

**SENATE COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION**

Full Committee
Nomination Hearing
Thursday, November 6, 2025, at 10:00 A.M.

REPUBLICAN QUESTIONS FOR THE RECORD

Ms. Michelle Schultz

COVER PAGE

CHAIRMAN TED CRUZ (R-TX)

1. The Office of Management and Budget (OMB) is the federal agency responsible, in part, for budget and personnel decisions across the executive branch. Recently, OMB sent a message to federal employees, including members of the Surface Transportation Board (STB), providing funding and personnel guidance in the wake of the government shutdown. STB leadership forwarded the contents of this message to STB employees. Do you agree that merely forwarding a message from OMB about the government shutdown does not weaken STB's impartiality and ability to decide matters before it in compliance with relevant laws?

Yes, I agree that sending such a message has no bearing on the STB's impartiality and ability to decide matters before it in compliance with relevant laws. As a general matter, STB leadership has long complied with government-wide personnel, funding, and other general administrative policies set forth across Administrations of both parties—from executive orders on hiring to regulations on workforce and building management to guidance on budget formulation. It is my understanding that the established practice of STB leadership, regardless of party, has been to utilize OMB-drafted notifications and that this practice is consistent with government-wide protocols or practices across Administrations.

2. Former STB Democrat Chairman Martin Oberman served on President Biden's "White House Competition Council" during his tenure as STB chairman and attended many meetings at the White House. STB members, and other members of independent executive agencies, interact with the President and other parts of the executive branch in the ordinary course of their work. Do you agree that an STB member, like Mr. Oberman in the Biden administration, can talk with the President or other members of the administration without affecting his or her impartiality in deciding matters before the STB?

Yes, an STB member can talk with the President or other members of the Administration without affecting his or her impartiality in deciding matters before the STB. As you point out, former Chairman Oberman actively participated in President Biden's "White House Competition Council," interacting with the President and other parts of the Executive Branch. In Executive Order 14036, *Promoting Competition in the American Economy*, which established the White House Competition Council, President Biden encouraged former Chairman Oberman and the STB to consider substantial policy changes and enforcement actions, including rulemakings, investigations, and adjudicatory or licensing actions (e.g., merger reviews). Biden Administration officials then played active roles in

many related or ensuing proceedings, by issuing public statements, submitting comments, and appearing at hearings.

Given the significance of the Board's work for our nation's supply chain and the policy preferences of other political officials, some of whose jurisdictions are affected by Board decisions or have a statutory and regulatory role in Board proceedings, I understand the reasons why Administration officials would offer views on the Board's proceedings. I recognize the benefits of collaboration across government to address issues of national significance, which allows leaders to integrate perspectives and avoid siloed solutions. I also see value in the efficiencies and other benefits gained by consistent administrative policies across agencies, reflecting different agencies' jurisdictions and subject matter expertise. As such, I do not view interaction with the President or other parts of the Executive Branch, that are consistent with applicable law, as undermining my impartiality.

3. You have served on the STB under both the previous and current administration. During your tenure at the STB, has either administration, through official or unofficial channels, commented on board proceedings or decisions? To clarify, official means include an official filing in an open STB docket or an official publicly reported meeting, such as a hearing. Unofficial channels include press releases, statements in the press, comments made in official government documents that were not officially submitted to a STB docket, like an Executive order or official memorandum communication. If yes, please provide examples.

Yes, during my time on the Board, the previous and current administrations have both officially and unofficially commented on STB proceedings and decisions. For example, the Biden Administration routinely weighed in on STB policy, decisions, and administration, and the following are non-exhaustive examples within different facets of the agency's work:

- **Rulemaking.** President Biden's Executive Order 14036 encouraged former Chairman Oberman and the Board to consider commencing or continuing a rulemaking to strengthen its regulations pursuant to 49 U.S.C. 11102(c). The STB had a pending matter on the topic at that time. After the Executive Order was issued, the U.S. Department of Transportation and U.S. Department of Agriculture officially offered comments in the relevant docket. After the STB decided to close that docket and commence a new rulemaking, a special assistant to President Biden informally offered views on the STB's new proposed rule, which was then a pending matter, to the *Wall Street Journal*. In general, on the White House website, the Biden Administration listed STB rulemakings as actions the administration was taking to advance competition in transportation.

