



American Short Line and Regional Railroad Association

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February 13, 2020

Allison C. Davis
Director, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: Docket No. EP 761, Hearing on Revenue Adequacy, and
Docket No. 722, Railroad Revenue Adequacy

Dear Director Davis,

The American Short Line and Regional Railroad Association ("ASLRRA") files this letter to state its concerns arising from the captioned proceedings. ASLRRA is a national trade association of approximately 1,000 members, consisting of approximately 600 short line and regional small, locally based railroads as well as approximately 500 vendors and suppliers to the railroad industry. The railroad members operate about 50,000 miles of track constituting 32 percent of the nation's rail network, frequently supplying the first and last mile of freight rail service. Railroads are a vital engine of growth for the nation's expanding economy and must continue to have the opportunity, ability, and incentives to invest in their networks. ASLRRA believes that railroad financial health must not become a penalty that restrains future investment in the U.S. rail network.

On December 12 and 13, 2019, the Surface Transportation Board ("STB" or "Board") held two days of hearings on EP 761 and EP 722 on the report issued by the Rate Reform Task Force ("RRTF") and its recommendations regarding issues surrounding revenue adequacy of Class I railroads. The STB requested that each party address the RRTF's four recommendations concerning the definition of long-term revenue adequacy, rate increase constraint, bottleneck changes, and Simplified Stand-Alone Cost changes. Because the proceedings were directed at revenue adequacy matters concerning Class I railroads, ASLRRA did not determine a need to

become a party to them or to provide comments or testimony. It did, however, send a representative to observe the hearing. Two issues concerning small railroads arose during the testimony of some of the shipper witnesses: the first issue concerns the testimony of a few shippers who addressed the issue of the changes the RRTF proposed regarding elimination of the Bottleneck protections, and the second issue pertains to the use of the Uniform Rail Costing System ("URCS") by the RRTF in its recommendations.

While the Notice of Hearing in these proceedings asked parties to address the recommendation concerning removing the Bottleneck protections for those Class I carriers who were determined to be revenue adequate, a few shippers submitted comments or testimony that went beyond that issue, asserting that the STB should adopt the reciprocal switching proposed in EP 711 (Sub-No. 1) for the same reasons stated by the RRTF in its recommendations to suspend the bottleneck protections. This assertion is beyond the scope of the notice of hearing and addresses the much broader issues involved in EP 711 (Sub-No. 1).

ASLRRA is a participant of record in EP 711 (Sub-No. 1) and its predecessor-related proceedings.¹ Its consistent position throughout the pendency of those proceedings has been that the STB should not impose a rule mandating reciprocal switching as it would be extremely injurious to the national rail system. ASLRRA also has consistently stated that if the Board should determine to impose what amounts to a forced access rule, it must completely exempt small railroads from the rule. Consistent with ASLRRA's previously stated arguments in EP 711, imposing such a rule on small railroads would cause a devastating financial blow to them and could force some out of business, which would be harmful to them, the customers they serve, and the national rail network. The STB should not allow a party to shoehorn in positions taken in an unrelated proceeding into this hearing on revenue adequacy, particularly when there is no notice to the parties in EP 711 (Sub-No. 1) that the issues in that proceeding would be the subject in the hearing in the captioned proceedings. Inclusion of them here is of fundamental unfairness to small railroads.

Although ASLRRA railroad members may not be directly affected by any changes the STB may make regarding revenue adequacy of Class I railroads, it is concerned by the RRTF's use of URCS within its recommendations. The STB uses URCS to determine a number of matters, including adjudicating disputes involving through routes and divisions of revenue, and in abandonment proceedings. As stated in a White Paper produced by the Railroad-Shipper Transportation Council ("RSTAC") dated November 22, 2011, the use of URCS to make these types of decisions "could lead to inaccurate and unfair results to either shippers or railroads."² As the infirmities of URCS have not been meaningfully addressed to date, ASLRRA is concerned about the RRTF's use of it as underpinning for determining revenue adequacy, especially if the proposed changes would adversely affect small railroads through seemingly unrelated decisions like forced access.

¹ Docket No. EP 705, Competition in the Rail Industry and Docket No. EP 711, Petition for Rulemaking to Adopt Revised Competitive Switching Rule.

² See "Position Paper on the Uniform Rail Costing System." *Railroad-Shipper Transportation Advisory Committee*, Washington, D.C. Nov. 22, 2011.

ASLRRRA respectfully requests that the Board disregard the comments or testimony of those shippers who advocated the imposition of the concept of reciprocal switching proposed in EP 711 (Sub-No. 1) in EP 761 and EP 722 as out of scope. Additionally, the Board should also disregard the use of URSCS as recommended by the RRFT within these matters. To do otherwise would be a manifest injustice to small railroads.

Respectfully Submitted,

A handwritten signature in black ink that reads "Sarah Yurasko". The signature is written in a cursive, flowing style.

Sarah G. Yurasko