



American Cotton Shippers Association
88 Union Avenue, Suite 1204
Memphis, TN 38103
United States

P +1 901 525-2272
F +1 901 527-8303
www.acsa-cotton.org

**House Transportation Committee Subcommittee on Railroads, Pipelines, and
Hazardous Materials
“Board Member Views on the Surface Transportation Board (STB)
Reauthorization”
May 12, 2022
Provided by:**



HOUSE TRANSPORTATION COMMITTEE HEARING

OVERVIEW

Today, the House Transportation Committee Subcommittee on Railroads, Pipelines, and Hazardous Materials held a hearing entitled “Board Member Views on the Surface Transportation Board (STB) Reauthorization.” The hearing witnesses were:

- Martin Oberrman, Chairman, STB
- Patrick Fuchs, Member, STB
- Robert Primus, Member, STB
- Schultz, Member, STB
- Karen Hedlund, STB

Below is a summary of the hearing prepared by Delta Strategy Group. It includes several high-level takeaways, followed by summaries of opening statements and witness testimonies and a summary of the Q&A portion of the hearing.

Key Takeaways

The following is a summary of some of the topics explored in today’s hearing. Each is discussed in further detail in the Discussion section below.

- Subcommittee Chairman Donald Payne (D-NJ) voiced concerns about the current inability of several Class I carriers to provide reliable rail service to their customers. Payne said that this is leading to increased commodity and food prices.
- Full Committee Chairman Peter DeFazio (D-OR) said that he is concerned that delayed freight rail service has shut down factories and caused the inflationary spikes. DeFazio said this issue is impacting the agriculture and energy industries.

- Rep. Dusty Johnson (R-SD) voiced concerns over whether delays of livestock feed were impacting livestock business decisions.
- STB Chairman Martin Oberman said that the unregulated markets are the cause of the supply chain issues and regulation that permits reciprocal switching will bring more competition than a mandate.

SUMMARY

Opening Statements and Testimony

Chairman Donald Payne (D-NJ)

The Surface Transportation Board (STB) is a unique independent agency that acts as the primary economic regulator of freight railroads in the U.S. Shippers play a critical role in the national supply chain by maintaining the integrity of the food and water we consume safe and by providing electricity and building materials. Recently, STB held a two-day emergency public testimony on the meltdown of our nation's freight rail operation. STB has heard from many shippers, labor leaders, Transportation Secretary Pete Buttigieg, and Agriculture Deputy Secretary Bruno about the significant delays in transporting cargo by freight rail.

Agriculture producers have seen a particularly sharp decline in the quality of freight rail service. The National Grain and Feed Association (NGFA) recently wrote to this Subcommittee explaining that the current inability of several Class I carriers to provide reliable rail service to their customers is impacting commodity prices and elevating food prices for customers. Increasing prices for food and gas prices at the pump are crucial for American consumers and are all impacted by delays in freight rail service. This is unacceptable as the timely and efficient movement of goods remains of paramount importance to a strong economy.

Last week, STB unanimously acted to require the largest railroads UP, BNSF, CSX, and NS to develop service recovery plans to improve service and metrics to measure progress, including goals and measures for rail service performance, and employment training and hiring levels. Stakeholders have also proposed new authorities, such as expanding STB's ability to assess fines and the ability to allow for reverse delayed charges that shippers can charge carriers.

Ranking Member Rick Crawford (R-AR)

STB recently held a two-day hearing to examine service issues involving freight railroad carriers and shippers where it heard testimony from stakeholders on concerns about the state of the industry and potential solutions. When broadly looking at a potential STB re-authorization, we must carefully and deliberately examine the board's needs and ensure any proposals have a positive long-term impact on STB's operations. We must not interfere, slow down, or distract from STB's current duties and their abundant workload.

Full Committee Chairman Peter DeFazio (D-OR)

We are at a point of crisis. Freight service in the U.S. used to be the best in the world but now is abysmal. Shippers impacted by poor rail service are shifting to trucking which results in more greenhouse gas pollution. Raw material delays have shut down factories. The extra labor cost to load and unload a railcar is high. This service is forcing shippers or manufacturers to recoup their losses from consumers, which is contributing to the inflationary spike in this country.

