



The Resource for Warehouse Logistics

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**Ex Parte 711 (Sub-No. 2)
RECIPROCAL SWITCHING**

COMMENTS OF

THE INTERNATIONAL WAREHOUSE LOGISTICS ASSOCIATION (IWLA)

307410

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The International Warehouse Logistics Association (IWLA) would like to voice our support for the Board's proposed rules to provide railroad customers with greater access to reciprocal switching as a remedy for inadequate rail service. The proposed rule will provide meaningful relief to shippers experiencing rail service deficiencies and improve first- and last-mile service data, but we are disappointed that the rule does not go far enough to promote and incentivize rail competition, which was the original intent of the Board's 2016 proposal. Nonetheless, we strongly urge the Board to adopt the proposed reciprocal switching rule as a short-term solution to poor rail service in certain circumstances, and encourage the Board to look into future reciprocal switching rules that go further in addressing railroad economic competitiveness and promoting competition in the freight rail industry.

IWLA is a 501(c) (6) non-profit trade association representing the interests of third party logistics (3PL) warehouse operations throughout the United States and Canada. 3PL warehouse companies receive, store, and ship other company's goods and act as that company's warehouse, while not owning any of the products. We represent over 500 companies whose more than 3500 warehouses primarily serve manufacturers and retailers in metropolitan areas and other transportation hubs. More than 50 percent of the 3PL warehouse companies receive and/or ship goods via rail, and many are captive shippers with access to only one Class I railroad.

IWLA members have long been concerned about the prolonged service deficiencies facing rail shippers in recent years. Rail service disruptions are a major contributor to supply chain challenges, with significant delays impeding the movement of products across the nation, many of which are critical to our food, energy, and manufacturing infrastructure. These disruptions and diminished service have been an increasing issue for warehouses since the implementation of Precision Scheduled Railroading (PSR), while an increase in shipped goods since the pandemic has further eroded levels of service and resulted in significant delays across the network. By steeply reducing headcounts and capital expenditure budgets, the railways are clearly not able



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to effectively handle surges in rail traffic volume, and with less redundant capacity built into the system, it can lead to service disruptions due to weather issues, equipment failure, or seasonal surges in freight, as we have recently experienced.

Over recent years, the rail network has experienced unprecedented service disruptions and delays, as highlighted during the Board's April 2022 hearing on "Urgent Issues in Freight Rail Service". Reports from IWLA members indicate reliable rail service is not being provided in many situations, and the weekly data collected by the STB to track railroad performance clearly supports this and shows that railroads are failing to deliver adequate and reliable service – averaging less than a 65% on time arrival¹, with some carriers at or below 50%².

The Board's proposed rule would will help shine light on these service deficiencies and provide relief to captive shippers receiving inadequate levels of rail service, and for the first time will provide specific, clear criteria on what constitutes adequate service. The permanent collection of first- and last-mile data and increased data availability to shippers will give unprecedented levels of transparency to shippers, and recourse for some should they face inadequate levels of service. The rule will also allow certain rail customers to request that their freight be moved to another major railroad when the railroad to which they have access fails to meet certain service thresholds, based on service reliability, service consistency, and adequacy of service. While this will provide remedy to many shippers facing service disruptions, it will not address the broader issue of promoting competition in the rail industry, which is the Board's primary purpose.

The first two national rail transportation policies enumerated by Congress direct the Board "to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail" and "to minimize the need for Federal regulatory control over the rail transportation system...."³ The Staggers Rail Act of 1980 specifically empowers the STB to grant reciprocal switching when it is in the public interest or necessary to provide competitive rail service. Unfortunately, the Board's existing rules impose such high regulatory hurdles that no rail customer has ever been able to successfully request switching. As stated by the Board itself, these rules have "effectively operated as a bar" rather than as "a standard under which [switching] could be granted."

This outdated policy makes no sense given today's highly concentrated railroad market and the financial strength of the US railroads. The Board's recent Annual Rail Rate Index Study shows that since 2004, real rail rates (adjusted for inflation) have increase by 30%. Many shippers remain captive to their railroad, even when reciprocal switching could help relieve railroad service disruptions and congestion, which would help ease overall costs. Reciprocal switching can open more service options and help ease congested routes for all captive shippers, not just those who receive levels of service that are below a certain threshold. Furthermore, railroads already use switching every day in the United States to move freight from one rail line to another - they just don't like the idea of customers using it to get competitive bids.

¹ For cars moving in manifest service, the percentage of cars constructively or actually placed at destination within 24 hours of the original estimated time of arrival

² Weekly data collected by the Surface Transportation Board; Weeks of 5/20/2022 and 5/27/2022

³ 49 U.S.C. § 10101(1) & (2)



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In addition to addressing inadequate levels of rail service and improving service options, a broader rule on reciprocal switching would help remove barriers to competition and promote a more competitive freight rail industry. Reciprocal switching would empower all rail customers, including 3PL warehouses, to choose a carrier that provides the best combination of rates and service. Furthermore, greater market choice would fundamentally change shipper-railroad relationships and help facilitate informal solutions to rate and service issues.

With that in mind, we still recognize the Board's proposed rule will help to resolve some service problems that rail shippers have been experiencing for years, and will do much to increase data availability for shippers and provide greater levels of transparency. We feel this proposed rulemaking is an appropriate next step to improve rail service, though additional steps will be needed to further incentivize rail competition in the near future.

We urge the Board to finalize the proposed Reciprocal Switching for Inadequate Service rules, which will provide relief to shippers who experience poor service levels and increased data provisions that provide greater transparency. We further urge the Board to consider additional rules to expand reciprocal switching to all shippers in an effort to promote competition industry-wide. Such actions will help achieve the Staggers Act's vision of a healthy and competitive freight rail system and best serve the public interest. We look forward to working with the Board on further steps that will help create a more responsive and competitive freight rail system.

Sincerely,

A handwritten signature in purple ink that reads 'Jay D. Strother'.

Jay D. Strother
President & CEO