

SURFACE TRANSPORTATION BOARD**Ex Parte 711 (Sub-No. 2)****Summary of Ex Parte Meeting Between Association of American Railroads and****Surface Transportation Board Member Karen Hedlund****November 15, 2023**AAR Attendees:

- Fred Miller, Associate General Counsel and Government Affairs Liaison
- Ben Horwich, Counsel to Association of American Railroads
- Carson Scott, Counsel to Association of American Railroads

STB Attendees:

- Hon. Karen Hedlund, Member
- Charles Vance, Attorney Advisor

Summary:

AAR expressed its support for the Board's focus in the Proposed Rule on remedying inadequate service. AAR explained its view that the Proposed Rule's framework can be used to identify problems and to put the right information before the Board to determine the appropriate solution to those problems.

AAR expressed the importance of the Board obtaining the information necessary to make the findings required by the statute. Specifically, AAR explained its view that it is especially important for the incumbent railroad to be able to respond to a shipper's petition by providing a complete explanation for a metrics failure and for the Board to consider whether the proposed alternative service will in fact solve an identified service inadequacy, as well as the impact the alternative service might have on other stakeholders.

AAR and Member Hedlund discussed the importance of communication between railroads and shippers. Member Hedlund expressed views on the ways in which improvements in communication can help solve certain problems without resorting to litigation. AAR agreed that all stakeholders should work to promote communication and resolution of disputes without Board action. AAR observed that, with respect to the Proposed Rule in particular, its proposal to promptly convene a technical working group would promote communication by establishing commonality in data reporting, and could help with a variety of data formatting issues. Member Hedlund expressed that uniformity of data would be helpful to all parties.

AAR explained its view that where the metrics levels are set will impact what cases are brought before the Board and the nature and circumstances of those cases. AAR expressed that the

Board ought to strike the appropriate balance such that the petitions that are filed are potential candidates for relief.

AAR offered its views on some of the other ways in which the Proposed Rule could be refined to promote resolution of service issues outside of formal proceedings. Specifically, AAR explained that allowing for a period during which a railroad would be able to cure a metrics failure would allow for informal resolution in certain cases. AAR also expressed that allowing for further negotiations during such a period would permit time for the alternate carrier to enter the proceeding and would facilitate the development of an appropriate record.