I have brought in stakeholders like the agriculture industry, the energy industry, and a whole host of other shippers who are bemoaning the destruction of American freight rail.

We have to act more decisively and more quickly because STB has to protect the vital asset of the rail network in this country. The rail network is not only critical for supply chain issues but for the future of dealing with climate change, moving freight much more effectively and with much less pollution than the trucks.

Martin Oberman, Chairman, STB

Rail network reliability is essential to the nation's economy. The industry is now facing a severe crisis. The rail industry is struggling to provide adequate and reliable rail service because over the last six years, the Class I railroads have cut their workforce by 29 percent. With demand increasing against the backdrop of the significant cuts and other changes, our rail networks face major holes in their service. The severity of the problem has necessitated immediate board action two weeks ago. During the public hearing that the board held, all stakeholders agreed the problem is principally caused by a shortage of labor that started with a huge pre-pandemic cut and then again at the onset of the pandemic. Two weeks ago, the board issued a proposed rule to improve emergency relief distribution.

Discussion

DeFazio (D-OR): Is the current common carrier language too vague to prevent these reductions in service? *Oberman:* The common carrier length in the statute is general, but we have the authority to define it more specifically. I have been struggling to come up with rulemaking language that would be enforceable in court and covers a large variety of potential problems.

Crawford (R-AR): Would you commit today to ensuring that the board fully considers the impact of the potential regulations or determinations on the supply chain issues? Would you support a new study on the lack of competition in the railway industry? *Oberman:* Yes, and that is what we have been doing; *All Witnesses:* Yes.

Payne (D-NJ): What concerns you the most about the freight rail service? How did that inform the board's unanimous decision to require corrective action? *Oberman:* The shortage of labor. Even more concerning is that rail labor has been overworking to make

up for the shortage of labor. Many of the long-term workers are leaving and we're losing a tremendous amount of institutional knowledge; *Schultz*: What concerns me the most is the impact on the agricultural and energy industries and other areas on the supply chain as well; *Hedlund*: What concerns me the most is whether we would be able to export enough grains to make up for the reduction to the world market grains caused by the war in Ukraine.

Burchett (R-TN): Has any federal mandate caused troubles regarding the supply chain issue? If not, are you proposing more regulations for the railway industry to improve their service? *Oberman*: No, the unregulated market is the cause of this problem. Regulation that permits reciprocal switching will bring more competition than a mandate.

Bost (R-IL): Will STB commit to working with all stakeholders to address service issues and work to ensure that both rail carriers and shippers have a balance in that decision? *Oberman*: Yes.

LaMalfa (R-CA): What are the largest impacts of the inability to ship products efficiently? *Oberman*: Ethanol plants have had to shut down production because they cannot get the raw materials they need, and they cannot get a train of empty carts to unload the finished product. Major food producers in California cannot get feeds with long unit trains. Shortages of locomotive and cruise are the major problem that congests the system.

LaMalfa (R-CA): What is the rail rate to the trucking rate? *Oberman*: People are using trucks rather than trains recently not because of rate but complete lack of reliability. Major shippers recently chose to use trucks because they are more reliable even though they are more costly.

Johnson (D-GA): Will herds of animals be prematurely slaughtered because of delayed grain shipment to producers? *Oberman*: We have not heard of that yet. When farmers cannot get their feed train delivered, we are proposing to make it much easier for those customers very quickly for us to order a railroad to deliver the needed feed trains that are not getting delivered. It has been effective for the last couple of weeks with that tool.

Lynch (D-MA): What is the long-term impact on the supply chain and cost to consumers with increases in delivery delay? *Primus*: Service degradation is the reason why we are paying higher food and gas prices. Coal power plants and water treatment plants are not getting their materials.

Steel (R-CA): Will STB commit to ensuring that the board fully considers the impact of these proposals of regulation on the functioning of the supply chain before taking any action? Can you share with the committee all of the data and evidence that you are certain that freight rail service has slowly become both inconsistent and unreliable? *Oberman*: Yes.