



**National Grain
and Feed Association**

www.ngfa.org

1400 Crystal Drive, Suite 260

Arlington, VA 22202

P: (202) 289-0873

303521

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
January 14, 2022
Part of
Public Record

**STB Docket No. EP 755
FINAL OFFER RATE REVIEW**

**STB Docket No. EP 665 (Sub-No.2)
EXPANDING ACCESS TO RATE RELIEF**

**OPENING COMMENTS OF
THE NATIONAL GRAIN AND FEED ASSOCIATION**

The National Grain and Feed Association (“NGFA”) hereby submits these Opening Comments on the Supplemental Notice of Proposed Rulemaking (“SNPRM”) issued by the Surface Transportation Board (“Board” or “STB”) on November 12, 2021.

I. Identity and Interest of the NGFA

The NGFA, established in 1896, consists of more than 1,000 grain, feed, processing, exporting and other grain-related companies that operate more than 8,000 facilities handling U.S. grains and oilseeds. Its membership includes grain elevators; feed and feed ingredient manufacturers; biofuels companies; grain and oilseed processors and millers; exporters; livestock and poultry integrators; and associated firms that provide goods and services to the nation’s grain, feed, and processing industry. The

NGFA also consists of 27 affiliated State and Regional Grain and Feed Associations and is co-located and has a strategic alliance with the North American Export Grain Association, and a strategic alliance with the Pet Food Institute.

II. Comments of the NGFA on the SNPRM

The NGFA has been an enthusiastic supporter of the Board's development and consideration of the Final Offer Rate Review ("FORR") procedure that would be applicable to smaller rate case disputes. In its prior submissions in these proceedings dated November 12, 2019 and January 10, 2021, respectively, the NGFA offered several constructive critiques and suggestions that its members believed would improve the final version of the proposed FORR regulations for agricultural shippers. The NGFA is pleased and appreciative that the Board has included some of those suggestions in the SNPRM. The NGFA believes that the proposed rules as set forth in the SNPRM are fully authorized by the Board's implementing statutes and are reasonable, although numerous questions necessarily would remain upon adoption of the rules because they will only be answered when the final rules are applied in individual cases.

The NGFA also concurs with the Board that "the modifications to the proposed rule described in this decision are not the type that would necessitate additional notice and comment under the Administrative Procedure Act,"¹ and that therefore the Board could have issued the modified proposal in the SNPRM as a final rule. Indeed, the NGFA's maintains that the Board should have done so, and that the Board should not further delay the issuance of final FORR regulations by "consider[ing]" them "in parallel with the proposal in Docket No. EP 765 to establish an arbitration program that could include an exemption from FORR for carriers that participate in the program."²

Respectfully submitted,

Sincerely,

¹ SNPRM at 9.

² *Id.*



Michael C. Seyfert
President and Chief Executive Officer
National Grain and Feed Association
1400 Crystal Drive, Suite 260
Arlington, VA 22202
mseyfert@ngfa.org
202-289-0873



Thomas W. Wilcox
Law Office of Thomas W. Wilcox, LLC
1629 K. Street, NW Suite 300
Washington, DC 20006
tom@twilcoxlaw.com
202-508-1065

*Transportation Counsel for the National Grain
and Feed Association*

January 14, 2022