1310 L Street, NW, 7th Floor
Washington, DC 20005
cei.org

202 331 1010 main
202 331 0640 fax

COMPETITIVE ENTERPRISE INSTITUTE
Advancing Liberty from the Economy to Ecology

April 9, 2018

Dear Chairman Thune, Ranking Member Nelson, and members of the Committee:

We write today on the forthcoming confirmation hearing on nominees Patrick J. Fuchs and Michelle A. Schultz to the Surface Transportation Board (STB). We believe you should question both nominees to ensure they have a sound understanding of the economic principles surrounding the freight rail industry.

Given the importance of private railroads to the national economy, it is imperative to install Board members who will carry out their congressional charter, not embark on wholesale policy changes supported only by those seeking backdoor price controls—the same sort of overregulation and government meddling that nearly drove the industry to ruin four decades ago.

As you know, partial freight rail economic deregulation, which culminated in the Staggers Rail Act of 1980, represents one of the most significant economic policy successes in the history of the United States. These reforms for pricing and routing independence must be preserved, not reversed.

Since 1980, the industry has invested more than half a trillion dollars of its own funds into its networks, with annual investments averaging more than $26 billion over the last few years. According to Towson University's Regional Economic Studies Institute, major U.S. railroads in 2014 alone supported approximately 1.5 million jobs, $274 billion in annual economic activity, nearly $90 billion in wages, and $33 billion in tax revenues. Moreover, average inflation-adjusted freight rates are down more than 40 percent since 1980.

Unfortunately, some powerful industrial shipping interests have succeeded in opening a proceeding before the STB framed in the language of promoting competition. The proposed rule regarding revised reciprocal switching rules that was opened by the STB reverses three decades of precedent. The STB shockingly argues that its inability—and the inability of the Interstate Commerce Commission before it—to uncover any evidence of anticompetitive conduct on the part of the railroad industry justifies its call for eliminating the post-deregulation requirement that anticompetitive conduct be found before mandatory reciprocal switching could be imposed. The STB is in essence proposing to convict freight railroads for crimes the STB itself concedes they did not commit.

Many industry observers have expressed concern that imposing forced reciprocal switching and reducing rate flexibility will come at the expense of network investment. This unprecedented action threatens railroads, shippers, and consumers with degraded service quality and higher goods prices that would naturally follow the resulting reduction in operational efficiencies and private railroad investment.

Congress has repeatedly rejected railroad reregulation, regardless of political control. On numerous occasions over the last 20 years, it has explicitly rejected attempts to eliminate the anticompetitive conduct requirement, recognizing that reducing private railroad investment is not in the public interest. We strongly urge the Committee to put the reregulation of freight railroads to bed for the foreseeable future by empowering new Board members who understand this basic economic reality.

Sincerely,

Marc Scribner, Senior Fellow
Competitive Enterprise Institute

James L. Martin, Founder/Chairman
Saulius "Saul" Anuzis, President
60 Plus Association

Lisa B. Nelson, CEO
ALEC Action

Phil Kerpen, President
American Commitment

Steve Pociask, President
American Consumer Institute

Steve Forbes
Americans for Hope, Growth & Opportunity

Grover Norquist, President
Americans for Tax Reform

Norm Singleton, President
Campaign for Liberty

Andrew F. Quinlan, President
Center for Freedom and Prosperity

Jeffrey Mazzella, President
Center for Individual Freedom

Matthew Kandrach, President
Consumer Action for a Strong Economy

Tom Schatz, President
Council for Citizens Against Government Waste

Hycall Brooks, President
Faithworks

Jason Pye, Vice President of Legislative Affairs
FreedomWorks

Michael A. Needham, CEO
Heritage Action for America

Heather R. Higgins, CEO
Independent Women's Voice

Seton Motley, President
Less Government

Harry C. Alford, President/CEO
National Black Chamber of Commerce

David Ridenour, President
The National Center for Public Policy Research

Pete Sepp, President
National Taxpayers Union

Brady J. Buckner, Director
Partnership for Innovation & Empowerment

Ian Adams, Associate Vice President of State Affairs
R Street Institute

Karen Kerrigan, President & CEO
Small Business & Entrepreneurship Council

Judson Phillips, Founder
Tea Party Nation