

Rail Reform

NACD Position

NACD supports efforts that serve to promote greater freight rail competition and improve the efficiency and effectiveness of the Surface Transportation Board (STB) such as:

- Urging President Trump and Congress to nominate and confirm new reform-minded STB members and a permanent Chair who are committed to moving forward on freight reforms;
- Supporting a fully staffed STB that implements free market solutions to ensure both small and large business have access to affordable and dependable freight rail transportation;
- Streamlining overly burdensome STB procedures to allow customers to request competitive switching successfully, speed up resolution of cases, and minimize costs;
- Prohibiting railroads from “bundling” contract rates that effectively prevent rate challenges;
- Improving STB’s rate-reasonableness standards to ensure efficient and appropriate relief is available in rate cases; and
- Working with the current administration and Congress on policies that support a pro-growth environment across the entire U.S. economy.

Policy Background

Since the passage of the Staggers Rail Act of 1980, freight traffic has nearly doubled, investment in rail infrastructure has increased, and the economic strength of railroads has greatly improved. At the same time, the rail industry has consolidated, reducing the number of Class I railroads from 26 to seven, with only four dominating the market. Accordingly, most shippers lack access to competitive rail service. With this drastically reduced access to competition, freight rail rates have surged over the last decade – by nearly three times the rate of inflation.

The Staggers Rail Act also specifically authorized the STB to require competitive switching where it is "necessary to provide competitive rail service." Unfortunately, STB’s existing rules impose such high regulatory hurdles that no rail customer has ever been able to request switching successfully. Shippers remain captive to their railroad, even when that railroad offers non-competitive rates or, as seen recently with CSX’s widespread disruptions, fails to provide acceptable service. A shipper that lacks competitive transportation service has little recourse in the face of soaring rates. Filing a rate challenge with the STB is complex and expensive, with some rate cases costing in the millions and taking more than three years to resolve. Not surprisingly, very few rate cases are undertaken.

Most Recent Federal Legislation

In December 2015, the Surface Transportation Board Reauthorization Act of 2015, supported by NACD, was signed into law. This legislation, introduced by Senate Committee on Commerce, Science, and Transportation Chairman John Thune (R-SD), established the STB as a wholly independent federal agency since it was created in 1996. The legislation expands the STB membership from three to five board members; authorizes the STB to investigate issues of national or regional significance and requires the board to establish regulations governing such investigations; directs the STB to modify its voluntary arbitration process, including increases maximum damage awards; and shortens the timelines applicable to large rate case proceedings.

On May 26, 2017, Senator Tammy Baldwin (D-WI) introduced the Rail Shipper Fairness Act of 2017 that would require railroads to participate in competitive switching. The legislation would reform rate case regulations and prohibit railroads from charging customers for fuel “in a way that does not correlate with actual fuel cost.” This builds upon reforms Congress made when it reauthorized the STB in 2015. With full implementation of the legislation’ requirements still in progress, NACD continues to advocate strongly that the STB meet the requirements set in the STB Reauthorization Act. Additionally, NACD supports the Rail Shipper Fairness Act and any other piece of legislation that promotes a competitive and dependable rail system for our members and U.S. rail shippers.