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BEFORE THE U.S. SURFACE TRANSPORTATION BOARD

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Docket No. EP 788

Eliminating Barriers to Competition

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March 10, 2026

These comments are submitted on behalf of the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART-TD), a labor organization representing approximately 100,000 transportation employees, including active rail members working in all railroad operating crafts such as engineers, conductors, trainmen, switchmen, hostlers, and yardmasters.

On behalf of SMART-TD, I submit this comment in strong support of the Board's Notice of Proposed Rulemaking to repeal 49 C.F.R. Part 1144 and to restore reciprocal switching determinations to a case-by-case analysis consistent with the Staggers Rail Act.

Last month, by unanimous vote, the Board announced its intent to repeal a more than 40-year-old rule that has functioned as an effective barrier to competition in an already highly monopolistic railroad industry. As Congress made clear in the Staggers Act of 1980, the Board has authority to allow reciprocal switching, transfers to a competing railroad of shipments originating or terminating at locations served by only one carrier, when such arrangements are "practical and in the public interest" or "necessary to provide competitive rail service." However, the Interstate Commerce Commission's (ICC) 1985 adoption of 49 C.F.R. Part 1144 had the practical effect of foreclosing that statutory remedy. In the four decades since its adoption, not a single reciprocal switching order has been granted.

Two years ago, the Board attempted to correct this imbalance by adopting a rule that would have permitted reciprocal switching where a sole-serving railroad's service fell below a defined standard. The Class I railroads resisted that reform and successfully challenged it in the Seventh Circuit. The result left shippers without meaningful access to the competitive relief Congress intended and allowed rail carriers to continue exercising unchecked market dominance with limited regulatory constraint.

The present Notice of Proposed Rule Making (NPRM) represents a significant and necessary course correction. By returning to the statutory language and allowing reciprocal switching requests to be evaluated on a case-by-case basis, the Board would remove an artificial regulatory barrier that has stifled competition for decades. The practical effect will be to restore the Board's flexibility, strengthen the statutory mandate established by the Staggers Act, and ensure that reciprocal switching can be ordered where it is warranted and supported by the public interest in individual proceedings.

SMART-TD strongly supports this proposed rule. As we stated previously in support of the Board's earlier reform effort: "Any time a monopoly is broken up, and competition is emphasized in the workplace, American workers win." That principle remains true today.

SMART-TD also encourages the Board, when granting reciprocal switching in individual cases, to consider imposing appropriate labor protections where warranted. Reciprocal switching orders can have operational consequences for railroad employees, and ensuring that appropriate safeguards are in place can provide an important guardrail as competitive arrangements evolve. Such protections may be particularly relevant in circumstances where short line carriers are filling service gaps or where operational changes affect existing rail labor forces.

For too long, dominant rail carriers have used their market power to reduce service to customers, shrink their workforces, and concentrate operations in ways that undermine reliability and resilience. When railroads face meaningful competitive pressure, they are incentivized to improve service, invest in infrastructure, and adequately staff their operations. If this NPRM is adopted as proposed, one practical outcome will be a renewed recognition by carriers that staffing levels and service quality are directly tied to their ability to retain customers in a competitive environment.

SMART-TD also recognizes Chairman Patrick J. Fuchs' statement that this proposal would "embrace market forces, enable meaningful choice for American businesses as provided under the statutes, and eliminate regulatory barriers unnecessarily stifling rail competition." We agree. Repealing Part 1144 would return the Board to the text and purpose of the governing statutes and could promote excellence, entrepreneurship, innovation, and supply chain resilience.

Competition strengthens industries. It strengthens service. And it strengthens the workforce that keeps the nation's freight and passenger rail systems operating safely and efficiently. The existing regulatory framework has shielded rail monopolies for the past 4 decades. It is time to remove that shield.

SMART-TD urges the Board to finalize this rule and restore reciprocal switching to its proper statutory footing.

Sincerely,

A handwritten signature in black ink, appearing to read "Jared Cassity", written in a cursive style.

Jared Cassity