



# FREIGHT RAIL REFORM: MOVING AMERICA'S ECONOMY

*How free and open rail markets improve the efficacy of the rail system & benefits the American public*

**The American Fuel & Petrochemical Manufacturers (AFPM)** is a trade association representing virtually all the U.S. refining and petrochemical manufacturing capacity. Our members produce the fuels that drive the U.S. economy and the chemical building blocks integral to millions of products that make modern life possible. Three principles guide AFPM's efforts around transportation and infrastructure issues impacting our members:

### **Safety & Security**

Ensure the ability to ship feedstocks and products, safely and securely.

### **Free & Open Markets**

Promote free and open energy markets that benefit the U.S. economy.

### **Ability to Build & Repair**

Ensure the ability to build, use, repair, maintain and replace energy infrastructure.

**Manufacturing relies on rail.** To produce essential goods, AFPM members rely on a safe, reliable and efficient rail system to move materials to and from refineries and petrochemical facilities. Rail transportation is vital to our members, as well as manufacturers and customers downstream who depend on our products.

## **1.4 MILLION CARLOADS**

of our members' feedstocks and products — crude oil, NGLs, refined products, plastics and synthetic resins — were delivered by rail in the United States in 2016.

## **30% INCREASE IN RAIL RATES SINCE 2000**

due to consolidation in the rail industry.  
(Chart p. 3)

**Shippers face escalating rates, service challenges, a lack of competitive options, and ineffective means to resolve commercial disputes with railroads.** Consolidation within the rail industry has left just four railroads in control of 90 percent of U.S. rail traffic.<sup>1</sup> With limited competition, freight rail rates have increased by 30 percent since 2000 — compared to a 3 percent increase in costs to railroads. Government policies have not kept pace with these post-consolidation changes and have left many rail customers without access to competitive transportation options or an effective way to resolve problems with rates and service.

**AFPM is eager to work with the STB on guidance and regulations to alleviate unnecessary obstacles to transporting critical feedstocks and products.** Fuel and petrochemical manufacturers seek more competitive options in the U.S. rail system and support the development of improved issue resolution processes — not only to enable greater efficiency at our members' facilities, but also to better serve U.S. manufacturers and customers nationwide that depend on fuel and petrochemical feedstocks. Upgrades to rate review processes, competitive switching and precision scheduled railroading — as suggested on the following pages — could deliver widespread efficiencies and improvements that benefit U.S. industry and the larger economy.

### **Lacking Rail Competition Hurts Refiners & the Economy**



Rail industry consolidation has resulted in 78 percent of rail shippers being served by a single major railroad.<sup>2</sup> Our members are frequently faced with late or partial rail shipments in direct conflict with agreed-upon service. The result is lost profits, angry customers and partial orders that disrupt the supply chain. It causes the refinery to spend on overtime pay or trucking costs to make up for a missed railcar. While railroads are enjoying record profits, rail customers and American consumers are paying more and getting less. There must be a method to recoup losses caused by railroad failures.

<sup>1</sup> U.S. Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers: All Items [CPIAUCSL], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/CPIAUCSL>, February 5, 2019.

## RATE REVIEW

Encouraging the development of a more efficient, practical method to review and determine the reasonableness of freight rail rates is a priority for AFPM members, who offer the following considerations for rate case reform:



### Utilize Competitive Benchmarking

Competitive rate benchmarking is market-based, economically sound and cost-effective. It draws on ample real-world data to develop benchmarks for competitive rail rates. Once models are developed, rail rates can be quickly compared to competitive benchmarks.



### Expedite the Process

Challenging a rate before the STB is prohibitively expensive and complex, and it is especially burdensome to merchant refiners and other small businesses. The STB should build on the work it has already completed in EP 733, develop proposals to expedite or even standardize the production of rail traffic data, and allow for an alternative means to resolve rate disputes through a third-party arbitrator.



### Balance the Burden of Proof

To prevail in a rate reasonableness case, a rail customer must succeed with three burdens of proof:

1. Prove that they are subject to railroad “market dominance”
2. Prove that the rate being charged is jurisdictional to the STB
3. Prove that the railroad’s rate is “unreasonably high”

By contrast, the railroad does not have to justify its rate under the current “rate reasonableness” process, and the rail customer must pay the rate while the case is pending. The burden of proof that the rate is reasonable should be shifted to the railroad.

## COMPETITIVE SWITCHING

The rail industry is attempting to frame the current competitive switching proposal as an effort to “re-regulate” the industry. In truth, this change would vastly improve market access and fairness in rail shipping, and should be adopted to get our nation’s freight rail system back to work for American manufacturers.

**The proposal would simply allow certain rail customers to request that their freight be moved to another major railroad only if another rail line is reasonably accessible.** If the switch is shown to be unsafe or harmful to other customers, the railroad can block it. There is no “free lunch” for the shipper, as they would have to pay an appropriate “access” fee to cover the railroad’s costs.

**Railroads must be held accountable for honoring reciprocal switching agreements.** Too many times, shippers are forced to let cars sit and dwell for excessive times at terminals. This is a way that the serving carrier tries to influence a shipper to move line haul business to the serving carrier. It is not consistent with the spirit of the original decision.

