



Office of the Chairman

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

August 1, 2016

The Honorable John Thune
Chairman
Senate Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

The Honorable Bill Nelson
Ranking Member
Senate Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

The Honorable Deb Fischer
Chairman
Subcommittee on Surface Transportation
and Merchant Marine Infrastructure,
Safety, and Security
United States Senate
Washington, DC 20510

The Honorable Cory A. Booker
Ranking Member
Subcommittee on Surface Transportation
and Merchant Marine Infrastructure,
Safety, and Security
United States Senate
Washington, DC 20510

Dear Chairman Thune, Ranking Member Nelson, Subcommittee Chairman Fischer, and Subcommittee Ranking Member Booker:

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"). As I have done every month since passing of the Reauthorization Act, I am enclosing 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.

Arbitration. As you aware, on May 12, 2016, the Board issued a notice of proposed rulemaking amending our existing procedures for the arbitration of disputes before the Board, to make those procedures conform to the statutory requirements in Section 13 of the Reauthorization Act. The comment period closed on July 1, 2016. I have reviewed the opening and reply comments received in this proceeding, and am discussing with my staff what changes, if any, to the proposed rulemaking are needed as a result of the comments.

Investigative Authority. We issued a notice of proposed rulemaking to establish procedures for Board-initiated investigations pursuant to Section 12 of the Reauthorization Act on May 16, 2016. We received opening comments on July 15, 2016, and I eagerly await what stakeholders have to say in reply comments, which are due by August 12, 2016.

Rate Cases. As previously reported in my second quarterly update letter, the Board initiated a proceeding to expedite rate cases on June 15, 2016, in accordance with Section 11 of the Act. After a productive round of informal meetings with practitioners, consultants, and other stakeholders, we await the first round of written comments which are due by today, August 1, 2016. Reply comments are due by August 29, 2016.

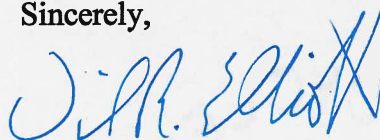
Regulatory Proceedings. July was another productive month for the agency. I am pleased to report that the Board issued a notice of proposed rulemaking in EP 711, Petition for Rulemaking to Adopt Revised Competitive Switching Rules and EP 711 (Sub-No. 1), Reciprocal Switching. The Board Members had previously projected that a decision would be issued in June 2016. After much deliberation, voting was completed in time to meet our modified deadline of July 2016. The decision was issued on July 27, 2016. Opening comments are due by September 26, 2016 and reply comments are due by October 25, 2016. Following the comment period, my fellow Board Members and I will each meet with stakeholders in October and November. I look forward to engaging with stakeholders directly to discuss further their views on reciprocal switching and our proposed rules.

This past month the Board also issued decisions in EP 726, On-Time Performance Under Section 213 of the Passenger Rail Investment and Improvement Act of 2008, and EP 728, Policy Statement on Implementing Intercity Passenger Train On-Time Performance and Preference Provisions of 49 U.S.C. § 24308(c) and (f). After receiving robust and informative comments on both the notice of proposed rulemaking and proposed policy statement, I am pleased that the Board was able to reach a consensus with respect to our action in response.

Also in July, the Board issued a notice of proposed rulemaking in EP 734, Dispute Resolution Procedures Under the Fixing America's Surface Transportation Act of 2015. In that decision, the Board proposed regulations to implement certain passenger rail-related dispute resolution provisions. Opening comments are due by August 31, 2016, and reply comments are due by September 30, 2016.

Thank you for your ongoing interest in our work implementing the Reauthorization Act. I hope this information is helpful to you. Please do not hesitate to contact me with questions or concerns about this 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
July 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	<ol style="list-style-type: none"> 1. Establish & maintain formal complaint database 2. Create report 3. Post quarterly reports on website 	Third Qtr 2016	Database established, report format created, second quarterly report completed 7/1/2016; posted to website; next report underway
Sec. 6(b) - Informal Service Complaints	<ol style="list-style-type: none"> 1. Establish & maintain informal complaint database 2. Create report 3. Post to website 	Third Qtr 2016	Database established, report format created, second quarterly report completed 7/1/2016; posted to website; next report underway
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 are due by 8/1/16; reply comments are due by 8/29/16
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 and EP665 may result in additional ideas/approaches
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 are due by 8/12/16; intend to issue final rules by 12/18/2016
Sec. 13 - Arbitration Rulemaking	Promulgate regulations to establish voluntary and binding arbitration process for rate and	12/18/2016	Section 5 meeting conducted to discuss proposals; NPRM issued 5/12/2016; comments were due by 6/13/16; reply comments

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

Section of Law - Action Required	Description	Deadline	Status
Sec. 15 - Rate Case Methodology Report	practice complaints	12/18/2016	were due by July 1, 2016; intend to issue final rules within the third quarter of 2016
Sec. 15 - Unfinished Regulatory Proceedings Quarterly Reports	Report to Congress on sufficiency of STB rate case methodologies and alternatives	Third Qtr 2016	A railroad rate regulation study is ongoing and a final report is anticipated in advance of 12/18/2016
	Provide quarterly progress report to Congress on pending proceedings; first report due 60 days after enactment		Second quarterly report completed and submitted to Congress 7/1/2016; posted to website; next report underway