



Freight Rail Customer Alliance

November 2016

This has been an exciting year for the Freight Rail Customer Alliance (FRCA or Alliance).

Thanks to support from our members, FRCA's brand was enhanced. Our footprints on Capitol Hill and before the Surface Transportation Board (STB) made even greater impacts as we continued making a positive difference on policies affecting FRCA members and fellow freight rail shippers.

A few of the year's highlights for FRCA included:

- Holding a successful **Fly-In** on Capitol Hill where STB Members, key Members of Congress and staff to key congressional committees addressed **Fly-In** participants and shared ideas, observations, and suggestions on various issues of mutual concern.
- Testifying before the Senate Commerce, Science and Transportation Committee at a field hearing on the implementation of the **Surface Transportation Board (STB) Reauthorization Act of 2015** (P.L. 114-110).
- Actively lobbying for increased appropriated funding for the STB.
- Participating in several proceedings before the STB.

More details of our activities can be found on the pages that follow.

I look forward to continuing to work together and building on our record of accomplishments in 2017.

Regards,

David Sauer



2016 ACCOMPLISHMENTS

Building the Brand

Following the success of the September 2015 launch of the new FRCA brand, we continued our outreach to government stakeholders, industry partners, and media outlets. FRCA has become a trusted source of information on Capitol Hill, in the STB, among media, and within our industry colleagues.

Examples of stakeholder outreach include speaking before the Western Coal Traffic League Annual Fall Meeting and the Transportation Research Forum-Washington Chapter and attending the National Coal Transportation Association Spring Meeting. Moreover, FRCA was quoted in numerous trade press articles on topics ranging from the proposed merger of Canadian Pacific Railway Limited (Canadian Pacific) with Norfolk Southern Railway (Norfolk Southern) to comments on STB rulemakings.

Empowering Through Communications

Our expanded and improved website, www.railvoices.org, is providing government and industry stakeholders, the communities and customers which FRCA members serve, and media with up-to-date information on our activities and relevant happenings on Capitol Hill and in the Administration. It is also generating more interest in FRCA and freight rail shipper issues among the general public and potential FRCA members.

Railvoices, our e-newsletter, enjoys a wide distribution and continues to be well-received especially among key officials and decision-makers.

Embracing Transparent Governance

FRCA's staff and volunteer leadership have succeeded in establishing our Alliance as an effective and cost-efficient organization utilizing every opportunity for efficiency – regarding our budgeting, operations, policy setting, goals and objectives, and advocacy strategies and tactics. All significant decisions – policy, advocacy, and financial are made collaboratively. This transparent governance is a hallmark of FRCA.

Expanding Membership

Membership grew in 2016 with the addition of the **National Propane Gas Association** and the **Western Fuels Association**, further expanding our membership beyond our utility base. Our outreach continued to potential association and corporate members in differing sectors – inside and outside the DC Beltway.

Advocating before the U.S. Congress

Appropriations: With the December 2015 passage of the **STB Reauthorization Act of 2015** (P.L. 114-110), FRCA's legislative focus switched to securing the maximum possible appropriated funding for the STB, allowing the Board to modernize its information technology systems; improve data collection; and provide sufficient staff. Adequate funding is necessary in allowing the Board to efficiently meet its current and mandated responsibilities, and enhanced duties pursuant to P.L. 114-110.

In 2016, FRCA actively encouraged the U.S. Congress to provide the STB with additional resources by meeting with staff of the House and Senate Appropriations committees making the case for additional funding. As a part of this effort, we stressed the importance of directing a portion of any increased appropriated funding for IT infrastructure enhancements and upgrades.



Thanks to outreach and education efforts by FRCA, its individual members and others within the rail shipper community, the U.S. Senate approved its version of FY 2017 appropriation measure for the U.S. Department of Transportation and Housing and Urban Development (THUD), and related Agencies, H.R. 2577 (S. 2844/S. Rpt. 114-243), on May 19th by an 89-9 vote. As particularly advocated by FRCA, this measure includes \$37 million for the STB of which \$2.046 million is directed to IT system upgrades and enhancements. This is above both the current FY '16 enacted level and the amount authorized in the **STB Reauthorization Act** of \$35 million.

On May 24th, the House Appropriations Committee approved by voice vote its version of a FY 2017 appropriations bill, H.R. 5394, which includes \$37 million for the STB. Consistent with our advocacy for IT funding, the accompanying draft report language also directs \$2.046 million to be used for IT upgrades (as the Senate-passed bill does), and for contracting with U.S. Department of Transportation for administrative support functions, and for six months of salary and expenses for two new Board Members.