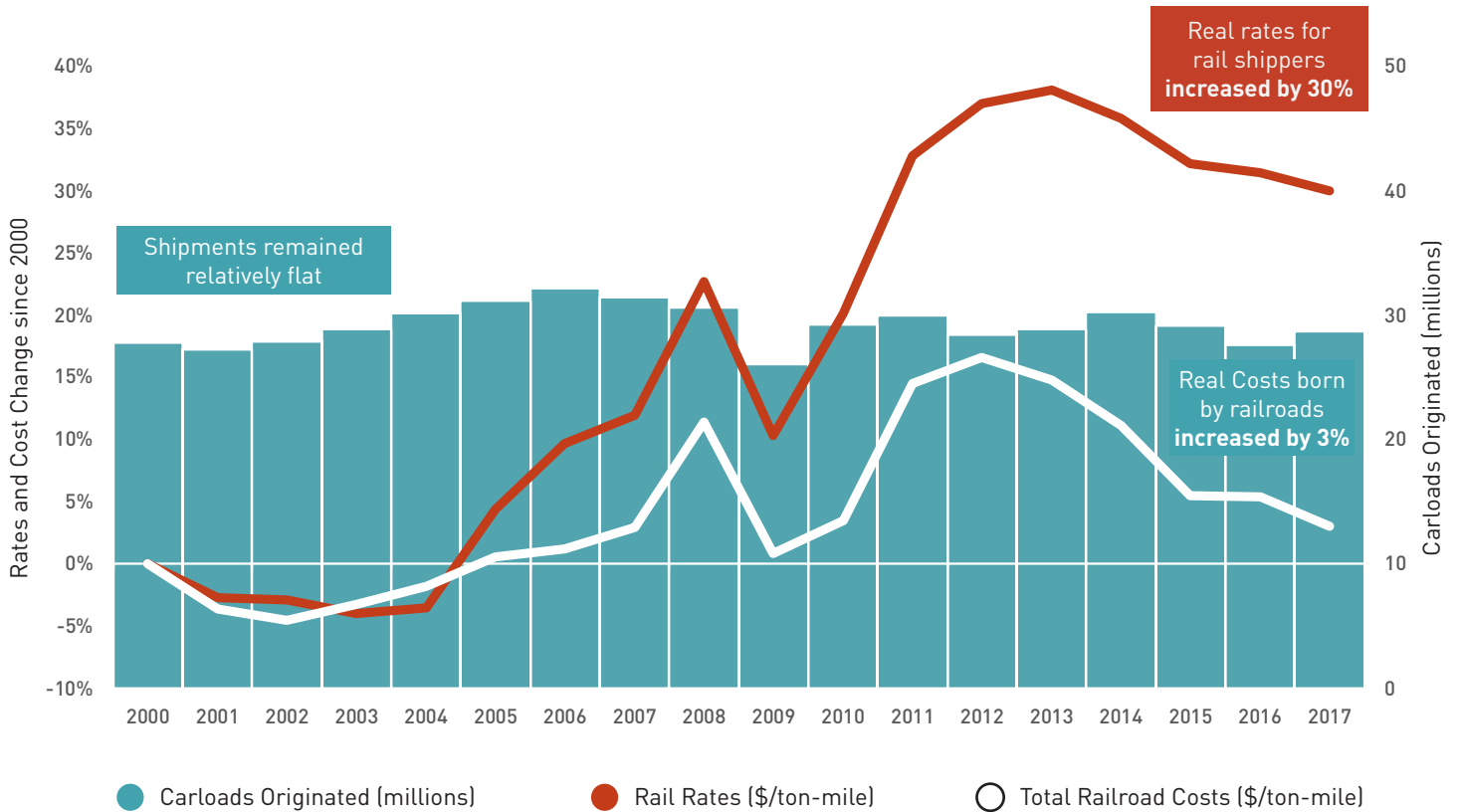
## PRECISION SCHEDULED RAILROADING (“PSR”)

**STB should closely monitor railroads’ implementation of PSR.** This operating model is designed to eliminate waste but it often is accompanied with service degradation. Decreased schedule flexibility, fewer available routes, and increased demurrage charges are just a few of the adverse effects PSR inflicts on shippers. AFPM understand the carrier’s desire to incentivize operational efficiency; however, we are concerned that there is little recourse for shippers when rail carrier provides substandard service. Our members stand ready to document service failures to inform the Board of the operational challenges they face across the network. Ultimately, free and open rail system that benefits the entire U.S. economy should be more important than maximizing rail stock valuations.

