

United States Senate

February 20, 2020

The Honorable Ann D. Begeman
Chairman
Surface Transportation Board
395 E Street S.W.
Washington, D.C. 20423

The Honorable Martin J. Oberman
Board Member
Surface Transportation Board
395 E Street S.W.
Washington, D.C. 20423 EP 722
EP 761

300417

The Honorable Patrick J. Fuchs
Vice Chairman
Surface Transportation Board
395 E Street S.W.
Washington, D.C. 20423

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Dear Chairman Begeman, Vice Chairman Fuchs, and Commissioner Oberman:

Freight rail is a critical part of our nation's transportation system—ensuring our states, communities, workers, farmers, families, and businesses have access to the goods and markets they need to grow and succeed. As the freight railroads' economic regulatory agency, the Surface Transportation Board (STB) plays an important role in ensuring that the railroads can continue to provide the safe, reliable, and sustainable service the constituencies they serve rely upon. As part of this role, however, it is incumbent on the commissioners to avoid capricious, unnecessary regulatory actions that could artificially distort the freight rail market and stymie a meaningful return on investment for freight railroads.

As you know, many of the issues the STB is considering could have far reaching effects on the rail network and the shippers they serve. It is for this reason that I was especially concerned with the STB's December 12, 2019 hearing on revenue adequacy and other related actions that could potentially result in the STB imposing an artificial price cap or engaging in price fixing of the rates freight railroads can charge their customers. Not only would such a decision undermine the competitive environment that the freight railroad industry has flourished under since the enactment of the Staggers Act, likely causing the industry to withhold important capital investments in infrastructure, but more fundamentally it would fly in the face of the free market principles that have made the United States' economic system great. While I understand the STB has an important role to play in the regulation of interstate commerce, it is crucial that any proposals moving through the process continue to be grounded in sound economic principles and supported by data-driven empirical analyses.

The principles that the STB has relied on to date have allowed the rail industry to improve safety and invest an average of \$25 billion annually to maintain and improve their operations and private infrastructure, including the implementation of positive train control. Furthermore, these investments have led to rail being recognized as the highest graded form of infrastructure by the American Society of Civil Engineers. It would be a mistake for the STB to engage in market-distorting regulatory actions that threaten the economic viability of the freight railroad industry. It is crucial that any regulatory structure continue to recognize the importance of the railroads' ability to improve and maintain their world-class networks in order to meet their customers' and the nation's freight transportation demand today and in the future. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ted Cruz', with a stylized flourish at the end.

Ted Cruz
United States Senator