

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
June 30, 2022
Part of
Public Record

Ex Parte No. 768

**PETITION FOR RULEMAKING TO ADOPT RULES
GOVERNING PRIVATE RAILCAR USE BY RAILROADS**

COMMENTS OF CSX TRANSPORTATION, INC.

On April 1, 2022, the Board requested comment on issues relating to the petition for rulemaking in this proceeding.¹ The petition for rulemaking asks the Board to create a new regulatory regime that would impose on a railroad a “private railcar delay charge” whenever a private railcar exceeds an allowable transit idle time (72 hours) on a railroad’s system.² The Petition was filed by a group of trade associations who argue that such a Board-imposed regulatory fee on delayed private railcar movements is necessary to incentivize railroads to move private cars efficiently.

CSX Transportation, Inc. (“CSXT”) joins in support of the opening comments filed by the Association of American Railroads, which explain that railroads have strong incentives to handle privately-owned railcars efficiently, that there is no

¹ Decision, *Petition for Rulemaking to Adopt Rules Governing Private Railcar Use by Railroads*, Docket No. EP 768 (STB served April 1, 2022).

² Petition for Rulemaking to Adopt Rules Governing Private Railcar Use by Railroads, Docket No. EP 768, at 18 (filed July 26, 2021) (“Petition”).

justification for the new regulatory regime sought by petitioners, and that the Board lacks authority under 49 U.S.C. § 11122(a) to adopt it in any event.

CSXT previously explained in its August 2021 reply to the Petition³ that railroads have ample incentives to move private cars efficiently, and that there is no market failure justifying an extensive new marketplace intervention. CSXT noted the absence of any evidence that railroads require further incentive to transport private railcars as quickly as possible and explained that, if adopted, the proposal would create market distortions and unintended consequences.

CSXT will review carefully any evidence petitioners or others may submit suggesting that railroads move private cars less efficiently than system cars and reserves the right to respond to any new evidence or argument on reply.

Respectfully submitted,

John P. Patelli
David Prohovsky
CSX TRANSPORTATION, INC.
500 Water Street
Jacksonville, FL 32202

/s/ Raymond A. Atkins
Raymond A. Atkins
Matthew J. Warren
Sidley Austin LLP
1501 K Street, N.W.
Washington, DC 20005
(202) 736-8000

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³ CSX Transportation Inc.'s Reply to Petition for Rulemaking, *Petition for Rulemaking to Adopt Rules Governing Private Railcar Use by Railroads*, Docket No. EP 768, (filed Aug. 30, 2021).