

230344

Ex Parte No. 705

Dear Commissioner Mulvey,

I watched most of the Ex Parte 705 hearing today June 20. You said you had heard of situations where grain elevator operators had railcars coming and employees present to load them and then the railroad didn't show up on time. That happens all too often.

These elevator operators are under strict time frames for loading and so they have to be ready day or night when that train of empties is scheduled to be in. Operators also have official grain inspection service personnel there to take samples as the cars are loaded. All play the hurry up and wait for the RR game. Tracking the train's progress online is possible, but not accurate in too many cases. One example is an elevator manager checking progress at 10 p.m. and the train was still on for 5:30 a.m. arrival. Loading crew and grain inspectors had been scheduled to arrive at 5 a.m. They arrived on time, but the train was still in a rail yard 150 track miles away. It arrived around 11 a.m. If the shipper misses his loading timeframe he loses part or all of his origin efficiency payment. If the railroad runs behind time the shipper has unnecessary and unreimbursed labor costs.

Big unloading facilities at ports or large domestic destinations may have more than one labor shift. At country grain elevators, even those loading the large trains, the day crew is the night crew. If a train is scheduled to come in at midnight the manager might send some of his employees home at noon to rest and return at 11 p.m. Then if the train doesn't arrive until 4 a.m. or 8 a.m. those employees have already been on duty part or all of another shift. They are also the people expected to dump farmer trucks during the day.

Our statement in this proceeding is attached. It points out that where effective competition exists these kinds of problems wouldn't exist because the business would simply be handled by another service provider.

In your questioning of Panel 7 you used the term "passive collusion" when two or more carriers are involved. Yes, if two RRs are operating in an area and both doing well why would either one want to rock the boat? Why start a race to the bottom?

Thanks for listening.

Steve Strege, Executive Vice President  
North Dakota Grain Dealers Association  
118 Broadway, Ste 606  
Fargo, ND 58102  
Ph: 701-235-4184  
Fx: 701-235-1026  
Website: ndgda.org  
Email: sstrege@ndgda.org

**ENTERED**  
**Office of Proceedings**

JUN 24 2011

**Part of**  
**Public Record**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

STB EX PARTE NO. 705

COMPETITION IN THE RAILROAD INDUSTRY

---

COMMENTS OF THE  
NORTH DAKOTA GRAIN DEALERS ASSOCIATION

---

The North Dakota Grain Dealers Association (NDGDA) files these comments but is not requesting time at the June 22 hearing.

NDGDA is a 100 year old voluntary membership trade organization representing the interests of country grain elevators in North Dakota. These elevators are the primary point of sale for grain raised by North Dakota farmers. The elevators receive, clean, condition, segregate by quality, and ship these grains to domestic and international markets.

North Dakota is at the center of the North American continent, farther than anyone else from coastal ports and overseas markets. North Dakota has no navigable waterways that provide barge competition. For long distance movements of our commodities we are dependent on railroads.

This Association has been involved in many STB proceedings over the past 16 years and with the ICC before that. Items addressed include service, car supply, mergers, fuel surcharges, rates, common carrier obligation and other matters that sometimes become contentious between shippers and railroads. STB Chairmen Nottingham, Mulvey, Buttrey, Nober and Morgan have been our guests in North Dakota. Four of the five toured some grain elevators. That is the background from which we offer the following brief comments.

We won't go into details because others have done that and we have told the Board many of those in the past. We believe that most of the problems shippers have with railroads is due to a lack of effective competition. There are 400 grain elevators and two Class 1 railroads in North Dakota. Consider the contrast in how these business interact with their customers. If a grain elevator is not responsive to its customers' needs and/or does not treat them respectfully, those customers will go

down the road to another grain elevator. Very few grain elevators have the option of dealing with a second railroad. And even if they do, it is a duopoly situation rather than a monopoly.

If a grain elevator is not open and providing service when its customers need it, the customers go elsewhere. On the other hand when a grain elevator has rail cars on order that aren't delivered on a timely basis, or if substandard equipment is delivered, the elevator has to wait and deal with the consequences. If a grain elevator doesn't pay up for crops, the farmer will take those someplace else. When a railroad announces a rate increase, whether reasonable or not, the elevator has no choice but to pay up; it can't go elsewhere. When a railroad's lease or track agreement terms are onerous, when those terms shift liability for railroad actions to the lessee, there is little choice but to go along with it. When a railroad says it prefers certain train sizes and will be giving those priority service, shippers and receivers have little choice but to spend the money to gear up for that size. These examples indicate who really calls the shots when there isn't effective competition.

The North Dakota Grain Dealers Association believes in a free market system, with as little regulation as possible. But much of the relationship between shippers and their railroads can hardly be described as a free market. Where competition exists, competition should govern. Where effective competition does not exist, the STB should be ready to step in with effective oversight to balance the scales.

Respectfully submitted,



Steven D. Strege, Executive Vice President  
North Dakota Grain Dealers Association  
118 Broadway, Ste 606  
Fargo, ND 58102