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Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

ENTERED
Office of Chief Counsel
January 27, 2026
Part of
Public Record

Re: *Ex Parte No. 334 (Sub-No. 8A), Joint Petition for Exemption of Arbitration Rule from Application of 49 U.S.C. § 10706 and Motion to Dismiss*

Dear Chief of Case Administration:

I am writing on behalf of TTX Company (“TTX”) to provide a brief reply to the letter filed in this docket by Congressman Troy E. Nehls on January 5, 2025 (the “Nehls Letter”), in order to correct certain misconceptions about TTX reflected therein.

Congressman Nehls’ letter asserts that “[r]ules established by the AAR take advantage of the federal antitrust exemption provided to Class I carriers to carve-out TTX, a company owned by the seven North American Class I railroads, from the AAR’s established default rate for freight car hire under § 1033.1.” The letter also states that “TTX’s ownership, through its control and operation of the AAR and a federally provided antitrust exemption, permanently set their competitors’ prices for four decades.”

These statements are not accurate. The AAR has not carved TTX out of the car hire regime; the Surface Transportation Board (the “Board”) did when *it* approved TTX’s flatcar and boxcar pools in 1974. Allowing TTX to set the usage charges for the pooled railcars owned by TTX was then and remains today a critical element of TTX’s longstanding success in providing the U.S. rail network the benefits of fleets of high-quality and efficiently-operated railcars available to meet the needs of railroads large and small, as a supplement to the vast numbers of railroad-owned and privately-owned railcars on the network. When it reauthorized the TTX flatcar pool in 2004, the Board expressly noted the importance of the statutory antitrust immunity (in 49 U.S.C. § 11321(a)) that allows TTX to set the rates for the railcars it owns without that rate-setting being misperceived as a price-fixing conspiracy among TTX’s owners. *See TTX Co. – Application for Approval of Pooling of Car Service with Respect to Flatcars*, Finance Docket No. 27590 (Sub-No. 3) (STB served Aug. 31, 2004) at 14 (“We agree that standardized pricing is an integral and critical aspect of the TTX pool, and that it ensures that the pooled equipment is

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highly fungible. Accordingly, we will not limit TTX's pooling authority to set prices for the use of its flatcars.

Conversely, TTX plays *no role whatsoever* in setting the rates for any railcars owned by lessors or other railcar owners. To be sure, the value provided by TTX railcars (including participants' ability to call on TTX-owned railcars to meet their loading needs) may have some bearing on whether those participants perceive a need for railcars owned by third parties, or what they are willing to pay to use such railcars.¹ But TTX's setting of rates, and its associated antitrust immunity, simply does not apply to the car hire rates determined pursuant to AAR's car hire rules.

Thank you very much for your attention to this matter, and please contact me with any questions.

Respectfully submitted,



David L. Meyer

Attorney for TTX Company

cc: All Parties of Record

¹ For example, the Board's 2004 TTX flatcar pool reauthorization decision noted with respect to flatcars that: "it may be that leasing companies forgo heavy involvement in the flatcar leasing business, and choose to focus their investment on other car types, the evidence suggests that this is quite likely because the competitive forces that TTX brings to bear in the flatcar market prompt leasing companies to focus their efforts and investment where the possibility of profit is greater." *Id.* at 13.