Railroad Capital Expenditures and Regulatory Issues

National Railroad Construction and Maintenance Association

Commissioner Francis P. Mulvey
January 8, 2011
Ft. Lauderdale, FL
STB Basics

• Independent economic regulatory agency for the railroad industry

• Handles
  - Railroad rate and service disputes
  - Railroad mergers and acquisitions
  - Rail line abandonments and construction
  - Freight/passenger rail relationships
  - Limited jurisdiction over other modes
Board Members

• 3 Board members – Democrat & Republican
• Nominated by President, confirmed by Senate for 5-year terms
• Ann Begeman nominated by President Obama December 20, 2010
• Begeman to replace Republican member Charles Nottingham
STB STAFF

- Highly educated professional staff - lawyers, economists, financial analysts, environmental and railroad operational specialists
- Named #1 small agency - annual federal employee survey for past 2 years
- “One of the most obscure corners of the federal government . . . . train geeks and experts”  *Washington Post*
Issues that can impact railroad-related industries

- Freight traffic trends
- Congressional changes to laws governing railroad industry
- STB economic regulatory issues
- Shipper/Railroad relationships
Rail Industry Trends

- Data point to a significant upswing in rail traffic in the last year
  - 11 months of traffic gains
  - Nearly all commodities (e.g., grain, coal, chemical) up from the same period 1 year ago
  - Intermodal traffic at record high, 13.8% increase over last year
  - Carload traffic up 6.8% compared to one year ago
  - Total traffic volumes expected to continue to trend upward
  - Exception: Automobile traffic, construction materials, forest products
Freight Rail Traffic Trends

Total Traffic
U.S. Class I Railroads 2007- Present

- 2007
- 2008
- 2009
- 2010
Car Supply/Equipment

- Fewer cars in storage – 21% of the U.S. car fleet idle, compared with 28.8% one year ago
- Carriers bringing more cars and equipment on line
- Grain car shortage not as acute as predicted
- Locomotive/equipment orders up
Large Rail Projects

- Capital projects continued during recession
- UP - Joliet Yard
- CSXT - National Gateway
- NS - Heartland & Crescent Corridors
- BNSF - Transcon double tracking
- CREATE – 11 projects completed, 7 under construction
Changes in Congressional Agenda

• STB Reauthorization bill – Senate bill dominated the legislative debate in 2009/2010

• Senate Commerce Committee Chairman Rockefeller still committed to bill

• Senate Judiciary Chairman Kohl wants to end railroad antitrust exemptions
Changes in Congressional Agenda (2011)

- Republican controlled House
- Former House Transportation & Infrastructure Chairman Oberstar defeated
- New T&I Chairman John Mica of Florida
  - Multi-year transportation spending bill
  - Aviation bill
  - Transportation infrastructure repair
  - Review DOT high speed rail grants, RRIF loans
- New Railroad Subcommittee Chairman Bill Shuster of Pennsylvania
STB Regulation

• Changes to or uncertainty in regulatory environment can impact capital spending
• Railroad industry much less regulated than before Staggers Act of 1980
• Market forces drive industry today with regulation largely setting the framework
STB Capital Related Activities

• Cost of Capital
  – Annual determination by Board
  – Indicates the return investors expect from investments in the railroad industry
  – Used in rate cases, abandonments, and revenue adequacy determination
  – 2009 cost of capital – 10.43%
  – Board recently changed how it calculates cost of capital
STB Capital Related Activities

- **Revenue Adequacy**
  - Annual determination by Board
  - Indicates whether largest carriers are achieving a rate of return equal or greater to the cost of capital
  - NS found revenue adequate for several years past
  - No carrier found revenue adequate in 2009
  - Findings of revenue adequacy over time could impact how the Board regulates
Major STB Matters Pending

• Large rate cases
  – AEPCO v. BNSF/UP
  – Total Petrochemicals v. CSXT
  – M&G Polymers v. CSXT
  – Intermountain Power v. UP
  – South Mississippi Electric v. NS

• Tariff issues - coal dust, fuel surcharges, tank car routing

• Treatment of PTC implementation costs

• Paper Barriers
Announced STB Initiatives

• Re-examination of competitive access
• Review of current class exemptions
• Update to Uniform Railroad Costing System
• Increased Transparency
  – Decision digests
  – Oral arguments/hearings
• More active monitoring of industry
  – Increased audits
  – Reporting
Future of STB

- Fate of reauthorization legislation
- Funding level for agency
- Increased rail traffic
- Opportunities for Board to address important railroad/shipper issues
- Stay tuned . . .
Thank you
Any Questions?