Cargill

December 19, 2008

Surface Transportation Board
395 E. Street S.W.
Washington, D.C. 20423-0001

ATTN: STB Ex Parte No. 680 - Christensen Associates Study

Dear Board Members:

On behalf of Cargill Inc., I would like to thank the Surface Transportation Board for sponsoring the study of the U.S. rail system, its current state, as well as the nature of its competitive situation. Cargill is an international provider of food, agricultural and risk management products and services. Cargill is a large user of most modes of transportation and supports a strong transportation system as critical to U.S. economic growth and competitiveness in world market. Within the U.S., Cargill has over 20,000 assets with rail service. As such, we are directly and significantly impacted when the rail system fails to be cost-effective, efficient and competitive.

The Christensen Associates study does add to the understanding of the situation in the U.S. While many parts of the study contain solid analysis, there are some areas where the conclusions are not supported by the data or where further understanding is needed to support conclusions made. As a major user of rail within the U.S., Cargill appreciates the opportunity to provide its perspective.

Assessment of Shipper Captivity

We agree with the study conclusion that using R/VC as a proxy for captivity can be misleading. More than half of Cargill's assets are considered captive to one railroad. Shippers may be captive due to length of haul to alternative modes of transportation such as water, or to alternative competitor railroads as stated in the study. High R/VC is more likely the result of these types of factors combined with other factors such as competitors utilizing public pricing (via tariff), limiting service within an area, or insisting on shippers providing their own equipment etc. New more effective means of analyzing this area need to be utilized to better reflect the reality shippers face today.

Efficiency and Service

It is true that the Class 1 railroads have improved their train speeds. This is good for all shippers and should be commended. Most shippers must rely on the entire network including short lines, joint line, and switching carriers to move their products. The system is only as efficient as its weakest link. In areas where railroads must handle traffic from competitors, service has deteriorated over time to quite unacceptable levels. We can only surmise that these agreements or arrangements are viewed as competitively un-attractive to the railroads. Further study is required to examine service from time of billing at origin all the way to the actual placement at point of destination. This is the reality shippers economically and physically must deal with. Train speeds do not take this into consideration and consequently overstate performance.

Trends in Rates

The study makes some very weak correlations between cost and rate movements. Since 2003, rates have been increasing much faster than costs. It is surprising the study failed to note that most shippers cover (or more than cover) the fuel exposure of the railroads via fuel surcharges. The study did not go far enough to examine rates versus cost changes "net of fuel". The study should also have examined total fuel recovery inclusive of the fuel cost embedded in the base rate versus total fuel expenditure in order to provide stakeholders a view into these practices and their competitive implications.

Another recent phenomenon has been the expansion of non-rate charges. Charges such as demurrage fees have doubled since 2006. Charges for such items such as "no bill", car storage, and documentation changes have expanded dramatically. In one case a Class 1 railroad presented a plan to industry to charge $10,000 PER CAR for an overloaded car billed on that railroad.

Even more concerning, reciprocal switch charges doubled over one year among two competitors. They now far exceed cost in our opinion, and in some cases are within sight of the actual line haul rate. This can only be viewed as anti-competitive since the intent of reciprocal switching is to provide access to competitor rail systems. High reciprocal switches also lower system capacity as shippers are forced to ship further out of line in order to service customers. This is a form of economic captivity and an expression of market power. Actions such as this are inconsistent with the railroads argument for tax incentives targeted at capacity and infrastructure expansion.

Implications for Policy

The study concludes that pricing is "at levels generating earnings that maintain or slightly exceed those necessary to ensure financial viability…and there is little room to provide significant rate relief…" During conduct of the study (summer 2008), the railroads reported quarterly earnings. Despite volume falling due to the weak economic conditions, earnings increased in the 15-25% range. Forward looking statements expected continued volume declines, while at the same time predicting pricing increases of 5-7% overall.

The ability to significantly raise prices and extract sizable economic gains from customers through ever higher rates and new non-rate charges, in both good and bad economic markets, clearly reflects the pricing power of today's rail industry. The one-sided nature of this leverage in the market requires a much more responsive STB in order to ensure fair and open competition.

Railroads play a critical role in the overall economic success of this country and their impact is felt beyond one single segment of the economy. Again, we appreciate the STB authorizing this study and value the work of Christensen Associates. We hope these comments contribute to a deeper understanding of several of the critical issues raised the report.

Sincerely,

George Schember

George Schember
Vice President, North American Transportation