



Office of the Chairman

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

October 3, 2016

The Honorable John Thune
Chairman
Senate Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

The Honorable Bill Nelson
Ranking Member
Senate Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

The Honorable Deb Fischer
Chairman
Subcommittee on Surface Transportation
and Merchant Marine Infrastructure,
Safety, and Security
United States Senate
Washington, DC 20510

The Honorable Cory A. Booker
Ranking Member
Subcommittee on Surface Transportation
and Merchant Marine Infrastructure,
Safety, and Security
United States Senate
Washington, DC 20510

Dear Chairman Thune, Ranking Member Nelson, Subcommittee Chairman Fischer, and Subcommittee Ranking Member Booker:

I am writing to transmit a series of reports pertaining to the implementation of the Surface Transportation Board Reauthorization Act of 2015, Public Law 114-110 ("Reauthorization Act" or "Act"). I have prepared these reports with the goal of not just meeting the requirements of the law but also improving our transparency.

In addition to keeping Congress informed of our activities and our progress, I recognize that these reports are also important to our stakeholders. The enclosed implementation status report for the month of September describes the progress made on the key initiatives of the Reauthorization Act. I also include the third quarterly reports on rate case review metrics, formal service complaints, and informal service complaints, which have been prepared pursuant to Section 6(b) of the Act and posted on the Board's website. Finally, enclosed is the next quarterly report on unfinished regulatory proceedings pursuant to Section 15 of the Act.

Rate Cases. Last month 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 whether our simplified methodologies were appropriate alternatives to SAC. To kick off the release of this very important report, the Board plans to hold an economic roundtable later this month. We have asked the InterVISTAS team to present their conclusions and findings at the roundtable, and I have invited other independent economists to participate in what I hope will be a lively discussion. I look forward to hearing differing viewpoints, and I also plan for an opportunity for public comment and reaction to the InterVISTAS report sometime after the roundtable.

With respect to rate cases themselves, on September 14, 2016, the Board issued its decision in Total Petrochemicals & Refining USA Inc. v. CSX Transportation, Inc., one of the two stand-alone cost rate reasonableness cases that were before the Board this quarter.

I am looking forward to the comments in EP 665 (Sub-No. 2), Expanding Access to Rate Relief – opening comments are due by November 14, 2016, 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 to be usable by small shippers.

Arbitration. I am pleased to report that on September 30, 2016, the Board issued final rules in EP 730, Revisions to Arbitration Procedures, implementing Section 13 of the Reauthorization Act. It is my sincerest hope that stakeholders will look upon arbitration as a viable and attractive alternative and utilize the process.

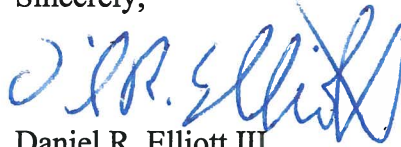
Regulatory Proceedings. On September 1, 2016, the Board granted the Association of American Railroads' request to extend the procedural schedule in EP 711 (Sub-No. 1), Reciprocal Switching. The revised schedule has opening comments due by October 26, 2016, and reply comments due by January 13, 2017. The Board Members will be holding ex parte meetings between January 30, 2017, and February 17, 2017.

At the end of July, the Board issued a notice of proposed rulemaking in EP 734, Dispute Resolution Procedures Under the Fixing America's Surface Transportation Act of 2015. Comments were due by August 31, 2016, and reply comments were due by September 30, 2016. I am currently reviewing those comments, and the Board plans to issue final rules in November 2016.

On September 30, 2016, the Board issued a notice of proposed rulemaking in EP 729, Offers of Financial Assistance. Comments to the NPRM are due by December 5, 2016, and reply comments are due by January 3, 2017. Additionally, I note that the Board has modified its timing for issuing a decision in EP 661 (Sub-No. 2), Rail Fuel Surcharges (Safe Harbor). In light of the numerous rulemaking proposals the Board has issued in the months preceding the original target date, and the stakeholder input that is required in response to those rulemakings, we have targeted January 2017 for our next action.

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 blue ink, appearing to read "D.R. Elliott III". The signature is fluid and cursive, with a large initial "D" and "R" and a stylized "Elliott".

Daniel R. Elliott III
Chairman

**STB Reauthorization Act of 2015, P.L. 114-110 / STB Action Items
September 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 6/15/16; comments were due by 8/1/16; reply comments were due by 8/29/16; 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; ongoing 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 August 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 5/16/16; comments were due by 7/15/16; reply comments were due by 8/12/16; intend to issue final rules by 12/18/2016

**STB Reauthorization Act of 2015, P.L. 114-110 / STB Action Items
September 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 6/13/16; reply comments were due by 7/1/16; 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 report delivered to Congress and made public on 9/22/16; the Board will be hosting an economic roundtable to discuss the issues and conclusions raised in the report this Fall with an opportunity for public comment to follow
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