



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

November 1, 2016

The Honorable Susan Collins
Chairman
Senate Subcommittee on Appropriations –
Transportation, Housing and Urban
Development, and Related Agencies
413 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Jack Reed
Ranking Member
Senate Subcommittee on Appropriations –
Transportation, Housing and Urban
Development, and Related Agencies
728 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Collins and Honorable Senator Reed,

I am writing to provide information pertaining to the *Surface Transportation Board Reauthorization Act of 2015*, Public Law 114-110 (“Reauthorization Act” or “Act”). With this letter, please find a status chart of the major actions that the Board is undertaking to execute these requirements. I will continue to send you monthly updates until all relevant provisions of the Reauthorization Act are completed.

Arbitration. In late September, the Board issued final rules in Revisions to Arbitration Procedures, Docket No. EP 730, which modified our arbitration procedures to conform to the requirements set forth in the Act. Those final rules became effective on October 30, 2016.

Rate Cases. As you are aware, the Board delivered to Congress, and made publicly available, the rate case methodology report conducted by InterVISTAS Consulting LLC as an initial step toward complying with Section 15 of the Act. Back in late 2014, we commissioned InterVISTAS to, among other things, look for alternative methodologies to the stand-alone cost (SAC) test that exist or could be developed and that could be used to reduce the time, complexity, and expense historically involved in rate cases; determine whether SAC is sufficient for large rate cases; and determine whether our simplified methodologies were appropriate alternatives to SAC. To kick off the release of this very important report, the Board held an economic roundtable on October 25, 2016. At the roundtable, InterVISTAS presented its conclusions and findings, and other independent economists as well as the Board’s economists, engaged in a lively discussion regarding SAC. The Board will submit a report further discussing the issues raised in Section 15 of the Reauthorization Act. I plan to schedule a Board hearing soon so that there is opportunity for public comment and reaction to the InterVISTAS report and the issues raised at the economic roundtable.

I am looking forward to the comments in Expanding Access to Rate Relief, EP 665 (Sub-No. 2). Opening comments are due this month, and reply comments are due by December 19, 2016. In the advance notice of proposed rulemaking, the Board introduced a proposal for small, streamlined rate reasonableness cases, intended for small shippers.

Furthermore, the Board has steadily been working on improving our internal rate case processing procedures. My goal in convening a study team was to ensure the delivery of high-quality and timely decisions in large rate cases. Last month, I released a report analyzing our agency's internal procedures which includes near-term and longer-term recommendations. We are working to complete a set of SAC processing guidelines that our rate case staff teams can utilize that implement many of the report's recommendations.

With respect to rate cases themselves, on October 24, 2016, CSX Transportation, Inc. filed a petition for reconsideration in Total Petrochemicals & Refining USA Inc. v. CSX Transportation, Inc., NOR 42121, one of the two stand-alone cost rate reasonableness cases that are before the Board this quarter.

Regulatory Proceedings. Opening comments in Reciprocal Switching, EP 711 (Sub-No. 1), have been filed, and reply comments are due by January 13, 2017. The Board Members will be holding ex parte meetings between January 30, 2017, and February 17, 2017.

On October 31, 2016, the Board issued a decision in Petition of Western Coal Traffic League to Institute a Rulemaking Proceeding to Abolish the Use of the Multi-Stage Discounted Cash Flow Model in Determining the Railroad Industry's Cost of Capital, EP 664 (Sub-No. 2). In that decision, the Board declined to issue a notice of proposed rulemaking to abolish the use of the multi-stage discounted cash flow model in determining the railroad industry's cost of equity capital. This decision follows a public hearing and the consideration of the comments and evidence submitted in the record.

Thank you for your thoughtful oversight and ongoing interest in the Board. Please do not hesitate to contact me with any questions about this letter or any other matter before the Board.

Sincerely,

A handwritten signature in black ink, appearing to read "D.R. Elliott III". The signature is fluid and cursive, with a large initial "D" and "R".

Daniel R. Elliott III
Chairman

**STB Reauthorization Act of 2015, P.L. 114-110 / STB Action Items
October 2016**

Section of Law - Action Required	Description	Deadline	Status
Sec. 6(a) - Annual Report	Report on each initiated investigation in Annual Report	Annually	To be included in FY2016 Annual Report and thereafter
Sec. 6(b) - Quarterly Rate Case Review Metrics Reports	Post quarterly reports of rate cases pending or completed during the previous quarter	Fourth Qtr 2016	Third quarterly report completed 10/3/2016; posted to website; next report underway
Sec. 6(b) - Formal Service Complaints	1. Establish & maintain formal complaint database	Fourth Qtr 2016	Database established, report format created, third quarterly report completed 10/3/2016; posted to website; next report underway
	2. Create report		
	3. Post quarterly reports on website		
Sec. 6(b) - Informal Service Complaints	1. Establish & maintain informal complaint database	Fourth Qtr 2016	Database established, report format created, third quarterly report completed 10/3/2016; posted to website; next report underway
	2. Create report		
	3. Post to website		
Sec. 11 - Rate Case Expedition Proceeding	Assess procedures to expedite litigation in courts to potentially apply to expedition of STB rate cases	6/15/2016	A series of informal meetings with stakeholders and practitioners was held to discuss ideas and proposals; an advanced notice of proposed rulemaking (EP 733, Expediting Rate Cases) was issued on 6/15/2016; comments were due by 8/1/2016; reply comments were due by 8/29/2016; intend to issue a proposal by March 2017
Sec. 11 - Maintain Simplified Rate Case Processes	Maintain one or more simplified rate case methods for when SAC is too costly given value of the case	N/A	Maintain 3B, Simplified SAC; railroad rate regulation study may result in additional ideas/approaches; Board proposed a new streamlined rate reasonableness methodology in EP 665(2) Expanding Access to Rate Relief on 8/31/2016; comments due by 11/14/2016; reply comments due by 12/19/2016
Sec. 11 - Rate Review Timelines	Implement new rate review timelines for SAC cases	Board deadline: ASAP	Final Rules issued 3/9/2016; Board is analyzing ideas to meet these timelines in EP 733, Expediting Rate Cases
Sec. 12 - Investigative Authority Rulemaking	Issue rules on STB-initiated investigations after public notice and comment	12/18/2016	Section 5 meeting conducted to discuss proposals; NPRM issued 5/16/2016; comments were due by 7/15/2016; reply comments were due by 8/12/2016; intend to issue final rules by 12/18/2016

**STB Reauthorization Act of 2015, P.L. 114-110 / STB Action Items
October 2016**

Section of Law - Action Required	Description	Deadline	Status
Sec. 13 - Arbitration Rulemaking	Promulgate regulations to establish voluntary and binding arbitration process for rate and practice complaints	12/18/2016	Section 5 meeting conducted to discuss proposals; NPRM issued 5/12/2016; comments were due by 6/13/2016; reply comments were due by 7/1/2016; Board issued final rules on 9/30/2016
Sec. 15 - Rate Case Methodology Report	Report to Congress on sufficiency of STB rate case methodologies and alternatives	12/18/2016	Railroad rate regulation study (InterVISTAS) delivered to Congress and made public on 9/22/2016; on 10/25/2016 the Board held an economic roundtable to discuss the issues and conclusions raised in the report; Board report to Congress to be submitted by 12/18/2016; hearing will be scheduled to provide an opportunity for public comment
Sec. 15 - Unfinished Regulatory Proceedings Quarterly Reports	Provide quarterly progress report to Congress on pending proceedings; first report due 60 days after enactment	Fourth Qtr 2016	Third quarterly report completed and submitted to Congress 10/3/2016; posted to website; next report underway