STB: Recent Events and a Look Ahead

RailTrends 2010

Vice Chairman Francis P. Mulvey
September 29, 2010
New York
STB Basics

• Surface Transportation Board is the independent economic regulatory agency for the railroad industry
• Three Board members
• Handles
  ➢ Railroad rate and service disputes
  ➢ Railroad mergers and acquisitions
  ➢ Rail line abandonments and construction
  ➢ Freight/passenger rail relationships
  ➢ Limited jurisdiction over other modes
STB: BEST PLACE TO WORK 2010

• Named #1 small agency - annual federal employee survey

• “One of the most obscure corners of the federal government . . . . train geeks and experts” *Washington Post*

• Highly graded professional staff - lawyers, economists, financial analysts, environmental and operational specialists
Rail Industry Trends

• Recent data point to a significant upswing in much rail traffic
  – August 2010 intermodal traffic was at highest level since August 2008
  – Carloads also show improvement, though at slower pace
  – Railroad execs cautiously optimistic; predict peak Fall season
Total Traffic (2007 - present)

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<th>Date</th>
<th>Carloads Originated</th>
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Total Traffic
U.S. Class I Railroads 2007- Present
Congressional Update

• STB Reauthorization bill – introduced December 2009, reported out of Senate Commerce Committee

• “Federal Role in National Rail Policy” Senate Commerce Committee hearing held Sept. 15, 2010
  – STB Chairman Elliot testified
  – Chairman Rockefeller still committed to bill
  – Senate Judiciary Chairman Kohl committed to ending railroad antitrust exemptions
STB Initiatives Announced at Hearing

• Reexamination of Key Regulatory Policies
  – bottleneck & competitive access
  – class exemptions

• Active Monitoring of Industry

• URCS

• Transparency
URCS

• Board continues to work on the issues listed in May 2010 congressional report:
  – “make whole” adjustment
  – R-1 reporting changes
  – programming updates
  – treatment of consolidated firms, etc.

• Important tool in rate reasonableness and other cases

• Necessary to review and update periodically; improve accuracy

• House appropriations bill (DOT/HUD) provided URCS funding; awaiting results of Senate process
Transparency

- Monthly oral arguments/hearings
  - Demystify Board processes
  - Transparency
- Plain language digests
- News releases
- Meetings with stakeholders
- Public outreach and meetings
Paper Barriers

- Dissented from Board decisions permitting paper barriers in exemption cases
- Close scrutiny required
- Reauthorization bill would change the way agency considers paper barriers
- Not an announced initiative but Board can change paper barrier treatment without legislation
Pending STB Matters

• Large rate cases pending
  – Total Petrochemicals v. CSXT (SAC – chemicals - filed in May)
  – AEPCO v. BNSF/UP (SAC – coal – oral argument held yesterday); AEPCO v. UP (SAC – coal)
  – M&G Polymers v. CSXT (SAC – chemicals - filed in June)

• No small rate cases pending; recent settlements
Recent Rate Cases with Actual/Likely Settlements

- Seminole v. CSXT (SAC – coal)
- NRG v. CSXT (SAC - coal)
- US Magnesium v. UP (Simplified SAC – chemicals)

Mediation/Negotiation key
- Effective STB mediators
- More funding requested from Congress to increase mediation efforts
Major Pending Practice Cases

- Arkansas Electric challenge to BNSF coal dust tariff (hearing held in July)
- Chemical shippers’ challenge to railroads’ interpretation of tank car tariffs
- Cargill’s challenge to BNSF’s fuel surcharge
- State of Montana challenge to BNSF 48-car shuttle trains
- Increase in unreasonable practices filings
Other pending cases

• Large abandonment in Maine involving Montreal, Maine & Atlantic (hearing held in Presque Isle in July)
• Entergy challenge to UP/Missouri Northern Arkansas interchange commitment/routing (second oral argument scheduled for October)
• Various challenges to demurrage assessments
Future at STB

• Fate of legislation
• Increased rail traffic
• Relationship between railroad/shippers
• Opportunities for Board to address big railroad/shipper issues
• Increased passenger rail oversight
• Stay tuned . . .
Thank you

Any Questions?