



COMPETITIVE SWITCHING Q/A

Q: Why is the NITL interested in “competitive switching”?

A: The League recognizes there are substantial numbers of rail shippers that have access to only one railroad. As a result they frequently pay excessively high rates. We believe that having access to a second railroad would create an opportunity to bring the benefits of competition to those currently captive shippers.

Q: What stops captive shippers from getting a competitive bid now (assuming switching is physically possible at a terminal)?

A: Surface Transportation Board regulations prevent it from happening; no shipper has ever been able to get competitive switching.

Q: What is the Surface Transportation Board?

A: The STB is the successor to the Interstate Commerce Commission, and they are the economic regulator of the freight rail industry today. The industry was essentially deregulated by law in 1980. (The agency regulating railroad safety is the Federal Railroad Administration at the Department of Transportation.)

Q: How did competitive switching become an issue at the STB?

A: In response to member concerns the NITL petitioned the STB to change current regulations to allow for competitive switching.

Q: Has the STB agreed to rewrite its regulations to allow for competitive switching?

A: Yes. On July 27, 2016 the agency issued a decision overturning its restrictive old rules and initiated a rulemaking. While they did not accept every element of the League’s proposal, they affirmed the League’s central argument that the agency’s existing rules blocked shipper access to competitive choices. The decision is complex and requires careful analysis, but the rulemaking we requested has begun.

Q: What has to happen next?

A: NITL petitioned the STB to start a formal rulemaking to adopt a new procedure to allow shippers to seek competitive opportunities through competitive switching. The STB agreed and has begun the rulemaking process. The STB decision is long and addresses many complex issues. Our experts will analyze it thoroughly and then develop comments that will go to the STB.

Q: Now that the STB has decided to go forward with the rulemaking proposed by NITL, will that process take a long time?

A: The STB set a timetable for interested parties to submit comments by September 26, 2016 and a second deadline to submit reply/rebuttal comments by October 25, 2016. They also gave parties an opportunity to meet with the Board’s members and staff to present their arguments. The League will submit detailed comments on behalf of its members, and will plan to meet with all three Commissioners. After that time there is no deadline for the agency to reach a final decision, although recent legislation has encouraged the STB to act more quickly on such matters.

For more information, you can also visit the [Rail Customer Coalition website](#)