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BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB EX PARTE NO. 680

STUDY OF COMPETITION IN THE FREIGHT RAILROAD INDUSTRY

COMMENT OF THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

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The American Short Line and Regional Railroad Association ("ASLRRA") respectfully submits its Comments concerning the Study of Competition in the Freight Rail Industry ("Christiansen Study"). These comments are submitted in response to the November 7, 2008 Notice by the Board soliciting public comment on the Christiansen Study.

Statement of Interest

ASLRRA represents 464 class II and class III railroads in the United States, Canada and Mexico as well as numerous suppliers and contractors to the short line and regional railroad industry. ASLRRA thanks the Surface Transportation Board for inviting the comments of interested parties.

Comments

The contribution of Class II and Class III railroads to the competitiveness of the railroad industry is clearly not the focus of the Christiansen study. However, ASLRRA believes that any policy decisions which may arise from the study must address both the role of the nation's 550 small railroads in the competitive landscape as well as the effect on those railroads of policy decisions arising out of the study. This is not meant to be a criticism of the study, but rather an admonition that as massive and thorough as the study may be on the subject matter it was assigned to review, there are factors beyond the study which the Board should consider before crafting regulations or policy from it.

The presence of a large number of class II and class III railroads enhances competition both within the rail sector and in intermodal transportation. Approximately one-third of the nation's small railroads have multiple interchange connections creating class I competition for the business of shippers on their lines who would otherwise have none. In addition, the customers for whom these competitive alternatives are created typically are smaller shippers, often in rural locations, who would otherwise have virtually no commercial leverage in negotiating with a single class I carrier.

While small railroads' presence can often create competition among class I connecting carriers, they face ubiquitous competition from trucks by the nature of their short haul distances. While trucking may not provide a viable competitive alternative for shippers with long distance movements, a short line at either end of a long movement always has the threat of truck competition that is ready to take the movement from the ever growing number of intermodal facilities class I railroads are building on their systems as an alternative to interchange with short line railroads. This ever-present truck competition not only puts constant pressure on short line rates, but is also a competitive alternative to the reciprocal switching agreements highlighted by the Christiansen study as a potential new source of competitiveness between class I railroads. If a truck operator is willing to quote a price to take a shipment from an intermodal facility, that quote effectively places a limitation on the amount a short line can negotiate in a reciprocal switching agreement to move the traffic at interchange to the same destination.

The Christiansen study suggested that regulators may wish to mandate reciprocal switching wherever requested by a customer to stimulate inter-class I railroad competition. The concept of reciprocal switching looms very large in the business plans of the majority of participants in the small railroad industry. Not only do many have traditional reciprocal switching agreements with their class I connections, but in addition virtually every *handling line* carrier has a reciprocal switching relationship with its class I partner. Further, in both traditional reciprocal switching and handling line agreements, the small railroad is almost always a *seller* of service. Thus, any discussion of the competitive role of reciprocal switching is of enormous consequence to the small railroad community.

ASLRRA agrees as noted above that switching agreements do foster competition, but it does not support any suggestion that regulator-mandated reciprocal switching would be a favorable substitute for marketplace driven, commercially negotiated switching agreements. Their widespread use in the industry is a testament to their utility and acceptance in the railroad industry. In essence they are formulaic pricing strategies that dispense with the differential pricing models that railroads use to manage yield. From the small railroad perspective reciprocal switching agreements are struck when they provide a cheaper rate for shippers and a good source of reliable income for the small railroad. Currently, the small railroad is free to negotiate whatever rate it can for those services, subject to the effective lid of ever-present truck competition.

The Christiansen study cites the Canadian model which mandates both reciprocal switching and government imposed switching fees. Canadian -styled mandated reciprocal switching would take away the negotiating opportunity from the small railroad. While in some cases it might result in greater revenue for the small carrier, more likely it would be lower because small railroads are typically sellers, not purchasers of reciprocal switching services. This could be devastating to the small railroad, which may exist because the specific circumstances of location, shippers and economics has created a market price for its services, which it has voluntarily accepted because at that commercially negotiated level, it makes economic sense to operate a small railroad in that place. Who knows what an agency driven charge would be, but it is a fair guess that those charges would be flat, not adjusted according to the individual economics of each reciprocal switch. There are just too many of those for an agency *efficiently* to determine what an appropriate rate might be in each instance. Thus, though ASLRRA supports and encourages reciprocal switching agreements, it opposes mandating them by government fiat because later, if not sooner, the temptation to impose a regulated price would be too tempting for a regulator to resist, and ASLRRA believes that would damage the economic viability of many members of the small railroad industry. At the very least the Board should reject the fiction that reciprocal switching is an easy and obvious target; it is more complex than appears at first glance, and regulatory changes to traditional reciprocal switching will have greater consequences – especially to the small railroad industry – than may at first be apparent.

ASLRRA notes with approval that the Christiansen study does suggest further research and review of issues between small railroads and their class I connections, the need for greater investment in the short line infrastructure, and generally how class II and class III railroads contribute to the performance of the nation's freight industry. ASLRRA encourages the Board to authorize and underwrite the same scholarly, in-depth exploration and analysis of these issues as it has done in the Christiansen study on the issue of competition in the rail industry as a whole. A better understanding of the role of small railroads in the national freight rail infrastructure is a key component of highlighting their importance in today's transportation system and is long overdue.

Respectfully submitted,

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