

Questions for the Record to Mr. Robert Primus
U.S. Senate Committee on Commerce, Science, and Transportation Committee
Full Committee Nominations Hearing
August 6, 2020

Written Questions Submitted by the Hon. Maria Cantwell to Mr. Robert Primus.

The railroads play a critical role in moving freight throughout our nation. Prior to the COVID-19 pandemic, it was estimated that the value of freight shipped by railroad would increase by 45 percent in the next decade to \$1.1 trillion annually. Moving this freight safely and efficiently will require an increased long-term investment in people and infrastructure.

Question 1. If confirmed, what will your top priorities be during your tenure at the STB?

Answer. Ranking Member Cantwell, if confirmed, my top priority will be to work with my fellow Board Members to continue to promote a healthy and robust freight rail economy. This would include working with Board Members as they tackle the complex issue of rate reform. Rate reform has long been a thorn in the side of our nation's rail economy and the Board, through its Rate Reform Task Force, has been proactively working to develop a new rate review methodology. I look forward to working with the other Board Members to ultimately establish a rate case process that will substantially reduce costs and timelines and enhance the Board's effectiveness in handling future rate cases.

Question 2. What will you do to make sure that the STB's policies promote the efficient movement of goods and encourage railroads to invest in their infrastructure?

Answer. Ranking Member Cantwell, I believe the Surface Transportation Board is well positioned to promote reasonable and sound policies that will result in a stronger and more vibrant national freight rail network. The Board has been clear in its message to the freight railroad community that a truly successful freight rail economy can only exist if it is built on balanced principles that are reasonable and fair to its shipping customers. Furthermore, the national rail economy will only be as strong as the infrastructure it operates upon. As with any business, an efficient and innovative infrastructure will yield greater returns than one that is improvident and obsolete. If confirmed, I look forward to working with the other Board Members to implement policies geared toward strengthening the nation's freight rail economy and infrastructure.

Written Questions Submitted by the Hon. Amy Klobuchar to Mr. Robert Primus.

Question 1. Competitive shipping rates in rural and agricultural regions help farmers remain profitable and keep costs down for consumers. The Surface Transportation Board has oversight over the process that allows shippers to challenge excessive freight rail costs in markets that lack competition. If confirmed, what will you do ensure that markets for rural and agricultural shipping remain competitive?

Answer. Senator Klobuchar, I am strongly committed to promoting the health and vitality of our nation's rail economy. Our rural and agricultural communities are critical components of the national rail economy and it is imperative that the Board continue to use its statutory authority to protect these communities against any practices that may unnecessarily drive up costs, stifle competition or disrupt the flow of agricultural products. Through its rate reform task force, the Board has been proactive in its efforts to create a rate reform model that will ensure reasonable fairness in shipping rates for all shippers while maintaining the economic integrity of our country's freight rail network. If confirmed, I look forward to working with the other Board Members to continue the Board's rate reform efforts and to support a healthy freight rail network providing good service at reasonable rates for the nation's rural and agricultural communities.

Written Questions Submitted by the Hon. Gary Peters to Mr. Robert Primus.

Question 1. The Passenger Rail Investment and Improvement Act of 2008 authorizes the STB to investigate issues of on-time performance ("OTP"). The FRA issued a Notice of Proposed Rulemaking ("NPRM") in March that included updates to OTP schedules. Do you have thoughts on the NPRM proposal and what are your thoughts on STB's past efforts to investigate issues related to OTP?

Answer. Senator Peters, as someone who is an avid rail passenger, I am very supportive of any effort to improve the on-time performance (OTP) of our nation's passenger rail system. I am pleased that the years-long legal tug of war that enveloped Section 207 of the Passenger Rail Investment and Infrastructure Act of 2008 (PRIIA), one of the central statutes concerning OTP, has been resolved and federal efforts to address OTP can proceed. Accordingly, I believe the Federal Railroad Administration's (FRA) recent Notice of Proposed Rulemaking on OTP represents authentic movement toward the development of a tangible solution for an issue that has greatly frustrated the passenger rail community, and I am pleased the Board has been involved in the process.

Under Section 213 of PRIIA, Congress gave the Board the authority to conduct investigations to determine the cause of poor OTP and render rulings to alleviate it. Due to the legal entanglement of Section 207, the Board has not had the opportunity to fully address OTP issues within its statutory borders. If confirmed, I look forward to working with Chairman Begeman and the other Board Members to address OTP once the final FRA rule is in place.

Question 2. The STB has been considering options to improve its rate methodology. What are your thoughts on the current Stand-Alone Cost Methodology and the Rate Benchmarking methodology? Is Board action merited here? If so, why? If not, why not?

Answer. Senator Peters, it is widely understood that the current Stand-Alone Cost Methodology is extremely costly, time consuming and cumbersome for the freight rail companies and major shippers alike. Moreover, the high cost and lengthy litigation has also resulted in a majority of smaller shippers being unable to utilize this option. The Board's current rate benchmarking approach, though considered to be a more simplified and effective methodology, is rarely used, with many arguing that the \$4 million cap is too low even for those smaller shippers who can't afford to utilize the Stand-Alone Cost Methodology.

I consider rate reform to be the biggest and most challenging issue facing the Board. Furthermore, I believe the Board is cognizant of the fact that substantial changes in how rates are reviewed could have major economic implications that are far reaching and consequential. To that end, I feel the Board has been diligent in its efforts to render a true assessment of what's working and what's not within the freight rail industry's rate methodologies. If confirmed, I will commit to working with the other Board Members to develop thoughtful and effective solutions to the rate methodology challenges and foster a more equitable and balanced rail system.