**WITH PRESIDENT TRUMP CALLING FOR REGULATORY REFORM TO SPUR THE ECONOMY AND JOB CREATION, AND A QUORUM PRESENT AT THE BOARD, NOW IS THE TIME FOR THE STB TO ADOPT CRITICAL REFORMS.**

# Rail Customers Hit Hard By Recent Rate Increases

## Change in Rail Rates, Costs, and Volumes (Rates and Costs Adjusted for Inflation)



Source: Association of American Railroads

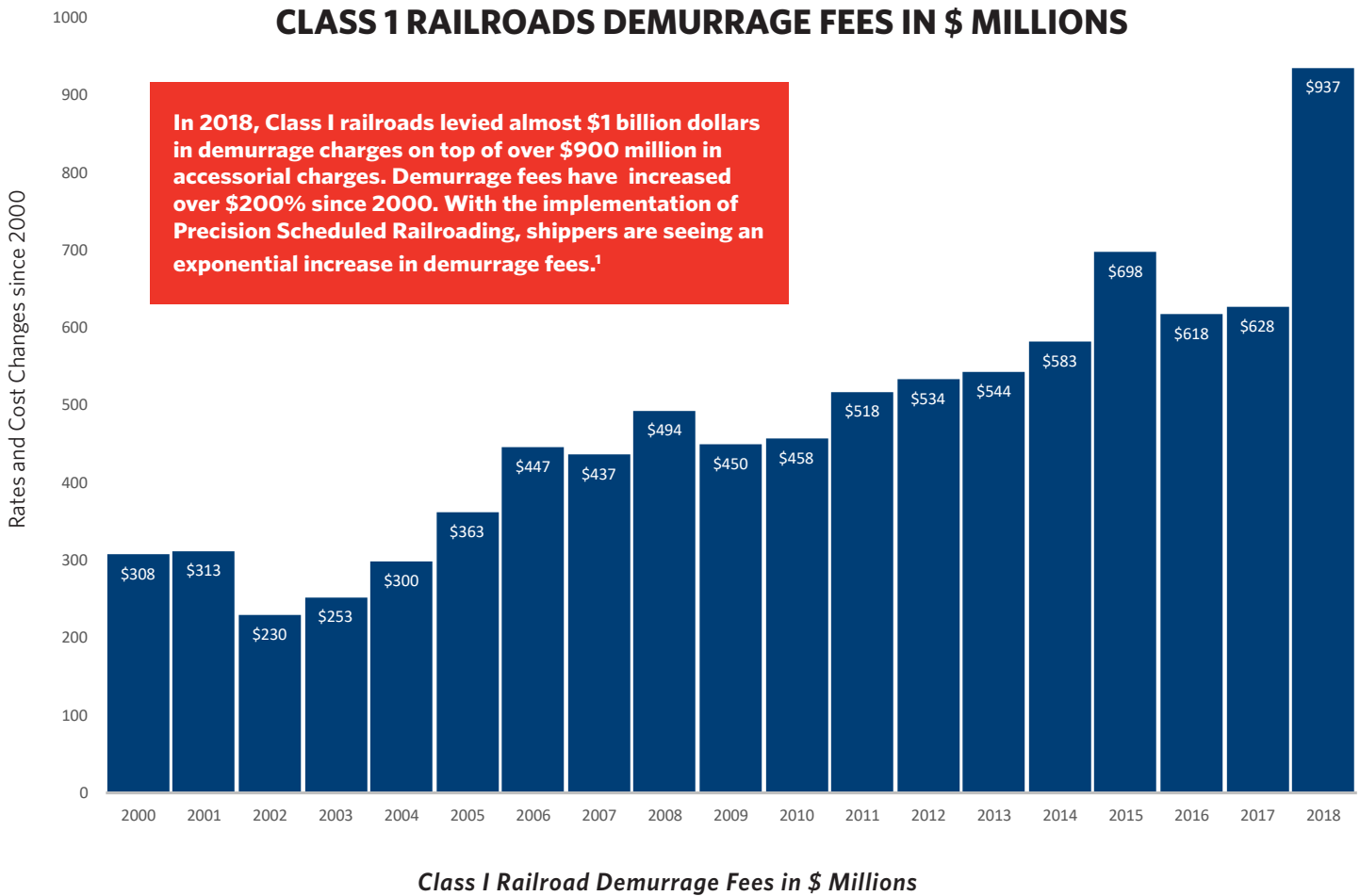


### Troubling Trends Indicate a Serious Market Failure:

- Despite stagnant volumes, freight rail rates have increased significantly since 2000.
- Real rates have risen more than 30% while railroad costs have only increased by 3%.
- Railroad profits per-ton mile climbed sharply by 186% as carriers increased rates and shifted costs to rail customers.
- At the same time, rail volumes stopped increasing and actually decreased by 10% since carload shipments peaked in 2006.

Learn more at [www.freightrailreform.com](http://www.freightrailreform.com)

## With PSR Implementation, Revenue from Demurrage & Accessorial Fees has Skyrocketed



1. 2018 data retrieved from Surface Transportation Board Non-Docketed Public Correspondence, Accessed 2/22/19, [https://www.stb.gov/stb/elibrary/NDP\\_Correspondence.html](https://www.stb.gov/stb/elibrary/NDP_Correspondence.html). All other data retrieved from Surface Transportation Board Complete R-1 Railroad Annual Reports, Accessed 2/21/19, [https://www.stb.gov/stb/industry/econ\\_reports.html](https://www.stb.gov/stb/industry/econ_reports.html).