Martin Oberman, the recently appointed Chair of the Surface Transportation Board (STB), has charged the U.S. Class One railroads with profiteering by raising freight rates, shifting more truckloads onto the nation’s highways, and contributing to global warming, according to a speech he made at the recent American Rail Shippers Association (NARS) convention in Chicago in early September.

According to STB data, Oberman pointed out that, “Since 2010, the five U.S.-based Class 1 railroads have paid out $114 billion in stock buybacks. On top of that, the U.S. railroads have paid out $77 billion in dividends during the same period. Thus, the railroad owners have taken back an astonishing $191 billion in stock buybacks and dividends ... far more than the $138 billion spent on the railroads’ infrastructure. Where would rail customers, rail workers and the public be if a meaningful portion of that $191 billion had been re-invested in expanding service and making service more predictable and reliable. Clearly, we would have more freight moved and at a lower rate. We would have more employment with better working conditions and the public would benefit with lower consumer prices, less highway congestion and less polluted air. And all of this could be achieved with the railroad owners continuing to receive a healthy return on their investments.

"He argued that forty years of rail deregulation, following enactment of the Staggers Act, did not absolve U.S. railroads of legal responsibilities, and he added that the current state of the railroads may result in an investigation by the STB as to whether the railroads have violated the ‘common carrier mandate.’ This is a historical legal obligation of the railroads to provide “transportation or service on reasonable request.”

Per #49 U.S.C. 11101(a), a railroad may not refuse to provide service merely because to do so would be inconvenient or unprofitable. “The strategies pursued by the railroad industries as a whole, and it is not the same among all the Class 1s, have serious implications as to whether the ‘common carrier mandate’ is being carried out as intended and as required by statute. This is a subject that may warrant further exploration by the STB.”

The trends of the past six years, which have coincided with accelerated cost cutting applied to rail operations through Precision Scheduled Railroading (PSR) practices, have raised concerns among shippers and railroad workers about whether railroads had cutback operations so drastically that rail operations have suffered. These practices of course, may have benefitted railroad owners but “have not boded well ... for the customers, the railroad workers and the public.”

“The railroads like to broadcast that freight rates have diminished by 44% since 1980...However, the STB’s calculation have found that railroad rates have fallen only by 27% between 1985 and 2004... the improvements in productivity and inflation adjusted terms largely flowed to shippers in enhanced service and lower rates. But that happy combination came largely to an end in 2004... Our studies since 2004 have shown that railroad rates have risen by 30% in inflation adjusted terms and traffic peaked on the railroad network in terms of cargo and tonnages in 2006.” Oberman noted that since then, our economy has grown by 50%, nearly $8 trillion dollars of enhanced economic activity... and yet railroads are carrying less freight today than they were carrying in 2006 while rates have gone up. There just might be a connection ... Not counting coal, the railroads’ market share “compared to trucks peaked in 2002 and total volumes peaked in 2006. Think about that? For the past fifteen years ... railroads have lost market share both in absolute and relative terms.”

Oberman said the railroads actions have resulted in more freight going by truck, which increases traffic, congestion and has also increased the generation of carbon emissions when freight is moved from more fuel-efficient trains, pulled by a few locomotives, to trucks, which are less fuel efficient and more polluting: "We know that for every one percent of freight lost by the railroads to trucks it amounts to an extra 5 million tons of CO2 dumped into the atmosphere. Yet since 2002, railroads have lost nearly 2% of freight market share to trucks. Again, this is not counting coal ... If railroads had just kept the same share of market, they had in 2002 there would be one million fewer trucks on the highways each year."

“Much of what I have learned about railroad strategy has come from railroad executives, many of whom would prefer the railroads focus on growth and on time performance. It is apparent that over the last 6-7 years through ever increasing pressure from Wall Street - the owners of the railroads - (that) the railroads’ emphasis has not been on growth. Rather the emphasis has been on cutting in pursuit of the almighty OR (Operating Ratio) down to below 60%. In order to meet these startlingly low OR’s the railroads have cut their workforce by about 25%, depending on how one counts. Between 40,000 and 50,000 people who worked on railroads have lost their jobs in recent years."

The STB Chairman went on to talk about the discontentment of shippers – particularly those at west coast ports – that he believes the STB data shows is due to a railroad focus on a limited number of profitable routes, forcing shippers off rail and onto trucks. “The statistics show the dramatic impact of this kind of business strategy, leaving aside intermodal and coal, nearly 85% of all tons and carloads are carried between the top 20% of origins and destinations. Smaller but profitable destinations are being ignored or actively demarketed. As a result, that freight is on the highways contributing to global warming and highway deterioration.”

Oberman concluded his talk by stating, “It’s time for the railroads, shippers, workers and the public to realize that we’re all in this together. I hope the railroads and the shippers will figure out how to move more freight on the railroads and less on the highways. The railroads need to work with the shippers, the unions, and the STB to provide the level of service they are capable of providing and paying less attention to the OR’s.”