The S.T.B and the Nation’s Railroads

STB Vice Chairman
Francis P. Mulvey

American Forest & Paper Association
Washington, DC – May 23, 2006
The Surface Transportation Board Today

- Created by ICC Termination Act of 1995
- Successor agency to the ICC—child of deregulation
- Residual economic regulation of the railroads
- Reduced scope of regulatory activity—many rail movements deemed competitive
- Smaller staff
STB Mission

• Exclusive review and approval 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 water carriers in non-contiguous domestic trade
• Rates for pipelines not carrying energy products
STB Merger Authority

• Mergers in the post-Staggers Era
• STB merger policy in 1990’s
• Merger moratorium
• Categories of merger transactions (major, significant and minor)
• Mergers and downstream impacts
STB Responsibilities over Rates and Service

• Oversee and monitor rail practices nationally
• Enforce common carrier obligation
• Ensure rail practices are reasonable
• Ensure that rates charged captive customers are reasonable
• Assist railroads to earn adequate revenues
• Determine the railroads’ cost of capital and whether they are revenue adequate
Rate Case Resolution (Large Shipments)

- Determination of market dominance (180% R/VC)
- Constrained Market Pricing and Ramsey Pricing
- Stand Alone Cost Test—*Fact based approach rooted in economic reasoning approved by courts*
- No substitute for preparing a strong case with solid evidence
- Balance railroads need to earn adequate returns and shippers need for fair and reasonable rates
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—no small shipper cases

• Is it time to look for alternative approaches?

• Current Rulemaking on SAC Procedures
Rate Case Resolution (Small Shipments)

- ICC adopted procedures for small rate cases in 1987 but courts struck them down.
- STB adopted Simplified Guidelines in 1996 but never used them.
- 20 years without finalizing the approach.
- BP/Amoco 2005 – settled through non-binding mediation but established procedural schedule.
- North Dakota case?
Environmental Review

• Approval of new construction
  – DM&E
  – Yucca Mountain

• Abandonment cases

• Offers of Financial Assistance (OFAs)

• Rails to Trails

• Line sales and paper barriers
Other STB Powers

• Amtrak - Direct Service Orders
• Emergency service orders
• Operating issues (e.g. car supply, unreasonable practices)
• Industry specific meetings
• Ongoing monitoring
  – Cases of national significance
  – Certain local disputes needing STB attention
• Interchange and switch connections between railroads
• Requests for terminal access
Major Issues Facing Railroads Today
Capacity & Congestion
Growth & Decline of Class I Railroad Mileage
Insufficient Railroad Capacity

- Current and future service issues often demand and capacity driven
- Agency’s role – not clearly defined
- Most commodities are deregulated and/or modally competitive
- Interstate Commerce Act laws and doctrine look at reasonableness
- Customers want fairness
- Responsibility is to system as a whole
Capacity Constraints
Short-term Causes

• Increased rail demand and tightness in rail capacity
  – Expanding economy increased imports
  – Large grain harvests
  – Shortages of crew and equipment
  – Insufficient capital expenditures

• Trucking capacity is also tight
  – Increased fuel prices
  – Driver Shortages
  – High insurance costs
  – Uncertain hours of service rules
Intermodal Shipments
Beginning 1965

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

Billions


Roadway & Structures

Equipment

Total
Capacity Constraints

Long-term Causes

• Future demand for freight movement predicted to increase
• Challenge for private companies to meet that demand
• Constraints on capital investment
  – RR\textsc{s} inability to achieve revenue adequacy
  – Demands of investors
  – Undercapacity and overcapacity at the same time
• Demands of changing freight flows
RR’s response to Capacity Constraints

- Increase in locomotive purchases and 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
Public Investment in Rail Infrastructure?

- Railroad ROI’s inadequate – not earning cost of capital
  - Extraordinary costs
  - Revenue constraints
- Railroad Trust Fund concept – Class I opposition
- Public Private Partnerships (PPPs) –
  - Create
  - Alameda Corridor
- Short Lines and 286K ton car problem
- Investment tax credits
Railroad Revenue Adequacy
Railroad ROI 1970 - 2004
## Railroad Cost of Capital

**Sources:** Annual R-1 Reports and AAR

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Other Rail/Shippers Issues
Railroad/Shipper Ongoing Concerns

- Fuel Surcharges
- Equipment supply
  - Return on assets
  - Balance meeting shipper needs with appropriate utilization of equipment
- One man crews
- Specific line segment utilization
What can shippers do to improve service?

- Support infrastructure investment spending
- Work with carriers to alleviate bottlenecks and chokepoints
- Work with the STB’s Office of Compliance and 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 of disputes with RR’s
- Brings issues to RR’s attention rapidly
- Solves problems without litigation
- Promotes rail service improvements
- 122 complaints handled in 2005, over 590 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