



Office of the Chairman

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

September 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"). 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.

Thank you again for the opportunity to testify on August 11, 2016, at the *Freight Rail Reform: Implementation of the Surface Transportation Board Reauthorization Act of 2015* full committee hearing in Sioux Falls. 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.

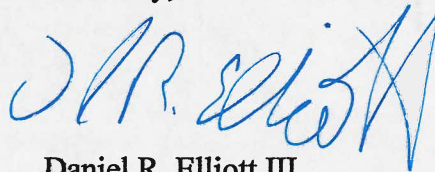
Additionally, this past month, the Board issued its decision in EP 431 (Sub-No. 4), Review of the General Purpose Costing System, proposing certain changes to our general purpose costing system, the Uniform Railroad Costing System. As a follow-on to that decision, STB staff will be holding a workshop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

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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