



January 2011

## TRANSPORTATION UPDATE

**Surface Transportation Board to Examine Competitive Access**

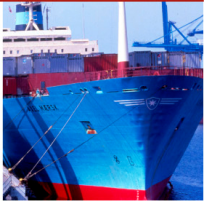
On January 11, 2011, the Surface Transportation Board (“Board”) issued a notice that it will hold a hearing and receive comments on competition in the railroad industry and possible policy measures to increase competition. Initial comments are due on February 18 and reply comments are due on March 18. The hearing will be held at 9:30 a.m. on May 3 at the Board’s headquarters. Parties intending to speak at the hearing must file both a notice of intent to participate and written testimony on or before April 4.

Over the past 30 years, the Board and its predecessor agency, the Interstate Commerce Commission, addressed competition issues very narrowly, which limited shippers’ abilities to obtain effective remedies when captive to a single railroad. Through this proceeding, the Board is revisiting its prior determinations in light of changes in the rail industry, including rail consolidation and the improved financial condition of the rail industry.

The Board is seeking to facilitate a public discussion of railroad access and competition that focuses on measures that the Board should consider to modify its competitive access rules and policies, whether modification is necessary, the effect of the Board’s competitive access rules and policies, and the expected effect of modifications to the Board’s rules and policies.

The Board specifically requests comments on the following matters:

- The financial state of the railroad industry.
- Interpretation of the alternative through route provisions at 49 U.S.C. § 10705 in light of current market conditions.
- Interpretation of the terminal facilities access provision of 49 U.S.C. § 11102(a) (e.g., trackage rights) in light of current market conditions.
- Interpretation of the reciprocal switching provision at 49 U.S.C. § 11102(c) in light of current market conditions.
- Reconsideration of precedent regarding bottleneck rates.
- How the Board should evaluate the reasonableness of railroad charges for competitive access, such as trackage rights fees, reciprocal switch charges and bottleneck rates.
- Both positive and negative impacts of any proposed change upon the railroad industry, shipper community and economy as a whole.



To read the Board's notice, go to:

[www.stb.dot.gov/decisions/readingroom.nsf/WebDecisionID/41166?OpenDocument](http://www.stb.dot.gov/decisions/readingroom.nsf/WebDecisionID/41166?OpenDocument).

**FOR MORE INFORMATION**

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