The STB and the Regulation of Coal Transportation in a Capacity-Constrained Environment

STB Commissioner Francis P. Mulvey

EUCI Coal Transportation Workshop

Coal: Volatile Markets and Risk Management

St. Louis, Missouri – November 10, 2005
The Railroads and the Surface Transportation Board

Created by ICC Termination Act of 1995

Born out of the Deregulation Movement

Residual Economic Regulation of the Railroads

Far Smaller Staff and Scope of Authority
STB Mission

Exclusive authority to approve of rail mergers

Review rail rates and practices to ensure they are reasonable and not discriminatory

Approval, including environmental review, of (i) construction of any new rail line or (ii) abandonment of existing lines

Motor carrier collective ratemaking activities

Rates for non-contiguous domestic water trade

Rates for pipelines not carrying energy products
STB Responsibilities over Rates and Service

Oversee and Monitor Railroad Practices Nationally

Enforce the Railroads’ Common Carrier Obligation

Ensure that Rates Charged Captive Shippers are Reasonable

Assist Railroads in Earning Adequate Revenues

Calculate the Railroads’ Cost of Capital
Recent Changes in STB Procedures

- Greater openness, more public meetings
- Increased reliance on mediation and technical conferences
- Expedited discovery procedures
- Greater shipper and carrier outreach
STB Past Year in Review

- Board at full strength with confirmation of two new members
- Agency worked off a significant backlog in year
- Held 19 Public meetings on significant issues:
  - Nine Voting Conferences
  - Five Oral Arguments
  - Five Hearings
Year in Review –
Maximum Rate Cases

• Decisions on seven maximum coal rate cases

• Oral arguments in three coal rate cases and one pipeline case

• Hearings on the SAC process and small rate cases
Year in Review – Service Issues

- Board carefully monitored rail trends and performance metrics
- Facilitated communications between railroads and shippers in cooperation with AAR at conference in St. Louis
- Asked railroads to submit their fall peak plans
- Site visits by Board to PRB, shipper facilities
Year in Review

- Chairman Nober’s decision not to seek a second term

- Implications for the Board’s Functioning
Coal Transportation Issues

- Powder River Basin Maintenance
- Rates and Rate Cases
- Fall Peak 2005 Service
- General Freight Capacity
The Powder River Basin

- Highest density rail lines in world
- Unique “joint” line
- Focus of great deal of Board attention due to key role PRB coal plays in economy and regulatory scheme
- Made first-ever agency site visit to PRB last year
PRB – STB Action Items

- BNSF and UP addressed Board members on PRB situation in July 2005

- Numerous meetings with utilities and other coal shippers to hear concerns about PRB service

- STB’s Office of Compliance and Enforcement hosts weekly conference calls with BNSF and UP to address PRB and Joint Line issues
Joint Line/PRB Status

- Joint line handling an average of 61-65 trains per day, about 4 less than necessary
- Loading levels improving, but sporadically
- Joint Line maintenance is on schedule according to BNSF. BNSF says maintenance will be completed by mid-November
- Not all transportation problems are railroad’s fault – some lay with mines also
Next Steps -- PRB

- Carriers must cooperate in completing maintenance
- Railroads must determine causes and best way to treat fugitive coal dust
- Railroads, mines and utilities must all be part of solution to prevent future coal-dust related line failures
- Will finalize EIS on DM&E PRB expansion project be early next year
- STB will continue to focus on PRB as a core agency responsibility
Coal Rate Cases

- Board currently has 6 pending SAC Cases.
- Regulatory responsibility to adjudicate cases on record before agency
- Shippers often want redress for large increases
- Railroads feel commercially reasonable rates should govern
Alternative Approaches

- SAC approach has been criticized as artificial and overly complex
- SAC approach is very costly and time consuming
- Only feasible for large shippers
- Is it time to look for alternative approaches? What happens if railroads become revenue adequate?
## Summary of Recent SAC Cases

