

RESPONSIBILITIES OF THE OFFICE OF COMPLIANCE AND ENFORCEMENT

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Responsibilities. The Office of Compliance and Enforcement (OCE) is responsible to oversee all operational aspects of carriers subject to the Surface Transportation Board's (STB) jurisdiction, and to ensure that their statutory and regulatory responsibilities are fulfilled. OCE also interfaces with the public, in particular through its tariff responsibilities and its Rail Consumer Assistance Program.

Staffing. To fulfill its responsibilities, OCE is made up of 8 individuals from a variety of technical disciplines, who provide analytical assistance to the Board members and to Board staff in understanding the operational aspects of matters before the agency. The staff members backgrounds are as follows: the Director, who has nearly thirty years with the Interstate Commerce Commission (ICC) and the STB, and whose technical background includes both rail management and rail operations; the Associate Director, who has thirty years of service with the ICC and the STB in areas of tariff management and interpretation, and who is also Chief of the Section of Tariffs, Rates and Informal Cases; six Transportation Industry Analysts (TIAs) who have differing technical transportation backgrounds, including rail service design and service measurement; rail consulting and general program development; rail auditing; work with the Association of American Railroads on various industry-wide operational initiatives; tariff analysis; and household goods. And an office management assistant who provides clerical and administrative support.

Compliance and Enforcement. As the ICC's largest office at the time of its closure in 1995, the creation of the substantially smaller Surface Transportation Board (STB) meant that OCE had to become innovative in finding ways to ensure that jurisdictional entities met their statutory and regulatory responsibilities, and at the same time, to present a positive image for the STB by ensuring that the shipping public and other affected interests received effective assistance. This has led to changes in the way compliance and enforcement is effected, for instance the increased use of "Administrative Enforcement", which involves direct contact with the regulated entity to raise the compliance or enforcement issue. This approach also evolved as a result of the STB's desire to improve communications generally, and to allow the regulated entity an opportunity to resolve privately and informally with its customer, employee, or community, the issue that has been brought to OCE's attention. If the entity fails to utilize the opportunity to resolve the matter in the private sector, however, and the violation or non-compliance continues, it has been made clear that the STB is prepared to act formally to effect a resolution.

Rail Consumer Assistance. A next step for informal problem resolution was the institution of the STB's Rail Consumer Assistance Program mentioned above. This program, which provides the general public with access to informal assistance with any type of rail-related transportation problem, was established in November 2000 and is administered by OCE. The program is nationwide in scope, allowing anyone with a problem involving a railroad subject to the STB's jurisdiction to reach us by toll-free telephone (1-866-254-1792), by direct E-mail (railconsumer@stb.dot.gov), by using a "Rail Consumer" button on our web page, or by fax (202-565-9011). All complaints and inquiries received by OCE through this program are handled directly with the involved railroad, usually within two hours of receipt, thus the program benefits every complainant by placing their concerns immediately before the involved railroad, which facilitates a prompt response to the complainant and provides the opportunity for a private sector resolution. Being informal, this process is less burdensome for either party than a formal proceeding, conserves the Board's resources, and provides the parties the opportunity to resolve their issues in an environment that will produce the most satisfactory, timely, and cost-effective result. As part of the implementation of this program, meetings were held with Class I railroads at their headquarters to discuss effective complaint handling and to identify appropriate contact individuals for the respective railroads. In its first year of operation, OCE handled 110 rail consumer matters to a successful conclusion, and to date, we have handled more than 260 widely varying rail

consumer matters. That is not to say that every complaint brought to OCE is resolved, only that each issue is responded to promptly.

Tariffs. Tariff processing and maintenance is another significant area of activity for OCE. While most tariff filing has been eliminated: for motor carriers tariff filing was eliminated in 1994, and for rail carriers tariff filing was eliminated with enactment of the Interstate Commerce Commission Termination Act (ICCTA) in December of 1995. Nonetheless, there remains a statutory responsibility for certain carriers jurisdictional to the STB to file and/or publish tariffs. Two carrier groups still responsible for filing tariffs include water carriers participating in the noncontiguous domestic trade, that is, movements between the U.S. and Puerto Rico, Guam, the Virgin Islands, Hawaii, and Alaska, and motor property carriers providing service jointly with those water carriers. Also, pursuant to the ICCTA, the Board was required to promulgate regulations requiring that household goods carriers publish tariffs and make them available to shippers on request, even though they are not required to file their tariffs, and that rail carriers give public notice of rate increases or changes in terms that are the equivalent of rate increases, and file with the Board summaries of all rail transportation contracts involving agricultural commodities. All filed tariffs and summaries, whether in paper or electronic form, are maintained by OCE in its tariff library and are available for public inspection. As noted, this remains a very active area, for example, in an average month, OCE's Chief Tariff Examiner will process approximately 1,000 rate filings and 3,000 electronically filed tariff revisions, and 150 to 175 rail contract summaries.

Household Goods. To some degree, the STB continues to be viewed as the successor to the ICC with respect to household goods matters, and thus receives many more household goods complaints and inquiries than are consistent with our very limited authority. Nonetheless, we respond to the public as promptly as possible, usually in writing, by providing information on the applicable rules and referring complainants to the appropriate agency for assistance, namely the Federal Motor Carrier Safety Administration at DOT. Most household goods inquiries are handled by our Section of Rates and Informal Cases, under the supervision of the Associate Director. On those occasions where the complaint involves alleged overcharges for a move or motor carrier shipment that has been concluded and paid for, we perform, at the request of the complainant, what is called an "Applicability Review." This analysis consists of reviewing the complainant's moving or shipping documents and other paperwork, and requesting a copy of the carrier's tariff to determine the basis for the applied charges. We then advise the complainant, in writing, whether or not we believe the carrier's charges were consistent with its tariff. If determined to be inconsistent, the complainant may then use our informal opinion as part of a court proceeding to recover the overcharges.

Operations. In addition to the areas of responsibility previously described, OCE also performs an analytical function relative to rail operational issues that are raised in connection with major proceedings before the STB, for example, rail mergers, rail line acquisitions, rail line construction cases, and rail abandonments. These analyses are performed by OCE staff members, who are part of what is known as the STB's "Merger Team," coordinated by the Office of Proceedings and consisting of STB staff members from a variety of technical disciplines. In addition, OCE has significant responsibility with respect to designing data submission programs, for example, the data required for the operational monitoring of a merger or other STB-approved transaction, which OCE uses to monitor the implementation of such transactions. Within that function, OCE maintains a wide array of operational metrics, both confidential and public, which are generally filed as a condition of a merger proceeding or other transaction. From certain of this data, OCE produces internal reports to be used as informational tools by the Board Members, and we place the public version of the data on our web site. OCE also reviews weekly operational information made available by the Class I railroads in an effort to remain informed on the condition of the rail industry, and to identify potential problem areas that might be developing.

Conclusion. OCE's wide ranging responsibilities include compliance and enforcement, operations and service of jurisdictional carriers, tariffs, and analysis of operational issues before the STB. With its team of

transportation specialists, OCE focuses on interfacing directly with carriers and the shipping public in an effort to resolve problems in the public domain informally, to the extent possible and without the need for formal proceedings, and providing the Board Members with expert technical advice.