

**BEFORE THE SURFACE TRANSPORTATION BOARD**

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**Docket No. EP 761, Hearing on Revenue Adequacy**

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**ORAL TESTIMONY OF THE NATIONAL COAL TRANSPORTATION ASSOCIATION**

Chairman Begeman, Vice Chairman Fuchs, Member Oberman, my name is John Ward and I serve as the executive director of the National Coal Transportation Association.

Our organization consists of electric utilities, coal producers, and entities that produce, repair, and manage all facets of railcar component parts and systems. Our members have invested heavily in the ownership, leasing, and control of fleets of railcars, which they provide to the railroads in unit trains of up to 150 cars. These fleets represent about 45% of coal cars in service in the eastern U.S. and close to 90% of the coal cars in service in the western U.S. Today, coal represents, as a commodity, about a third of carloads originated by Class I carriers.

I would like to use the brief amount of time we have requested today to counter a narrative that is being constructed outside of this chamber in op-ed forums and letters to Congress. Critics of this and other current STB proceedings have alleged that they are the result of “activist policymaking, perhaps nudged by a select group of powerful shippers seeking to take advantage,”<sup>1</sup> and that proposed changes here “would risk the massive gains to consumers from reforms enacted over the last four decades.”<sup>2</sup>

While coal transporters would no doubt like to be powerful, the reality on the ground today is quite different. Many of our members are recovering from bankruptcies and all of them are facing withering regulatory pressure and competition from other highly subsidized energy sources. The exaggeration that proceedings like this constitute a return to pre-Staggers Act prescriptive ratemaking that spells doom for railroad financial stability is laughable to those of us in an industry where the goal of our regulatory opponents is to eliminate us entirely.

Let me be clear: The coal industry wants its railroad partners to be financially healthy and operationally efficient. But our presence here and in other STB proceedings places us in the company of an incredibly diverse pool of shippers who have testified that they have not received improved service as the railroads have clearly improved their profitability through the aforementioned regulatory reforms and strategies such as Precision Scheduled Railroading.

The fact that the vast majority of coal shippers are captive to railroads is apparent on its face. Few other options exist for transporting millions of tons of an essential commodity long distances over land. Accordingly, coal shippers have long viewed railroads as an essential partner, investing many billions of dollars of their own capital to maintain rail as a viable option to transport coal. These investments extended far beyond the purchase of modern trainsets to include fast loading and unloading systems, multiple loop tracks, and batch weigh loadout systems. Furthermore, mines and utilities organized to meet railroad schedules on a 24/7 basis and maintain large and expensive

stockpiles of product at both origin and destination. All of this capital investment exists at no cost to the rail carrier.

NCTA requested only five minutes today because we want to be respectful of your time as you consider the highly technical issue of revenue adequacy. I am not a lawyer or an economist. Nor can our members afford to hire lawyers and economists at this time. That is precisely the point. Our industry – and many others – need practical solutions that don't cost millions of dollars and years of time to obtain relief when providers of our only practical transportation option engage in the kind of rent seeking that they now accuse us of pursuing.

In conclusion, please let me reference NCTA's written comments filed earlier in this proceeding and also express support for the comments of the Western Coal Traffic League and the Freight Rail Customer Alliance. As you make decisions in this matter, we respectfully request that you keep in mind principles of reciprocity, accessibility, and procedures that allow the expeditious resolution of disputes.

Thank you for your time and consideration in these important matters.

1. Jeffries, Ian; Association of American Railroads, "Policymakers should quell uncertainty," *The Hill*, December 2, 2019. <https://thehill.com/blogs/congress-blog/politics/472608-policymakers-should-quell-uncertainty>
2. Competitive Enterprise Institute et. Al.; Letter to U.S. House of Representatives subcommittees leadership, December 5, 2019. <https://cei.org/sites/default/files/STBRevenue.pdf>