

**Surface Transportation Board
Ex Parte 711 (Sub-No. 2)—Reciprocal Switching**

Summary of Ex Parte Meeting held on November 6, 2023, between
American Forest & Paper Association
and Board Member Fuchs

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American Forest & Paper Association (“AF&PA”) Attendees:

- Maria Komourdjian, Director of Transportation, Resolute Forest Products
- Bruce Ridley, Senior Vice President, Packaging Corporation of America
- Ross Corthell, Vice President of Transportation, Packaging Corporation of America
- John Cribb, Manager, Sylvamo
- Matthew Chaiken, Government Relations Associate, Sylvamo
- Julie Alsup, Director, International Paper
- David Ross, Manager, Government Affairs, AF&PA
- Julie Landry, Vice President of Government Affairs, AF&PA
- Karyn Booth, Thompson Hine LLP
- Richard Couch, Thompson Hine LLP

STB Attendees:

- Board Member Patrick J. Fuchs
- Lisa Novins, Attorney-Advisor

Meeting Summary:

The meeting began with introductions. AF&PA and its members thanked the STB Attendees for the opportunity to meet and discuss the Board’s proposed rule and the issues in this proceeding.

AF&PA acknowledged that the Board’s Reciprocal Switching Notice of Proposed Rulemaking (NPRM) was a step in the right direction and that it looked forward to additional regulatory changes to address inadequate rail service. Member Fuchs stated that he understood that many AF&PA members shipped exempt commodities and asked AF&PA members if they could address the level and calculation of the service metrics and the impacts on their facilities during the meeting.

AF&PA noted that the paper and wood products industry has experienced rail service reliability challenges for years especially since the rail industry implemented precision scheduled railroading. They also noted that major issues for members have included reduced and missed switches, inadequate car supply, and transit time delays. Also, AF&PA explained that many members are served by only one rail provider and the U.S. government designated the industry as essential during the COVID-19 pandemic.

AF&PA expressed appreciation for the steps the Board had taken to address inadequate service. One member acknowledged that although service has improved recently, it was easy to improve from the poor service the industry had faced over the past two years. AF&PA added that the metrics in the NPRM favored the railroads, that it would be difficult for facilities to remain operating if the facilities received the level of reliability service contemplated in the NPRM, i.e. 60%, and that more stringent service metrics would be needed to avoid adverse impacts on their rail served facilities. Member Fuchs stated he understood the point and noted the difference in trip plan compliance percentages for each Class I railroad demonstrated in the Board's EP 770 proceeding. AF&PA added that establishing service metrics based on a period of unprecedented service challenges called into question whether the service metrics in the NPRM are the appropriate starting point. Member Fuchs stated he understood the point and looked forward to AF&PA's comments.

One AF&PA member raised the importance of standardization of railroad data and noted that providing the data to shippers would increase railroad accountability for inadequate service without burdening the STB. Member Fuchs responded that he looked forward to comments on the best methods to standardize data calculation and also to provide data that is machine-readable.

The AF&PA member also noted changes to rail service contracts, which tend to be short term and lack mutual commitments. Member Fuchs stated he understood the AF&PA member's point regarding rail service contracts and agreed that contracts may look different depending on the commodity and traffic volumes.

AF&PA proposed the Board partially revoke the exempt status for paper and forest products with respect to EP 711-2 to allow companies to obtain the reciprocal switch remedy for inadequate rail service. Member Fuchs stated he understood the point of the revocation request. AF&PA added that the proposal would be addressed in its comments.

Another AF&PA member expressed appreciation for the STB's efforts in making the service metrics public and drawing attention to inadequate rail service. The member noted that inadequacy of local service and the number of cars being placed under the reliability metric were intertwined, especially for smaller facilities. The AF&PA member added that if a facility received rail service within the metrics thresholds contemplated by the NPRM, that facility would experience significant disruption. Member Fuchs responded that each metric is an independent path to relief and that he appreciated the AF&PA member's view on transparency.

AF&PA noted that there was nothing in the NPRM as written that prevented a railroad from seeking a waiver from the rule, and noted the possibility that railroads could include a waiver provision in a rail service contract. An AF&PA member observed the difference in the service level of a facility serviced by two railroads, compared to the service level of a facility serviced by one railroad.

AF&PA added that extending the length of a reciprocal switch prescription would give the switching railroad the right incentive to get additional traffic while also incentivizing the incumbent carrier to improve service. Member Fuchs responded that the Board would evaluate different ways of approaching the inner and outer limits of an appropriate length of time for a reciprocal switch prescription.

An AF&PA member stated that the first mile and last mile is the most expensive part of the through rate, and that although a reciprocal switch was a remedy, it was another cost added due to the switch fee. Member Fuchs responded that he understood the member's point and commented that the statute allows carriers to agree upon the switch fee and if the carriers cannot agree the Board would set the switch fee using one of the approaches identified in the NPRM. Member Fuchs also noted that the NPRM allows an incumbent carrier to lower its rates if a shipper is experiencing inadequate service in order to retain the traffic.

The meeting concluded with each side thanking the other for participating in the meeting.