<table>
<thead>
<tr>
<th>Case Name</th>
<th>Decision Date</th>
<th>Tariff Rates (per ton)</th>
<th>Shipper Requested Reduction</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>FMC</td>
<td>2000</td>
<td>wide range*</td>
<td>wide range</td>
<td>~15% reduction</td>
</tr>
<tr>
<td>WPL</td>
<td>2001</td>
<td>$14.66</td>
<td>~ 32%</td>
<td>~11% reduction</td>
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<tr>
<td>PPL Mont.</td>
<td>2002</td>
<td>$5.33 - $7.74</td>
<td>~ 31%</td>
<td>dismissed</td>
</tr>
<tr>
<td>TMPA</td>
<td>2003</td>
<td>$19.09</td>
<td>~ 30-42%</td>
<td>~1-3% reduction</td>
</tr>
<tr>
<td>Duke/NS</td>
<td>2003</td>
<td>$16.00 - $21.01</td>
<td>~ 53-62%</td>
<td>Not shown unreasonable</td>
</tr>
<tr>
<td>CP&amp;L</td>
<td>2003</td>
<td>$16.56 - $16.86</td>
<td>~ 57%</td>
<td>Not shown unreasonable</td>
</tr>
<tr>
<td>Duke/CSXT</td>
<td>2004</td>
<td>$16.66 - $19.00</td>
<td>~ 53-63%</td>
<td>Not shown unreasonable</td>
</tr>
<tr>
<td>APS</td>
<td>2004</td>
<td>$4.21 prescription</td>
<td>no change</td>
<td>prescription vacated</td>
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<tr>
<td>Xcel</td>
<td>2004</td>
<td>$8.98 - $9.24</td>
<td>~ 44%</td>
<td>~16% reduction</td>
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<tr>
<td>AEPCO</td>
<td>2005</td>
<td>$9.05 - $10.17</td>
<td>~ 25-40%</td>
<td>dismissed</td>
</tr>
</tbody>
</table>

* 16 origin/destination pairs involving 5 commodities
## Pending SAC Cases

<table>
<thead>
<tr>
<th>Case Name</th>
<th>Date Filed</th>
<th>Tariff Rate</th>
<th>Statutory Deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>AEP Texas North</td>
<td>2003</td>
<td>$17.25 - 18.04</td>
<td>Mar. 9, 2006</td>
</tr>
<tr>
<td>Western Fuels</td>
<td>2004</td>
<td>$5.69 - $8.13</td>
<td>Record not closed</td>
</tr>
<tr>
<td>APS v. BNSF</td>
<td>2004</td>
<td>$6.91 - $8.75</td>
<td>Complaint stayed pending appeal</td>
</tr>
<tr>
<td>West Texas v. BNSF</td>
<td>On remand from D.C. Circuit</td>
<td>$13.68 prescription</td>
<td>None</td>
</tr>
<tr>
<td>KCPL v. UP</td>
<td>2005</td>
<td>$15.84 - $14.26</td>
<td>Record not closed</td>
</tr>
</tbody>
</table>
Current SAC Issues

- Held Spring 2005 hearing on SAC issues. Major substantive issues discussed included:
  - The appropriate use of “cross-over” traffic;
  - How the agency should project operating expenses; and
  - Possible changes to the rate prescription methodology.
- No party offered a detailed proposal on how to revise the SAC test.
2005 Service Actions

• 2005 Letter to railroads asking them to submit Fall Peak plans, capacity bottlenecks and plans to alleviate those identified issues

• Impact of Hurricane Katrina still being evaluated

• Individual carrier meetings where appropriate
Constrained Capacity Environment

- Shrinking Workforce and Infrastructure Partly Offset by Productivity Improvements
- But Continuous Increase in Traffic Begins to Absorb “Excess Capacity”
- Network becomes More Vulnerable to Stochastic Events such as Katrina, derailments, etc.
- A Perfect Storm or the Rail Version of Global Warming
Growth and Decline of Railroad Mileage
Railroad Employment 1939-2003 (in thousands)
Intermodal Traffic
1980-2004
Railroad ROI 1970-2003
Short term Capacity Problems

- Expanding Economy Led to Surge in Imports
- Large Grain Harvests in 2003 and 2004
- Growth in Export Coal Market & Coal Demand generally
- Crew Shortages due to Wave of Retirements
- Equipment Shortages due to Reduced Purchases
- Cutbacks in Capital Spending Programs
- Tight Capacity in Trucking Industry due to Driver Shortages, Higher Fuel Costs, HOS Rules, etc.
Class I Capital Expenditures
(in billions of current $)

- Total
- Road and Structures
- Equipment
Carrier Responses to Recent Capacity Problem

- More Cars and Locomotives Bought and Leased
- Accelerated Hiring and Training of Train Crews
- Some Infrastructure Expansion Efforts e.g. triple tracking PRB joint line
- Price Rationing of Available Capacity
- Railroads Choosing who they will Serve and the Common Carrier Obligation
Long-Term Rail Capacity Constraint Factors

Demand for Freight Rail Transport Projected to Grow by 60%-70% over Next Two Decades

Railroads’ Inability to Earn Cost of Capital

Pressure from Wall Street to Reduce Capital Costs and Improve ROI

Long-Term Contracts Limit Railroad Pricing Flexibility

Railroads tend to Bid Long Term Contract Rates Down to Long Run Marginal Costs
Approaches to the Transportation Congestion Problem

- Build more Physical Infrastructure
- Adopt technological innovations
- Make better use of existing facilities
- Promote shipper and traveler behavioral changes
- All have potential but all limits
Thank You, Any Questions?