



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

September 1, 2016

The Honorable Susan Collins
Chairman
Senate Subcommittee on Appropriations –
Transportation, Housing and Urban
Development, and Related Agencies
413 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Jack Reed
Ranking Member
Senate Subcommittee on Appropriations –
Transportation, Housing and Urban
Development, and Related Agencies
728 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Collins and Honorable Senator Reed,

I am writing to provide information pertaining to the Surface Transportation Board's implementation of Public Law 114-110, *Surface Transportation Board Reauthorization Act of 2015* ("Reauthorization Act" or "Act"). With this letter, please find a status chart of the major actions that the Board is undertaking to execute these requirements. I will continue to send you monthly updates until all relevant provisions of the Reauthorization Act are completed.

As you may know, I had the opportunity to testify at the *Freight Rail Reform: Implementation of the Surface Transportation Board Reauthorization Act of 2015* hearing in Sioux Falls before the U.S. Senate Committee on Commerce, Science, and Transportation on August 11, 2016. It was a pleasure to testify on behalf of the STB and discuss all our implementation efforts and progress to date.

Rate Cases. I am pleased to report that the independent consultants I retained in late 2014 are now putting the final touches on their rate case methodology review report, and my intent is to issue the final report this month. Given the significance of the issue to our stakeholders, and as I mentioned at the August 11 hearing, my plan is to hold a public hearing to discuss the issues and conclusions contained in the report. My hope is that this will continue the discourse on alternative rate reasonableness methodologies, as well as the stand-alone cost methodology and ways to improve it.

Also of note with respect to rate cases, as you are aware from our quarterly report on rate case review metrics, Total Petrochemicals & Refining USA Inc. v. CSX Transportation, Inc. is one of the stand-alone cost rate reasonableness cases currently before the Board. We are getting close to the end of the case and are on track to issue a decision by the deadline of September 14, 2016.

Arbitration and Investigations. The comment periods for both proceedings have now closed. I have reviewed all comments in the record, and we are on target to issue final rules in Arbitration by the end of September 2016, and in Investigations by December 18, 2016.

Regulatory Proceedings. In the month of August, the Board issued an advance notice of proposed rulemaking in EP 665 (Sub-No. 2), Expanding Access to Rate Relief, which introduces a possible new rate reasonableness methodology. I am extremely excited about this methodology, which is meant to be streamlined, and accessible to all small shippers—grain or otherwise—who feel they are faced with unreasonable rail rates. This is the first time in a decade the agency has put forth a new rate case methodology, and I am optimistic that we will advance to the NPRM in a timely manner.

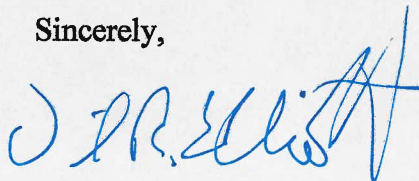
Additionally, this past month, the Board issued its decision in EP 431 (Sub-No. 4), Review of the General Purpose Costing System, proposing certain changes to our general purpose costing system, the Uniform Railroad Costing System. As a follow-on to that decision, STB staff will be holding a workshop on September 7, 2016, to answer technical questions about the mechanics of the proposal.

With respect to EP 722, Revenue Adequacy, the Board has modified its timing for the next milestone. In light of the numerous rulemaking proposals the Board has issued and the stakeholder input that is required for those rulemakings, we have targeted June 2017 as our next proposed action in EP 722.

Board Member Communications. In August, the Board Members held another Section 5 meeting to discuss a pending matter. As I mentioned in my hearing testimony, the Section 5 meetings continue to be a useful and productive tool in getting business done at the agency.

Thank you for your thoughtful oversight and ongoing interest in the Board. Please do not hesitate to contact me with any questions about this letter or any other matter before the Board.

Sincerely,



Daniel R. Elliott III
Chairman

STB Reauthorization Act of 2015, P.L. 114-110 / STB Action Items

August 2016

| Section of Law - Action Required | Description | Deadline | Status |
|--|---|----------------------|---|
| Sec. 6(a) - Annual Report | Report on each initiated investigation in Annual Report | Annually | To be included in FY2016 Annual Report and thereafter |
| Sec. 6(b) - Quarterly Rate Case Review Metrics Reports | Post quarterly reports of rate cases pending or completed during the previous quarter | Third Qtr 2016 | Second quarterly report completed 7/1/2016; posted to website; next report underway |
| Sec. 6(b) - Formal Service Complaints | 1. Establish & maintain formal complaint database | Third Qtr 2016 | Database established, report format created, second quarterly report completed 7/1/2016; posted to website; next report underway |
| | 2. Create report | | |
| | 3. Post quarterly reports on website | | |
| Sec. 6(b) - Informal Service Complaints | 1. Establish & maintain informal complaint database | Third Qtr 2016 | Database established, report format created, second quarterly report completed 7/1/2016; posted to website; next report underway |
| | 2. Create report | | |
| | 3. Post to website | | |
| Sec. 11 - Rate Case Expedition Proceeding | Assess procedures to expedite litigation in courts to potentially apply to expedition of STB rate cases | 6/15/2016 | A series of informal meetings with stakeholders and practitioners was held to discuss ideas and proposals; an advanced notice of proposed rulemaking (EP 733, Expediting Rate Cases) was issued on 6/15/16; comments were due by 8/1/16; reply comments were due by 8/29/16; intend to issue a proposal by March 2017 |
| Sec. 11 - Maintain Simplified Rate Case Processes | Maintain one or more simplified rate case methods for when SAC is too costly given value of the case | N/A | Maintain 3B, Simplified SAC; ongoing railroad rate regulation study may result in additional ideas/approaches; Board proposed a new streamlined rate reasonableness methodology in EP 665(2) Expanding Access to Rate Relief on August 31, 2016 |
| Sec. 11 - Rate Review Timelines | Implement new rate review timelines for SAC cases | Board deadline: ASAP | Final Rules issued March 9, 2016 |
| Sec. 12 - Investigative Authority Rulemaking | Issue rules on STB-initiated investigations after public notice and comment | 12/18/2016 | Section 5 meeting conducted to discuss proposals; NPRM issued 5/16/16; comments were due by 7/15/16; reply comments were due by 8/12/16; intend to issue final rules by 12/18/2016 |

**STB Reauthorization Act of 2015, P.L. 114-110 / STB Action Items
August 2016**

| Section of Law - Action Required | Description | Deadline | Status |
|---|--|-----------------|--|
| Sec. 13 - Arbitration Rulemaking | Promulgate regulations to establish voluntary and binding arbitration process for rate and practice complaints | 12/18/2016 | Section 5 meeting conducted to discuss proposals; NPRM issued 5/12/2016; comments were due by 6/13/16; reply comments were due by July 1, 2016; intend to issue final rules within the third quarter of 2016 |
| Sec. 15 - Rate Case Methodology Report | Report to Congress on sufficiency of STB rate case methodologies and alternatives | 12/18/2016 | A railroad rate regulation study is ongoing and a final report is anticipated in advance of 12/18/2016 |
| Sec. 15 - Unfinished Regulatory Proceedings Quarterly Reports | Provide quarterly progress report to Congress on pending proceedings; first report due 60 days after enactment | Third Qtr 2016 | Second quarterly report completed and submitted to Congress 7/1/2016; posted to website; next report underway |