

SURFACE TRANSPORTATION BOARD**Ex Parte 711 (Sub. No. 1)****Reciprocal Switching**

ENTERED
Office of Proceedings
April 4, 2022
Part of
Public Record

**Summary of Ex Parte Meeting Between CSX Transportation, Inc.,
and Surface Transportation Board Member Patrick Fuchs**

March 24, 2022CSX Attendees:

- Sean Pelkey, Executive Vice President and Chief Financial Officer
- Nathan Goldman, Executive Vice President, Chief Legal Officer and Corporate Secretary
- John Patelli, Head of Regulatory & Federal Affairs, Associate General Counsel
- Jason Marques, Senior Counsel, Corporate & Transportation Law
- Raymond Atkins, Sidley Austin LLP

STB Attendees:

- Patrick Fuchs, Board Member
- Lisa Novins, Attorney Advisor
- Stephanie Borges, Administrative Assistant

Meeting Summary:

CSX thanked Member Fuchs for the opportunity to meet. Because of the time constraints associated with CSX's hearing testimony, which was presented on the last panel of the last day of the hearing, CSX explained that it hoped to elaborate on its testimony and offer Member Fuchs an opportunity to ask questions about its presentation.

CSX began by revisiting slides 9 and 10 of its hearing presentation, which address how the mandatory reciprocal switching proposal would influence its capital budgeting process. Uncertainty over customer retention would reduce expected returns of many new projects below CSX's cost of capital, reducing its incentives to invest. Member Fuchs asked to what extent CSX accounts for the potential of losing rail business to competitors, as depicted in CSX's hearing slides, without reciprocal switching. CSX explained that it accounts for the possibility of loss of business to trucks and other modes when making investment decisions.

CSX then addressed the idea raised by Chairman Oberman at the hearing to limit the proposal to existing reciprocal switching locations. CSX provided two maps to illustrate the limited difference to CSX between the rule as originally proposed and Chairman Oberman's suggestion to rely upon existing reciprocal switch locations. CSX also provided a third map to contrast the small amount of reciprocal switching that took place in 2021, fewer than 20,000 carloads, with the roughly 1 million carloads that originate or terminate within 30 miles of a junction where reciprocal switching occurs today.

Member Fuchs asked how many shippers at existing reciprocal switch locations could request switches but do not. CSX indicated there had not been enough time for that factual inquiry. Member Fuchs also asked whether limitations to the rule could be drawn based on practices at existing reciprocal switch locations to decrease the total carload impact compared to the presented radius (e.g., 30 miles). CSX responded that limitations couldn't solve for the uncertainties that would hurt investment decisions.

Finally, CSX discussed existing regulatory tools to address service problems, including relief at 49 C.F.R. § 1147.1. Member Fuchs asked how investment incentives are implicated by the current service rules. CSX explained that part 1147 poses low risk to railroad investment incentives because it is temporary. CSX contended that the *Midtec* standard strikes an appropriate balance by considering anti-competitive conduct. In CSX's view, if a railroad is not at fault, a permanent reciprocal switching award would deter investment, compress rates, and undermine differential pricing.

Member Fuchs asked about possible refinements to part 1147, including clarifying the standard for relief and the duration of the remedy. Member Fuchs and CSX discussed whether a defined period of relief would motivate railroads to improve service, not last so long as to be unduly punitive, and would give shippers enough certainty to bring cases.

Member Fuchs and CSX discussed the railroad's burden to demonstrate its readiness to resume service under part 1147. CSX raised whether there needed to be a showing by the railroad if the relief were set in duration, and drew a parallel to rate prescriptions, which simply end at the conclusion of the prescription. CSX also explored the idea of a buffer period, where a railroad could show readiness to resume service at any time but the transition would be delayed by a pre-established minimum time period.

CSX and Member Fuchs thanked each other for their time and insights and concluded the meeting.

Copies of the slides used in the meeting are attached.

CSX's improved profitability enables new investments

- A shipper has asked CSX to invest **\$10 Million** in rail capacity upgrades at the customer's facility
- With the investment, CSX adds **\$7.5 Million** in annual revenue and 3,000 incremental carload

	Scenario 1: Pre-Scheduled Railroading		Scenario 2: Post-Scheduled Railroading	
	Years 1-3 Business Locked	Years 4-10 75% Retention Probability	Years 1-3 Business Locked	Years 4-10 75% Retention Probability
Revenue per Carload	\$2,500	\$2,500	\$2,500	\$2,500
Annual Revenue	\$7.5M	\$7.5M	\$7.5M	\$7.5M
OR on the Business	75%	75%	60%	60%
Annual Operating Income	\$1.9M	\$1.9M	\$3.0M	\$3.0M
Probability	100%	75%	100%	75%
Weighted Annual Cash Flow ¹	\$1.4M	\$1.1M	\$2.3M	\$1.7M
Rate of Return	3%		14%	
Will CSX Invest	NO		YES	

Reciprocal switching uncertainty will prevent growth investments

- The probability of retaining business after the 3-year contract is another major consideration in CSX's analysis
- **Reciprocal switching makes our projections much less certain...**

Revenue per Carload
Incremental Annual Revenue
OR on the Business
Annual Operating Income
Probability
Weighted Annual Cash Flow ¹
Rate of Return
Will CSX Invest

Scenario 3: Reciprocal Switching

	Years 4-10 Business Scenarios		
Years 1-3 Business Locked	Keep business at lower rate	Lose to other RR; receive switch fee	Lose to Truck
\$2,500	\$2,140	\$500	
\$7.5M	\$6.4M	\$1.5M	
60%	70%	75%	
\$3.0M	\$1.9M	\$0.4M	\$0.0M
100%	50%	25%	25%
\$2.3M	\$0.8M		
5%			
NO			