STB Authorization Act of 2015 Implementation: FRCA also actively engaged with the U.S. Congress as lawmakers provided oversight of the STB's implementation of the **STB Reauthorization Act of 2015**. Of note, we provided information to lawmakers on efforts by CSX Transportation to inaccurately assert in a pending STB rate case that Section 16 of the law directs the Board to use replacement cost methodologies when evaluating revenue adequacy. Moreover, our concerns about this matter were then included in a March 31, 2016 letter from Committee, Science and Transportation Committee (Commerce) Chairman John Thune (R-SD) to the STB Members outlining the Chairman's observations on the status of various implementation actions before the Board.

FRCA used the proposed acquisition of Norfolk Southern by Canadian Pacific to educate the US. Congress on the need to enhance Federal oversight of proposed railroad mergers and make the railroads subject to the antitrust laws generally. FRCA also filed comments with the STB expressing our concerns with and opposition to the proposed voting trust provision of the merger proposal.

In April, FRCA held a successful Freight Rail Shippers Fly-In. This was the first major industry event hosted by FRCA since our new brand launched in September 2015. Industry stakeholders joined FRCA members in meaningful and candid discussions with STB Chairman Daniel R. Elliott, STB Member Ann Begeman, and staff of the Senate Commerce Committee and House Transportation and Infrastructure (T&I) Committee. The discussions focused on the ongoing implementation of the **STB Reauthorization Act of 2015** by the STB and the continued oversight by the Senate Commerce and the House T&I committees.

During the Fly-In, Senator Tammy Baldwin (D-WI) was recognized with the first *FRCA Freight Rail Shippers Leadership Award* for her leadership and leadership and commitment to rail shipper issues throughout her service in the U.S. House of Representatives and the U.S. Senate.

Following the presentations and discussions, Fly-In attendees fanned out across Capitol Hill to meet with lawmakers from their home states and districts as well as staff of key congressional committees. One such meeting was with Chairman Thune where his constituents and Fly-in participants thanked him for his steadfast leadership and commitment to freight rail shipper issues.



In August, FRCA was asked to testify before the Commerce Committee at a Field Hearing in Sioux Falls, SD on the implementation of the **STB Reauthorization Act of 2015**. Convened by Chairman Thune, the hearing provided an opportunity for shippers, including FRCA Board member Thomas Heller (CEO of Missouri River Energy Services), to share their views on the law's implementation. FRCA's participation was covered by regional and trade media

The Government Accountability Office requested FRCA's input to an audit the congressional watchdog is conducting, again pursuant to P.L. 114-110, of freight rail transportation contract proposals.

Engaging the STB

The STB is moving forward on numerous proceedings, due in large part to the implementation of the STB Reauthorization Act of 2015. The new law is providing the framework for the STB to work more effectively on rulemakings required by the law while moving forward on various dockets that have been pending before the Board for years.

FRCA is participating in several STB rulemakings as a result of the provisions in the reauthorization law, most notably new requirements for rate case proceedings. Additional proceedings that we are participating in – competitive switching, revenue adequacy, and commodity exemptions – have been stalled before the STB for years.

After years of inaction, the STB is attempting to address key market and economic changes for both rail carriers and shippers since the **Staggers Rail Act of 1980**. FRCA supports the proposed Board changes to its current reciprocal switching rules, opposes the use of replacement cost methodologies when evaluating railroad revenue adequacy, and believes all shippers should have the opportunity to seek rate and/or service relief from the STB no matter the commodity. Details on these pending Board actions can be found on www.railvoices.com.

FRCA is taking advantage of the **STB Reauthorization Act of 2015** provision allowing STB members and staff to engage in ex-parte communications with stakeholders. We engaged in ex-parte communication with STB staff and submitted follow-on written comments emphasizing that performance reporting measurements mandated by the STB during the 2013-2014 service meltdown be made permanent.

Moving Ahead

As the holiday season approaches, FRCA and all freight shippers have much to be thankful for. After years of inaction, freight rail regulation commensurate with today's economy and market changes, is at a tipping point. The STB is poised to take action on competitive switching, revenue adequacy, and commodity exemptions along with continuing to implement the **STB Reauthorization Act of 2015**.

While the railroads are pouring a seemingly endless amount of resources into opposing these rulemakings, we are confident that a strong FRCA, will be able to make our collective voices heard.

