

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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Docket No. EP 711 (Sub-No. 1)

RECIPROCAL SWITCHING

**Summary of Ex Parte Meeting Between the American Short Line and Regional Railroad
Association and Surface Transportation Board Chairman Martin Oberman and
Member Patrick Fuchs**

April 21, 2022

ASLRRA Attendees: Chuck Baker, President; Sarah Yurasko, Senior Vice President Law & General Counsel; Michael Ogborn, Senior Advisor

STB Attendees: Martin Oberman, Chairman; Patrick Fuchs, Member; Stephanie Borges, Senior Executive Assistant; Carolyn Chachkin, Appellate Attorney; Ellen Erichsen, Chief of Staff; Laura Wilson, Attorney-Advisor

ASLRRA thanked Chairman Oberman and Member Fuchs for their time and the opportunity to meet.

ASLRRA summarized the points made in its April 4, 2022 supplemental comments, which were in response to the line of questioning from Chairman Oberman and Member Fuchs during the March 15-16 hearings regarding how much overall freight rail network traffic that would otherwise be subject to the rule would be excluded from reciprocal switching if a reciprocal switching rule were to be issued that excluded short line traffic, with the addition of the clarifying wording that ASLRRA has suggested.

ASLRRA analyzed data and determined that a little over ten percent of freight rail traffic that would otherwise be subject to the rule would be excluded if the Board determines to promulgate the proposed reciprocal switching rule with short line traffic excluded. ASLRRA arrived at that figure by determining that about twenty percent of all freight cars are served by short lines and that almost half of that traffic is already dual-served or would not be able to seek reciprocal switching due to interchange commitments.

Chairman Oberman asked if the rule could be revised to state that it applies to all railroads, but that the Board will consider any adversely impacted short line railroad's specific situation. ASLRRA noted a high level of concern with relying on that sort of case-by-case process to protect short lines, particularly because in practice it would be unlikely for most cases to actually end up at the STB. ASLRRA suggested instead that perhaps the STB could consider writing the rule to state that traffic moving on a short line would be excluded as originally

suggested, unless both the shipper facility and the short line railroad in question both jointly agree to request a reciprocal switch. Chairman Oberman suggested that this approach could make a reciprocal switching solution open to as many shippers as possible while not harming short line railroads, which have unique economics.

Member Fuchs, furthering that point, observed that many short lines were created precisely because of the challenging economics of the line in question and thus the Board should consider their economic circumstances before inadvertently exposing them to potential harm. Member Fuchs noted that short line railroads are a much smaller percentage of any service issues (even relative to their traffic) but, due to lower margins, could feel a higher percentage of the pain if the rule were written without their circumstances in mind. He pondered at first whether the Board could promulgate the rule to exclude short lines and then come back to review it at a later date to decide whether to include short lines in some way. He indicated openness to constructing a rule so that a shipper facility moving traffic on a short line would need to obtain the agreement of the short line before requesting a reciprocal switch would sufficiently protect short lines.

ASLRRA thanked Chairman Oberman, Member Fuchs, and their staff for their hard work on this complex issue. Chairman Oberman closed with the concept that the rule should protect short line railroads but be built so that there can be maximum competition.