



WESTERN COAL TRAFFIC LEAGUE

1224 Seventeenth Street, N.W.
Washington, D.C. 20036-3003

(202) 659-1445

Officers

Duane L. Richards
Western Fuels Association, Inc.
President

Mark Werner
CPS Energy
Vice President

Bette Whalen
Lower Colorado River Authority
Treasurer

Executive Board

Western Fuels Association, Inc.
Denver, Colorado

MidAmerican Energy Co.
Davenport, Iowa

Lower Colorado River Authority
Austin, Texas

Arizona Electric Power Coop., Inc
Benson, Arizona

CPS Energy
San Antonio, Texas

Entergy Services, Inc.
The Woodlands, Texas

Kansas City Power and Light Co.
Kansas City, Missouri

Minnesota Power
Duluth, Minnesota

Omaha Public Power District
Omaha, Nebraska

September 9, 2013

The Honorable Daniel R. Elliott, III
Chairman
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

Dear Chairman Elliott:

The Western Coal Traffic League (WCTL) recognizes the Board's interest in ascertaining the ability of the railroads to meet their customers' seasonal service needs, as reflected in your August 1, 2013 letters to railroad CEOs concerning the carriers' "fall peak" plans.

Unfortunately, in their written responses, several railroad CEO's have chosen to include extraneous political remarks. One such railroad assertion, that proposals to address railroad competitive concerns are based on the "irreconcilable notion that shippers can have better service, quality rail infrastructure, and ever-declining rates – all at the same time" (Letter from Charles W. Moorman dated Aug. 22, 2013 p. 3) bears a response.

Notwithstanding general railroad claims to the contrary, actual history shows that where policymakers have made a concerted effort to protect competition rather than competitors, the actual result has been "better service, quality rail infrastructure, and ever-declining rates – all at the same time."

Shortly after the Staggers Act was passed, the ICC took actions to facilitate competing rail access to several Wyoming PRB mines, over the vehement objections of the incumbent carrier which wanted to monopolize all PRB service. The ICC emphasized in its 1981 decision that competition for coal transportation was a vital public interest:

The public interest requires that these coal resources be made available to consumers under the most favorable terms possible. Ensuring competition for the transportation of coal is the best means to guarantee that result.

The Honorable Daniel R. Elliott, III
September 9, 2013
Page 2

Chicago & N.W. Transp. Co. Construction & Operation of A Line of R.R., 363 I.C.C. 906, 927 (1981).

In 1985, the ICC approved CNW's request to build a new rail line to access three additional PRB mines then solely served by BN. BN argued that the line construction would cut into its monopoly profits, require it to raise rates elsewhere, and cause it other commercial harm. The ICC rejected BN's arguments, finding the public interest in competition outweighed BN's potential short term revenue losses:

A railroad is an instrumentality of commerce that must earn and retain its traffic by providing efficient, effective, and competitive service. In addition, one of the cornerstones of the Staggers Rail Act of 1980 was the emphasis on increased railroad competition. Finally, BN has received handsome returns while it was the only railroad serving the PRB.

Chicago & N.W. Transp. Co. & W. R.R. Properties, Inc. – Notes and Assumption of Obligations, ICC Finance Docket No. 29975, 1985 ICC LEXIS 9 at *42 (Dec. 27, 1985).

So-called "forced competition" in the PRB for many years was a tremendous success for all stakeholders, including the railroads, consumers, and the economy. Unfortunately, as WCTL has emphasized repeatedly to the Board, initial progress made by the ICC in promoting competition has languished over the past decade. The existing duopoly structure in today's mature market environment, as WCTL has stressed, provides the opportunity for pricing abuses and service shortages if regulatory oversight is inadequate.

A monopolist may believe competition is not conducive to sustainable profitability, but competition is the foundation of successful capitalism in almost all industries. History shows that assertions by monopolists that competition will actually harm consumers and the marketplace are simply a red herring.

We appreciate the Board's attention to this matter.

Sincerely,


Duane L. Richards
President

cc: Vice Chairman Ann D. Begeman
Commissioner Francis P. Mulvey