Francis P. Mulvey  
Acting Chairman  
Surface Transportation Board

Merrill Lynch Global Transportation Conference  
New York, New York  
June 10, 2009
Recent Changes at the STB

• Commissioner Doug Buttrey left the Board
• Currently, only two STB Commissioners on Board, but not an unprecedented situation
• President Obama named Mulvey Acting Chairman in March 2009
STB’s Responsibilities

- Focus is on regulating railroads—rates for captive shippers, mergers and acquisitions, abandonments and new construction, service levels
- Residual responsibility for water carriage, pipelines, and trucking
The Mission of the STB

- Despite changes in STB leadership, the primary mission of the STB remains unchanged.
- The STB must balance the need for railroads to earn adequate revenues with shippers' need for reasonable rates.
- Ensures that structural changes in the railroad industry are in the public interest.
- The STB must adapt to changing conditions.
Recent Activities at the STB

• Streamlined procedures to reduce time and cost for adjudicating large rate cases upheld in court
• First large rate cases handled under new guidelines—AEP North Texas, Western Fuels, KCPL
• Major shipper “win” in Western Fuels
• Major case involving DuPont and CSX resolved through STB facilitated mediation
• Small rate case guidelines applied in DuPont cases and upheld in court
Recent Activities

• Further revisions to STB’s methodology for calculating the railroads’ cost of capital—multi-stage discounted cash flow averaged with capital asset pricing model
• Disclosure Rules for new Paper Barriers—Entergy Case
• Continued meetings of Rail Shipper Transportation Advisory Council and Rail Energy Transportation Advisory Council
Recent Activities

• In response to GAO report (Oct. 2006) STB commissioned a study by Christensen Associates on state of competition in rail industry

• Christensen competition study released in November 2008

• Principal findings were that recent increases in nominal rail rates were not due to market power but reflected higher operating costs and the Revenue to Variable Cost ratio is not a good measure of market power
Recent Activities

• STB commissioned a second study by Christensen Associates examining capacity needs in rail industry
• Report issued in March 2009
• Report found that previous projections of rail capacity needs were likely overstated
• Report had benefit of incorporating recent economic contraction, but also disaggregated traffic forecasts
Recent Activities

• April 30 Hearing on the Uniform Railroad Costing System (URCS)
• Staff examining potential approaches to updating or replacing URCS
• Continuing oversight of CN/EJE merger
• No new large merger applications filed
• Reviewing the status of DOE’s Yucca Mountain rail construction application
Legislative Activities Affecting the STB and/or the Railroad Industry

• Both Chairmen of Senate Commerce Committee and House T&I Committee want to reauthorize the STB
• Both Senate and House bills could change the regulatory framework—unclear at this point what final bills will look like
• Proposed change to railroads’ anti-trust exemption will now be considered as part of STB reauthorization bill
Legislative Activities

- Passenger Rail Investment and Improvement Act gives STB new responsibilities in resolving disputes between Freight RRs and Amtrak over causes of passenger train delays.
- Bill also directs STB to mediate in cases where commuter rail seeks access to freight railroad rights-of-way.
- Clean Railroads Act defines STB’s role in preempting state and local regulation of solid waste transfer facilities on railroad property.
- Shortline Railroad Investment Tax Credit
- Class I Railroad Investment Tax Credit
Thank you
Any Questions?