Shippers Taking Charge in a Capacity Constrained Environment:

The Role of the STB in Railroad Regulation

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San Antonio, Texas
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The RR’s & the Surface Transportation Board

- Created by ICC Termination Act of 1995
- Born out of Deregulation Movement
- Residual economic regulation of the railroads
- Far smaller staff and scope of authority than the ICC
STB Mission

• Exclusive authority to approve rail mergers
• Review rail rates and practices to ensure they are reasonable & non-discriminatory
• Approval and environmental review of
  – Construction of any new rail line
  – Abandonment of existing lines
• Rates for non-contiguous domestic water trade
• Rates for pipelines not carrying energy products
• Minor residual motor carrier collective rate making activities
STB Responsibility - Rates & Service

• National oversight and monitoring of railroad practices
• Enforcement of RR’s common carrier obligation
• Monitor rate reasonableness for captive shippers
• Calculate the RR’s cost of capital
• Assist RR’s in earning adequate revenues while allowing, to the maximum extent possible, competition to establish rates
Rate Case Resolution
Large Shipments

- Market dominance assessment
- Stand Alone Cost Test
  - Fact-based approach rooted in economic reasoning, approved by courts
- Look for strong cases with solid evidence
- Strive for balance between RR’s need for adequate returns and shippers need for fair and reasonable rates
Alternative Approaches

• SAC criticized
  – “Artificial” and “Overly complex”
  – Costly & time consuming
  – Feasible only for large shippers

• Alternative Approaches?
  – Hearing on SAC process
  – Proposed rulemaking on SAC changes
Small Rate Cases

• No cases yet decided under small rate case guidelines

• BP/Amoco
  – Settled through mediation
  – Assisted in development of procedural rules

• Potential small rate case from state of North Dakota
Year in Review Service Issues

- Closely monitored rail trends and performance metrics
- Assessed carriers fall peak plans
- Encouraged improved communications between RR’s and shippers--including participating in Fall Peak Forum in St. Louis
- Board members and staff attended several site visits to shipper facilities
Capacity & Congestion

• Problems of traffic congestion are multimodal

• Ports
  – Larger Vessels
  – Rapidly expanding international trade

• Rail capacity problem is of more recent vintage

• Economic regulation fostered excess capacity—especially on RR’s
Genesis of RR Capacity
Problem

- Earnings improvement but all are not revenue adequate
- RR’s “punished” by Wall Street for capital investment spending
- Infrastructure investments often failed to generate sufficient income for RR’s
- Long term strategy to reduce size of work force
- Increased rail infrastructure is long-lived vs. demand increases which are short-lived
The Developing Rail Capacity Crisis

- Shrinking workforce and infrastructure partly offset by productivity improvements however, continuous traffic increases absorb “excess capacity”
- Network becomes more vulnerable to stochastic events
- Results in a “perfect storm” or the rail version of global warming
Growth & Decline of Railroad Mileage
## Railroad Cost of Capital and ROI

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<th>BNSF</th>
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Intermodal Shipments
Beginning 1965

Total 10,993,662
Containers 8,065,539
Trailers 2,928,123
Class I Capital Expenditures
1994 - 2004

Billions


Total

Roadway & Structures

Equipment
Short-term Capacity Problems

- Imports surge due to expanding economy
- Large grain harvests in 2003 and 2004
- Export coal market growth
- Wave of retirements created crew shortages
- Reduced equipment purchasing led to shortages
- Capital spending cutbacks
- Tight capacity in trucking industry
  - Driver Shortages
  - Higher Fuel Costs
  - HOS Rules
Long-term Capacity Concerns

• Demand for freight rail transport to increase 60%-70% by 2025
• RR’s inability to earn Cost of Capital
• Wall Street pressure to reduce Capital costs and improve ROI
• RR flexibility limited by long-term contracts
• RR’s tendency to bid L/T contract rates down to L/T marginal costs
RR’s response to Capacity Constraints

- Increase in locomotive purchases & leases
- Accelerated crew hiring and training
- Some infrastructure expansion efforts
- Price rationing of available capacity
- RR’s choosing who to serve vs. common carrier obligation
Easing Congestion

- Increase physical infrastructure
- Adopt technological innovations
- Improve efficiency of existing facilities
- Promote shipper/traveler behavioral changes

All have potential but all have limits
Infrastructure Capacity

- SAFETEA-LU – 2 years late, $90 Billion short
- $286.5 Billion over 6 years
  - 38% more than TEA-21 in 1998
  - Far short of $375 Billion estimated need
- Contains rail title but far from intermodal legislation
- Expands the RIFF program to $35 Billion, makes shippers eligible
Rail Capacity Investment

- RR’s support limited public sector role
- Public/Private partnerships
  - Alameda Corridor
  - CREATE
- RR Trust Fund concept
- Investment Tax Credits
  - Short Lines 286K car issue
  - Class I access and limited fiscal capacity
What can shippers do?

• Support infrastructure investment spending
• Work with carriers to alleviate bottlenecks and chokepoints
• Work with the STB’s Office of Compliance & Enforcement when problems arise
• Continue dialog with other shippers & shipper groups, e.g. RSTAC
• Communicate traffic demand forecast to carriers
STB Rail Consumer Assistance Program

- Facilitates informal resolution to disputes with RR’s
- Brings issues to RR’s rapidly
- Solves problems without litigation
- Promotes rail service improvements
- 121 complaints handled in 2005, over 560 handled since program began in 2000
Rail Consumer Assistance Program Contact Information

• Toll-free telephone 866-254-1792
• Written statement of the problem
  – Email: railconsumer@stb.dot.gov
  – FAX 202-565-9011
• Web form at http://www.stb.dot.gov/railconsumer.nsf/feedback?OpenForm
Thank you. Questions?