome, and more transparent, for all stakeholders.

While one of our main missions is to judge formal rate disputes between railroads and shippers, I've tried to emphasize alternative dispute resolution efforts

I see the Board's role as encouraging greater cooperation -- and through it more harmony -- between railroads and shippers.

That is why, whenever possible, we hope we can assist the parties in resolving their problems without the full-blown litigation that costs all sides time and expense.

Instead of using our tremendous human resources to push cases along the assembly line, why don't we use our expertise to solve disputes before they result in formal case filings?

I'm pleased that we have bolstered the Rail Customer and Public Assistance Program, which helps shippers informally settle disputes with their rail carrier. The number of disputes handled by this program has jumped from 93 in 2007 to about 1,400 last year. We expect this year to be even busier. The program is free and confidential, and we have had a very high rate of success in resolving matters.

Wherever I travel through the country, I try to publicize the availability of this program, and the ease of access for members of the public who have small problems that, left unresolved, may expand into bigger ones. Rail Customer and Public Assistance is literally just a phone call away, and a quick view of our website provides all the information needed to start obtaining assistance.

We have had some tremendous successes with formal mediation efforts, as well. The Board is especially well-suited to mediate disputes because we have the experts on staff who understand the issues

backwards and forwards, making each side feel comfortable. Over the past two years, we have seen several large cases settled, some as the direct result of mediation efforts. Even when cases do not settle in the direct course of mediation, the exchanges among the parties during the early mediation can serve to refine and clarify issues involved in the case, making the remaining proceedings more effective for the parties.

We also instituted a proceeding last year to seek comment from the public on ways we can improve our mediation and

arbitration processes, and to enhance use of alternative dispute resolution in the freight rail industry. Many members of the public have filed thoughtful and productive comments, and we appreciate the time and effort that went into their input. We will be analyzing those comments with a view toward improving our regulations on that front, as well.

Of course, shippers and railroads still have recourse to formal proceedings before the Board. The Board remains a neutral forum to bring rate disputes and is

committed to an expedited and transparent decision.

In fact we are so skilled in alternative dispute resolution that the cases that do go formal are often the most difficult, complex and time-consuming ones. But we have a highly-educated, highly-motivated workforce at the Board that works through these intricate cases in an efficient but careful way.

But there are challenges. Like many federal agencies, budgets are becoming even tighter, and we are being charged to do more with less. While we have seen a few

retirements over the last twelve months, we have been fortunate to retain many staff members who are steeped in knowledge and experience about our industry and the Board's processes. When people do leave, we have been very successful in attracting highly skilled and trained staff, with top notch credentials, to replace them. And the fact that the STB has been named the Best Place to Work in the federal government for the past three years has helped retain our talented workforce and aided in the recruitment of the best.

While we work on these many key issues, it is important that we conduct

ourselves in ways that are as open and transparent as possible. When I arrived at the agency, I found in some of my travels and conversations a measure of distrust of the STB, a situation I have tried to improve.

I believe more than ever that sunshine is part of the cure.

With the benefit of over two years of experience with our policy of holding oral arguments on important or controversial cases, I can attest that these arguments have worked out extremely well. The arguments give the parties a chance to talk face-to-face with the board members before we rule on

their dispute, and we have found that the give and take at the arguments often produces new and useful insights on a case

We also lowered filing fees for bringing complaints before the agency, so that parties have access to our processes without making the cost of bringing cases prohibitive. The Board used to charge shippers as much as \$20,600 to file a complaint. We cut it to \$350.

As part of our examination of our URCS costing model, we recently released technical revisions that make the program

more user friendly and understandable for outside parties seeking to access the system. We are continuing to work further on URCS with a view to updating its operations.

We are also close to a major redesign of the Board's website, to make it more user-friendly and to allow the public to better monitor what we're up to. It will include a comprehensive search tool and a way to easily track cases.

As regulators of the world's most efficient freight-rail system, we have a responsibility to do our job to the best of our ability. And that's what we intend to do.

Overall, my goal is that the Surface Transportation Board be seen as an honest broker by shippers, railroads and Congress.

We all share a common interest in preserving a national railroad system that serves our economy efficiently, fairly and cleanly.

While there are still serious disagreements over rates and service, I think we can all agree that shipping goods by rail is environmentally and economically beneficial to our nation.

At the Board, we aim to be part of the solution. We have benefited greatly from the information and proposals the various segments of the industry have contributed to our processes over the past few years, and I can assure you that your efforts were meaningful.

The freight train, which helped win the Civil War in the 19th Century, can help America tackle our environmental and economic challenges in the 21st Century. I hope that you will continue to join us in working toward that goal in a way that is fair to all of the players.

Thank you again for your gracious invitation and I would be pleased to answer any questions.