



ASSOCIATION OF AMERICAN RAILROADS

Law Department

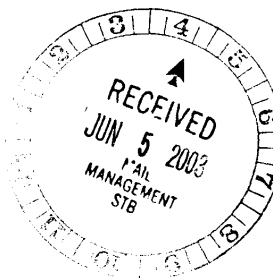
Dennis J. Starks*

Senior Commerce Counsel

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June 5, 2003

BY HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K. Street, N.W.
Washington, D.C. 20423

207976

Re: STB Ex Parte 637 (Sub-No. 1), Removal Of Divisions Of Revenues Regulations

Dear Mr. Williams:

This is intended as the Comment of the Association of American Railroads (AAR), on behalf of itself and its individual member railroads, concerning the Board's Notice Of Proposed Rulemaking (NPR) in this proceeding, served May 6, 2003. In the NPR, the Board proposes to remove its current regulations concerning divisions of revenue complaints, because of changes in the statute and the infrequency of such cases. Essentially, the Board notes that while it retains jurisdiction over divisions of joint rates, the Staggers Rail Act's provisions setting out precise procedures for initiating, developing a record, and resolving complaint cases involving such rates were removed when the Interstate Commerce Commission Termination Act of 1995 (ICCTA) was enacted. The Board further notes that its records indicate that a divisions of revenues complaint has not appeared on its docket in over 20 years. As such, the Board concludes that retaining the current regulations is administratively inefficient and proposes to eliminate them. NPR at 1-2.

The Board nevertheless solicits comment¹ from interested parties who might believe that the current regulations (perhaps with modifications, such as removing the obsolete reference to Rail Form A) or alternative guidelines would in some way be helpful; and asks such parties to explain why codified guidelines are necessary, when parties, on a case-by-case basis, are free to use any evidence they consider relevant. Id at 2.

The AAR supports the Board's proposal in total, for the sound reasons expressed therein. In response to the Board's queries, the AAR would submit, that inasmuch as the procedures lack

¹ The AAR observes that, inasmuch as the proposal simply removes and revises obsolete regulations based on statutory provisions that have been eliminated, the Board could have found good cause to dispense with notice and comment. See 5 U.S.C. 553(b)(B). Nevertheless, the Rail Industry commends the Board on its willingness to offer the public an opportunity to comment in this matter.

June 5, 2003
Page 2

current statutory support, and have not been utilized in over 20 years, there is neither a need to retain them with modification, nor to suggest an alternative to them. AAR sees no reason to suggest a modification of, or alternative for, regulations for which there is demonstratively no need.

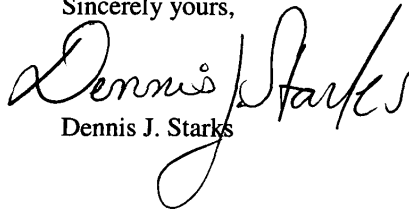
This is particularly the case given the fact that, as the Board points out (id at 2), current general rules for filing and handling complaints should be more than adequate for any prospective divisions case. But if not, then on a case by case basis, parties remain free to offer any evidence they consider relevant, and even remain free to rely upon former guidelines despite their removal.

For the reasons expressed herein, the Board should go forward with its proposal in its entirety.

An additional ten (10) copies of this letter are enclosed for the Board's files.

Please date stamp the extra copy of this letter provided for that purpose, and return it to the undersigned, via the messenger delivering it.

Sincerely yours,


Dennis J. Starks