- **Adjudication/Licensing.** In Executive Order 14036, President Biden encouraged former Chairman Oberman and the Board to consider certain rail carrier actions or responsibilities when determining whether a merger is in the public interest. When the STB evaluated the proposed voting trust underlying the proposed merger between Canadian National and Kansas City Southern, the U.S. Department of Justice formally filed comments. After the STB issued its decision on the proposed voting trust, Administration officials informally commented on the action to the *New York Times*. In general, the Biden Administration commented on and participated in several adjudicatory proceedings of interest, ranging from new passenger rail service to other mergers or transactions, including other Federal agencies' weighing in on the proposed merger between Canadian Pacific and Kansas City Southern.
- **Investigations/Enforcement.** President Biden also encouraged former Chairman Oberman and the Board to vigorously enforce new on-time performance requirements adopted pursuant to the Passenger Rail Investment and Improvement Act of 2008. After Executive Order 14036 was issued, Amtrak filed a complaint to the STB, and the agency launched an investigation consistent with statutory requirements. The relevant parties have subsequently settled.
- **Administration.** As indicated above, the Biden Administration issued many executive orders, directives, and guidance documents concerning personnel, funding, and other administrative matters at the STB and other government agencies. Chairman Oberman implemented many workforce, planning, and other such policies in compliance with or consistent with the Biden Administration's issuances.
- **Litigation.** Consistent with statute, in carrying the agency's litigation responsibilities, the STB routinely collaborates and jointly files with the DOJ in defending the STB's decisions and on other matters.
- **Agency-specific advisory councils.** Both by statute and through the Board's discretion, officials from other agencies serve on the STB's advisory councils, including the Railroad-Shipper Transportation Advisory Council and Passenger Rail Advisory Council, and informally contribute views on the relevant subject matter for discussion.
- **Multi-agency bodies.** In addition to the White House Competition Council, former Chairman Oberman also participated on the White House-led efforts on supply chain resilience.

- **Oversight and agenda formulation.** Biden Administration officials have formally and informally participated in and commented on the STB's oversight proceedings, including testimony from former Secretary Buttigieg.

Examples span both administrations. During my time on the Board, President Trump's Administration has offered formal and informal views on the Board's agenda and proceedings. For example, President Trump has issued executive orders concerning government-wide review of regulations and policies related to competition, regulatory barriers, and American energy dominance, including EO 14267, *Reducing Anti-Competitive Regulatory Barriers*, and EO 14154, *Unleashing American Energy*. Trump Administration officials have also commented on potential and pending adjudications or licensing matters, such as the DOJ's recent formal comments on the proposed transaction between Norfolk Southern and Norfolk & Portsmouth Belt Line Railroad Company. Relevant across administrations, it is important to note that the Board's statutes and regulations explicitly reference the participation of other agencies in STB proceedings and other matters.

As stated above, given the significance of the Board's work for our nation's supply chain and the policy preferences of other political officials, and considering different jurisdictions and statutory and regulatory roles, I expect government officials, regardless of party, to continue weighing in as appropriate on STB matters in the future.

4. When you have made STB decisions in the past, how did comments by either Administration, made through official or unofficial channels, impact your decision making?

During my time on the Board, I have demonstrated that I advance and promote thorough and fair decisions based on the evidence and argument in the record. I objectively review comments filed by all interested parties in the docket and make decisions based on the merits, including consideration of the Rail Transportation Policy of the United States at 49 U.S.C. 10101.

5. If confirmed for an additional term, would the process you use to make STB decisions change if the current administration or a future administration were to file comments through official or unofficial means?

No. I have always given careful consideration to all comments filed officially in the docket. If confirmed, I will continue to review the comments filed by all interested parties fairly, impartially, and thoroughly.

SENATOR ERIC SCHMITT (R-MO)

1. The Terminal Railroad Association of St. Louis was established in 1889 to serve as a neutral switching and terminal operator for multiple major freight carriers. Today it manages key infrastructure in the region, including the only two active rail bridges across the Mississippi River at St. Louis—the Merchants and MacArthur Bridges. Five of the six Class I railroads hold ownership stakes in the TRRA, but a merger between Union Pacific and Norfolk Southern could significantly shift that balance.
 - How would you apply competition standards to determine whether such a change in ownership could reduce competition or access in the St. Louis region?
 - Do you believe that the Board should take a more active role in reviewing the governance of joint terminal companies when ownership concentration increases through mergers?

Because the merger is a pending matter, I am unfortunately unable to answer your question as any comments about how the standard of law will be applied in this case would be pre-decisional. What I can say is that I will be carefully reviewing all comments that are filed in the docket. I will also review the facts, evidence and applicable law and will make a decision based upon the merits of the case.