



**WRITTEN TESTIMONY OF
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PRESIDENT AND CEO OF
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**BEFORE THE
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON RAILROADS, PIPELINES AND HAZARDOUS
MATERIALS**

**HEARING ON STAKEHOLDER VIEWS ON SURFACE TRANSPORTATION
BOARD REAUTHORIZATION**

MARCH 8, 2022

Chairman Payne, Ranking Member Crawford and Members of the Subcommittee, my name is Chris Jahn. I am the President and Chief Executive Officer of the American Chemistry Council (ACC). I appreciate the opportunity to discuss the importance of the Surface Transportation Board (STB) and reforms that will provide greater access to economical and reliable freight rail service.

About ACC

The American Chemistry Council is an industry trade association that represents more than 190 of America's leading chemical companies. Our members produce and manufacture a wide variety of chemicals, polymers, and related products that make our lives and our world healthier, safer, more sustainable, and more productive. The business of chemistry supports over 25% of the U.S. gross domestic product and directly touches nearly all manufactured goods. In addition to supporting a vast supply chain, our members help create more than half a million skilled, good-paying American jobs.

Freight rail is critical to ACC's members and chemical manufacturing. Our industry is one of the largest freight rail customers, shipping 2.1 million carloads in 2020. And the expansion of U.S. chemical manufacturing means our transportation needs are growing. With announced investments of more than \$200 billion and over 350 chemical manufacturing projects, we expect to add 200,000 railcar shipments per year by 2030.

We also rely on the Surface Transportation Board to help maintain a reliable, resilient and efficient rail network that is responsive to shipper needs. We are committed

to working with Congress to pass legislation that will reauthorize the STB and ensure that the Board has the resources and tools needed to fulfill its vital mission.

Rail Customer Coalition

Because of the importance of freight rail issues to chemical manufacturing, ACC is a member of the Rail Customer Coalition (RCC). Members of the coalition include trade groups representing automobile manufacturers, farmers, steel manufacturers, investor-owned electric companies, and rural electric cooperatives, among others. Collectively, the coalition members represent industries that provide more than 7 million jobs and contribute \$4.8 trillion in economic output.

The members of RCC are major transportation stakeholders and the largest users of freight rail. They account for more than half of the total volume of cargo shipped by rail and generate more than three quarters of the revenues collected by the railroads. The RCC is committed to modernizing the Surface Transportation Board (STB) so that it works better for both the railroads and the large and small American businesses that rely on them.

The STB Plays a Crucial Role for ACC Members and Other Shippers

When Congress passed the *Staggers Rail Act of 1980*, it created the STB to help foster a healthy and competitive freight rail system, and it gave the Board sole authority to resolve commercial issues between railroads and shippers. The Staggers Rail Act set a course for the STB that has helped the rail industry recover and thrive, which is a good thing. This success story should give the Board the confidence to follow through on the

other important objectives mandated by Staggers – ensure effective competition among rail carriers and maintain reasonable rates in the absence of competition.

Fulfilling this mission requires a balanced approach. Railroads need to be financially strong to serve their current customers and invest for future growth. At the same time, rail customers need reliable service and reasonable rates. Competition and market forces provide the best means to balance these goals. Policies that promote greater competition within the rail industry help make it an attractive and viable option to move freight.

However, many ACC members and other rail customers do not have competitive transportation options and, therefore, no market remedies when faced with unreasonable rates or service failures. For them, the STB is the only recourse to address freight rail issues. Too often, however, the Board’s policies and procedures are too complex, costly, and burdensome to provide timely and meaningful solutions.

The Rail Industry Has Changed and STB Must Change Too

The railroad industry of today looks very different than it did in the 1980s when many key STB rules and policies were adopted. Forty years later, consolidation has reduced the number of Class I railroads, which has greatly limited access to competitive rail service leaving many shippers captive to a single railroad. Following this consolidation, the cost to ship goods by rail has increased significantly.

As one expert on freight rail rate trends recently pointed out, “Non-competitive pricing has become the norm, not the exception. Rail customers continue to pay a

substantial price for the consolidation of the railroad's market power.”¹ In fact, the STB's most recent analysis shows that since 2004, real rail rates (adjusted for inflation) have increased by 30%.

