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To: [Oberman, Martin](#); [Primus, Robert](#); [Begeman, Ann](#); [Fuchs, Patrick](#); [Schultz, Michelle](#)
Cc: [Erichsen, Ellen](#); [Gorski, Amanda](#); [Novins, Lisa](#); [Small, Michael](#); [Sheng, Janie](#); [Higgins, Michael](#)
Subject: Rail Customer Coalition Letter re: Executive Order on Promoting Competition in the American Economy
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Docket No. EP 711 (Sub-No. 1)

To: Chairman Oberman, Vice Chairman Primus, and Board members Begeman, Fuchs, and Schultz

Please see the attached letter to the Board from members of the Rail Customer Coalition, commenting on the President's July 9 Executive Order.

Feel free to contact me if you have any questions about this letter.

Thank you.

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July 28, 2021

The Honorable Martin J. Oberman
Chairman
Surface Transportation Board

The Honorable Robert E. Primus
Vice Chairman
Surface Transportation Board

The Honorable Ann D. Begeman
Board Member
Surface Transportation Board

The Honorable Michelle A. Schultz
Board Member
Surface Transportation Board

The Honorable Patrick J. Fuchs
Board Member
Surface Transportation Board

Via Electronic Mail

Dear Chairman Oberman, Vice Chairman Primus, and Board Members Begeman, Fuchs, and Schultz:

The Rail Customer Coalition (RCC) welcomes the call in President Biden's July 9 Executive Order for further competition in the rail industry. Competition is the foundation of the free enterprise system and helps American producers grow their businesses and create new jobs. As business leaders, we urge the Surface Transportation Board to adopt the pro-competitive rail policies highlighted in the EO, consistent with the Board's Congressional mandate to promote effective competition in the freight rail industry.

The RCC represents a broad range of manufacturing, agricultural, and energy industries that depend on the railroads to deliver reliable and affordable service. Our industries 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. Collectively, we provide more than 7 million jobs and produce more than \$4.8 trillion in economic output.

Congress has established competition as a fundamental goal of U.S. freight rail policy, and the Staggers Rail Act of 1980 specifically empowers the STB to grant reciprocal switching when it is in the public interest or necessary to provide competitive rail service. Reciprocal switching permits a shipper served by a single major railroad to request to have its freight transferred to another railroad at a nearby interchange.

Unfortunately, the Board's existing rules impose such high regulatory hurdles that no rail customer has ever been able to successfully request switching. As stated by the Board itself, these rules have

"effectively operated as a bar" rather than as "a standard under which [switching] could be granted." By blocking shippers' access to competitive bids, these rules artificially increase the railroads' market power at the expense of American businesses, consumers and the entire economy. Since 2004, with the vast majority of rail traffic controlled by the four largest railroads, real rail rates (adjusted for inflation) have increase by 43%.

The Executive Order encourages the Board to strengthen its reciprocal switching rules and to consider other rulemaking to strengthen competitive access. As stated by Chairman Oberman, "In the absence of a truly competitive marketplace, the Board can and should focus on using its competition-related authorities where feasible and reforming its competition policies where necessary." The Board has been working on such pro-competitive actions for the last decade, and has laid the groundwork necessary to move expeditiously to adopt final rules.

Given the dramatic concentration of market power in the railroad industry, rethinking policies designed for a different era is both timely and smart. Reciprocal switching would help empower rail customers such as farmers, manufacturers and energy providers to choose a carrier that provides the best combination of rates and service. Furthermore, greater market choice would fundamentally change shipper-railroad relationships and help facilitate informal solutions to rate and service issues.

We urge the Board to finalize reciprocal switching rules and to consider further steps that will at long last provide shippers with greater access to competitive rail service. The Board should also finalize workable rate relief procedures for shippers that lack competitive transportation options and scrutinize potential rail mergers to ensure the public interest is protected. Such actions will help fully achieve the Staggers Act's vision of a healthy and competitive freight rail system.

Thank you for your attention to this important matter. Please contact any of our organizations if you have questions.

Sincerely,

The members of the Rail Customer Coalition:

American Bakers Association
Renewable Fuels Association
Agricultural Retailers Association
Agriculture Transportation Coalition
Alliance for Automotive Innovation
Alliance for Rail Competition
American Farm Bureau Federation
American Chemistry Council
American Fuel & Petrochemical Manufacturers
American Forest & Paper Association
American Malting Barley Association, Inc.

American Petroleum Institute
American Public Power Association
Associated Industries of Massachusetts
Association of Global Automakers
Chemistry Council of Missouri
Chemistry Council of New Jersey
Chemical Industry Council of California
Chemical Industry Council of Delaware
Chemical Industry Council of Illinois
Consumer Brands Association
Corn Refiners Association

The Chlorine Institute
Defoamer Industry Trade Association
Edison Electric Institute
The Fertilizer Institute
Freight Rail Customer Alliance
Foundry Association of Michigan
Georgia Chemistry Council
Glass Packaging Institute
Global Automakers
Growth Energy
Idaho Grain Producers Association
Independent Lubricant Manufacturers Association
Industrial Minerals Association — North America
Institute of Scrap Recycling Industries, Inc.
International Warehouse Logistics Association
Louisiana Chemical Association
Manufacture Alabama Chemistry Advisory Council
Manufacturers Association of Florida
Massachusetts Chemistry Technology Alliance
Michigan Chemistry Council
Motorcycle Industry Council
National Association of Chemical Distributors
National Barley Growers Association
National Cotton Council
National Farmers Union
National Grange
National Industrial Transportation League
National Mining Association
National Pork Producers Council

National Rural Electric Cooperative Association
National Sorghum Producers
National Stone, Sand and Gravel Association
Nebraska Wheat Board
New York State Chemistry Council
North Carolina Manufacturers Alliance
Ohio Chemistry Technology Council
Ohio Manufactures' Association
Pennsylvania Chemical Industry Council
Plastic Pipe and Fittings Association
Plastics Industry Association
Portland Cement Association
Private Railcar Food and Beverage Association
PVC Pipe Association
Renewable Fuels Association
Resilient Floor Covering Institute
Society of Chemical Manufacturers and Affiliates
Southeastern Lumber Manufacturers Association
South Carolina Manufacturers Association
Steel Manufacturers Association
The Sulphur Institute
Tennessee Chamber of Commerce & Industry
Texas Chemical Council
United States Fashion Industry Association
Vinyl Building Council
The Vinyl Institute
Vinyl Siding Institute
West Virginia Manufacturers Association
Wyoming Wheat Marketing Commission