

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

---

GRAND TRUNK CORP., et al.,

*Petitioners,*

v.

SURFACE TRANSPORTATION BOARD, et al.,

*Respondents.*

---

Petition for Review of an Order of the Surface Transportation Board

---

**MOTION FOR LEAVE TO INTERVENE IN SUPPORT OF  
RESPONDENTS BY THE NATIONAL INDUSTRIAL  
TRANSPORTATION LEAGUE**

---

Pursuant to Federal Rule of Appellate Procedure 15 and 28 U.S.C. §§ 2321(a), 2342 and 2344, the National Industrial Transportation League (“NITL”) respectfully moves this Court to allow NITL to intervene in the above-captioned appeal of the Surface Transportation Board’s (“STB”) April 30, 2024, order adopting a final rule in STB Docket No. EP 711 (Sub-No. 2), *Reciprocal Switching for Inadequate Service* (the “Order”).

NITL members ship chemicals, petroleum, agricultural products, paper and forest products, and other commodities using freight rail transportation services. Its members have developed complex supply chains to support their manufacturing and distribution operations. NITL has an interest in this appeal because its members depend on reliable and efficient rail service to meet both their own and their customers' shipping and delivery needs.

NITL seeks to intervene on the grounds that it is a party in interest and an interested association within the meaning of 28 U.S.C. § 2323. Section 2323 permits parties in interest to a proceeding before the STB to intervene "as of right" in an action challenging the validity of an order issued by the STB. Section 2323 also provides that "associations" interested in any action commenced under 28 U.S.C. § 2321 may intervene in the action at any time after it is commenced. NITL satisfies the § 2323 standard to intervene in this action "as of right" because it actively participated in the rulemaking before the STB that resulted in the Order by submitting written comments, and by participating in hearings and ex parte meetings with STB members. Further, it also satisfies the § 2323 standard for intervention by associations because NITL is a trade association, this proceeding is an action commenced under 28 U.S.C. § 2321, and NITL has a strong interest in this action because its members rely heavily on freight-rail transportation.

NITL also seeks to intervene on the grounds that it is a party with affected interests under 28 U.S.C. § 2348. Section 2348 permits parties in interest in an agency proceeding whose interests will be affected if the resulting agency order is enjoined, set aside, or suspended to intervene “as of right” in an action seeking review of such an order. Section 2348 also allows “associations” whose interests are affected by an agency order to intervene in any proceeding to review the order. NITL qualifies to intervene under each of these § 2348 pathways. It may intervene “as of right” because it was a party in interest in the underlying STB proceeding that actively participated in the proceeding by submitting written comments. It also may intervene as an affected association because it is a trade association, and the Order affects NITL’s interests, as described above, because it relates to its members’ access to freight rail reciprocal switching arrangements to address inadequate transportation service.

For these reasons, NITL respectfully requests the Court grant its request to intervene in this matter.

Respectfully Submitted,

/s/ Karyn A. Booth

Karyn A. Booth

Counsel of Record

Jeffrey O. Moreno

Jason D. Tutrone

Thompson Hine LLP

1919 M Street, NW Suite 700

Washington, DC 20036

(202) 331-8800

Karyn.Booth@ThompsonHine.com

Jason.Tutrone@ThompsonHine.com

Jeff.Moreno@ThompsonHine.com

*Counsel for Intervenor the National  
Industrial Transportation League.*

June 10, 2024

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT,  
TYPEFACE REQUIREMENTS, AND TYPE-STYLE**

1. This document complies with the type-volume limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 480 words.

2. This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word .docx in a 14-point font in Times New Roman style.

/s/ Karyn A. Booth  
Karyn A. Booth

*Counsel for Intervenor the National  
Industrial Transportation League.*

## CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of June 2024, I electronically filed the foregoing Motion for Leave to Intervene and Certificate of Compliance with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. All participants in the case are registered CM/ECF users and service will be accomplished by the CM/ECF system.

/s/ Karyn A. Booth  
Karyn A. Booth

*Counsel for Intervenor the National  
Industrial Transportation League.*