In addition, railroads have dramatically changed their operations and the level of service they provide to shippers following the implementation of Precision Scheduled Railroading (PSR). These changes have harmed many companies through additional costs and service issues.

Given the massive changes within the freight rail industry and their ramifications for the economy, the STB can't stand still. The Board must follow suit and adopt new approaches that are better equipped to address the current environment.

In its report, the National Academy of Sciences' Transportation Research Board concluded, “while the U.S. freight railroad industry has become modernized and financially stable since the Staggers Rail Act of 1980, some of the industry's remaining economic regulations have not kept pace and should be replaced with practices better suited for today's modern freight rail system.”²

Smart Reforms Must be Adopted

We're encouraged that the STB has recognized that its current policies need to be reexamined. It has taken several important steps to gain a better understanding of the problems and potential solutions, including convening its Rate Reform Task Force, holding numerous hearings, and collecting public comments. Now it must act on that

¹ Escalation Consultants analysis: [Rail Rates Climb Higher as Competition Gets More Scarce](#)

² TRB report: [Modernizing Freight Rail Regulation](#)

information and move forward on the reforms the Board has carefully crafted with input from many stakeholders.

Specifically, ACC supports the STB's proposal to change its restrictive rules on reciprocal switching. This key reform, which has been pending since 2016, would finally provide greater access to competitive rail service as envisioned by Congress more than 40 years ago. Reciprocal switching will unlock market forces to help provide competitive transportation rates, open up more service options, and ease congested routes.

We also support the Board's efforts to streamline its procedures by adopting a policy known as Final Offer Rate Review. This new policy would provide a more useful alternative to the Board's outdated and burdensome rate review standards that have proven to be unworkable for most shippers.

In addition, we support the Board's efforts to collect and report more meaningful data on service performance to rail customers known as "first mile/last mile service." Collecting this critical data would provide the STB and rail customers with better insight into some of the most disruptive service problems so they can be effectively addressed.

We commend STB Chairman Oberman and the other Board members for focusing on these priorities and encourage them to finalize these needed reforms. We hope that this Committee also recognizes the importance of these reforms and how they can help support American manufacturing.

Congress Must Build on the STB Reauthorization Act of 2015

When Congress reauthorized the STB in 2015 with bipartisan support, it provided the Board with additional tools and resources so it could act quicker and be more proactive in addressing freight rail issues. The law expanded membership from three to five members and allowed Board members more flexibility to discuss pending matters. It gave the STB the authority to initiate its own investigations on rail service and other significant issues. And it required the Board to study more efficient and simplified rate review methodologies.

These changes have produced results. For example, the STB was better positioned to tackle the service and demurrage issues that resulted from operational changes adopted under Precision Scheduled Railroading. It has also allowed the Board to develop some of the reforms currently under consideration, including Final Offer Rate Review.

Just like the STB, Congress should not stand still on freight rail reform. As the Committee moves forward with legislation to reauthorize the STB, ACC urges you to consider the following recommendations:

- Ensure the Board has adequate funding and staff. The STB must fulfill a broad range of responsibilities, including new oversight of Amtrak service. Congress must provide the Board with the necessary resources to meet its ongoing obligations and to keep pace with changes to the rail network.
- Improve data on rail rates. To help the STB meet its mandate to maintain reasonable rates in the absence of effective competition, Congress should

commission the Transportation Research Board to develop a new economic model that uses real world data to compare the rates paid by captive shippers to the rates paid for similar shipments in competitive markets. Currently, the Board has no way to measure how much extra a rail shipper pays solely because it lacks competitive transportation options. Creating a new model could serve as a more accurate and realistic starting point for evaluating whether a rate is “reasonable.”

- Provide remedies for rail service failures. The Board currently lacks authority to provide meaningful remedies for customers facing railroad service failures.

Congress should provide the Board with authority to require and enforce a service recovery plan if a railroad fails to provide adequate service. In addition, Congress should authorize relief and damages where a carrier has failed to provide adequate service.

Conclusion

A robust and responsive freight rail network is important to the continued growth of U.S. chemical manufacturing. We appreciate the strong interest this Committee has shown on this important issue, and we look forward to working with you on legislation that reauthorizes the STB so that it serves both shippers and railroads.