

SURFACE TRANSPORTATION BOARD**Ex Parte 711 (Sub-No. 1)****Summary of Ex Parte Meeting between Association of American Railroads and
Surface Transportation Board Member Karen Hedlund****ENTERED
Office of Proceedings
April 25, 2022
Part of
Public Record****April 21, 2022****AAR Attendees:**

- Tim Strafford, Associate General Counsel and Corporate Secretary
- Fred Miller, Assistant General Counsel and Government Affairs Liaison
- Ben Horwich, Counsel to Association of American Railroads

STB Attendees:

- Karen Hedlund, Member
- Charles Vance, Attorney Advisor

Summary:

AAR highlighted several operational complications and infrastructure limitations that could arise in terminals where limited reciprocal switching may exist today, but which would be strained by expansion of those operations. AAR explained that these operational considerations would need to be evaluated on a location-specific basis, which means that a rule that does not take account of railroad conduct and service levels at specific locations would have undesirable operational effects.

AAR noted its concerns around the proposed rule's effect on both future investment and on current differential pricing, and observed that the two concerns were rooted in the industry's ability to cover the fixed costs of up-front investment and continue to invest in its network over the long term.

AAR and Member Hedlund discussed the issue raised in comments and at the hearing regarding whether reciprocal switching orders must be limited to terminal areas. AAR explained that the standard for identifying a terminal area was well-established and workable, and that the concept of reciprocal switching is inherently associated with operations conducted between two railroads in a terminal area with respect to a shipper located in that terminal area. AAR noted that this was both an important practical limitation and a firm statutory line that distinguishes reciprocal switching from other forms of prescribed service. AAR elaborated that, for that reason, a limitation to switching within a terminal area was a statutorily required condition on any forced switching rule. AAR added that a failure to observe this distinction, especially when coupled with other proposals that have been discussed during the hearing and in comments, poses significant risks of regression to an open routing regime.

Member Hedlund and AAR discussed the issue of whether rules in this field should be written to grant new rights to shippers, or instead to identify particular problems (relating to conduct, service, or otherwise) and examine whether a particular remedy would ameliorate the identified problems.

Member Hedlund noted her concerns about railroad hiring levels, ongoing service issues, captive shipper rates, and the effect of competitive conditions on rates, while noting that such concerns bear varying degrees of connection to the issues presented in this particular proceeding. Member Hedlund expressed her desire to promote development of the rail network and move traffic from truck to rail wherever possible, promote efficient operations moving cargo from ports to rail, and finding ways to create the right incentives for railroads to pursue those goals. AAR expressed its agreement with those goals.