



**American Short Line and
Regional Railroad Association**

The Voice of America's Independent Railroads

211628

July 20, 2004

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

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Re: STB Ex Parte No. 646 – Rail Rate Challenges in Small Cases

Dear Secretary Williams:

As indicated in the Board's notice served July 14, 2004, Mr. Larry R. Parsons, Chairman and CEO of the Wheeling and Lake Erie Railway Company, will be a speaker at the public hearing on July 21, 2004 in the above proceeding.

This is to advise that Mr. Parsons is also authorized to speak at the public hearing on behalf of the American Short Line and Regional Railroad Association.

Very truly yours,

Richard F. Timmons
President

cc: Larry R. Parsons

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB EX PARTE NO. 646

RAIL RATE CHALLENGES IN SMALL CASES



STATEMENT OF RICHARD F. TIMMONS

PRESIDENT

AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

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STATEMENT OF RICHARD F. TIMMONS

On behalf of the members of the American Short Line and Regional Railroad Association, I appreciate the opportunity to comment to the Board about the views of small railroads regarding the processing of rail rate challenges that are not suitable for handling as a full stand-alone cost case.

ASLRRA's members are small businesses and, as with any well-run business, strongly desire to avoid the costs and risks associated with litigation, including rate litigation brought before the Board. We understand the Board's interest in developing procedures to review shipper rate cases. However, a rate dispute should be resolved efficiently and inexpensively consistent with the regulatory principles set forth in the Staggers Act which afford the railroads the opportunity to earn adequate revenues and, in that regard, allow the railroads to differentially price their services. We therefore are committed to working with the Board to identify improvements that will allow for the expedited resolution of small shipper rate cases. As you seek comments today from various parties, I can assure you that the railroad industry, both small railroads and large railroads alike, are very concerned about the efforts of some shippers to adopt virtually open-ended standards of eligibility for small rate case treatment. We will vigorously oppose shipper efforts to expand eligibility criteria for other than truly small shippers.

A consortium of shipper organizations has proposed to you an argument whereby eligibility for small rate case treatment would be extended to the shipper of any commodity moving between an origin and destination that generated annual freight

revenues of \$4.8 million or less. This threshold, if it were adopted, would include almost every lane of business handled by small railroads today. The majority of those who would be eligible to bring simplified rate challenges under the shippers' eligibility proposal are large shippers whose capitalization and annual revenues far exceed those of every small railroad in the United States. A large, well funded shipper with many shipments to diverse locations on many small railroads could pursue rate cases that small railroads can't afford to fight. The shippers' coalition argues that the railroads throw their weight around on rate issues. From a small railroad's perspective, it's more often the shipper that is in a position to throw their weight around on rate issues.

The advent of the Staggers Act almost 25 years ago was landmark legislation designed to unshackle an unhealthy and shrinking industry from the effects of regulation. The cornerstone of the Staggers Act is the ability for railroads to differentially price business in order to reinvest in their own equipment and plant, or right of way infrastructure. Since Staggers, much of the national rail network has been saved from abandonment. Small railroads have taken over operations from the larger railroads where they can provide more flexible, cost effective, and innovative rail service. Since Staggers, the number and scope of small railroads has more than doubled in the U.S. One third of the national rail network is now operated by small railroads, much of which would have been abandoned under the pre-Staggers regulation.

Let me offer the Board some observations about Class II and Class III railroads:

- Our small railroads face competition every day from truckload carriers. If a cost effective rail rate can't be established, a trucker is available and will handle the business.
- Revenue Adequacy/Cost of Capital is as important to the small railroads as it is to the large railroads and in many cases, more so. Small railroads must find a way to address the capital needs of inherited deferred maintenance and of upgrading their infrastructure to handle 286,000 lbs cars, driven by the competitive factors in the marketplace.
- The ASLRRRA has not seen, nor is aware, of a hue and cry from the greater shipper community of egregious rate abuse or for widespread rate case reform.
- We do support the Board's interest in giving small shippers greater access to the STB, including an expedited process to review rate cases brought by truly small shippers.

Since many of ASLRRRA's members are considered small businesses as defined by the Small Business Administration, we remind the Board also to consider the economic impact its actions will have on these businesses under Public Law 104 – 121, The Small Business Regulatory Enforcement Fairness Act, (SBREFA), of 1996.

In closing, I want to thank you for allowing me the opportunity to file written comments on this important issue. The ASLRRRA looks forward to cooperating with the Board and other parties to this proceeding to develop procedures that will expedite rate cases for truly small shippers.

Respectfully submitted this 21st day of July, 2004.

A handwritten signature in black ink, reading "Richard F. Timmons". The signature is written in a cursive style with a large, stylized 'R' and 'T'.

Richard F. Timmons

President

American Short Line and Regional Railroad Association

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