

STB Ex Parte No. 646 (sub-No. 1) Simplified Standards for Rail Rate Cases

I would like to join Chairman Nottingham and Vice Chairman Buttrey in their remarks. The Congress has directed the Board to develop procedures that would allow shippers, the value of whose case would not justify bringing a case under our full Stand Alone Cost guidelines, to have access to Board review of railroad rates under less costly procedures. This issue has been before the Board and its predecessor agency, the ICC, for over 20 years and those making relatively small shipments are still are without meaningful access. This is simply unacceptable, and I share the frustration of those who have long waited for the Board to clarify the current guidelines.

We have issued a Notice of Proposed Rulemaking and have received a great many comments from shippers, railroads, trade associations, and government agencies. Because of the extent of those comments and because addressing many of them could entail significant changes to a proposed Final Rule, it is important that we have today's hearing before going forward.

The stakes are too high not to get it right.

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Whatever the specifics of the Final Rule that we adopt, it must satisfy three fundamental criteria. First, it must meet the congressional directive to make our procedures accessible to virtually any shipper, whose traffic is regulated by the Board, to bring a rate case if he or she believes their rate is unreasonable. In the comments we received, many shippers suggested that the proposed eligibility criteria would make it impossible for most shippers to justify bringing a case. I want those shippers to know that we hear their concerns, and that we are taking them very seriously as we work towards a Final Rule. I hope that some of the new approaches we discuss here today will go a long way towards ensuring that we meet the spirit of the congressional directive.

Second, any Final Rule must be able to withstand judicial review. Adopting a rule that will not be accepted by the courts will only further delay the establishment of a workable solution.

Finally, the Final Rule must also recognize the economics of the railroad industry and the right of the railroads to charge rates via differential pricing

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that will, in the aggregate, allow them to cover costs and earn a fair return on invested capital.

This is a tall order. It has required a tremendous amount of time and effort on the part of the Board's staff, and for their continued dedication to this cause, I commend them. In addition, I would like to applaud the staff for the very difficult and critical work they recently completed on fuel surcharge issues.

With that, I look forward to hearing the testimonies from today's witnesses, with whose inputs, I am hopeful we can soon come to a Final Rule. Thank you.