

STB Ex Parte No. 677 Common Carrier Obligation of Railroads

Thank you Chairman Nottingham. I want to thank my fellow Board members for agreeing to hold this hearing, and our staff for their preparation assistance. Good morning and welcome to our panelists and other attendees. I have thoroughly read the testimony submitted for this hearing, and I am eager to engage in discussion with our panelists. I also want to thank those stakeholders, including rail labor, who submitted written testimony only, which I found very helpful in framing our inquiry today.

I want to add that I am dismayed that some witnesses believe the Board is holding this hearing today to build a foundation for *reducing* the scope of the common carrier obligation, and I am quite frankly puzzled as to how this misperception has arisen. That is certainly not my intention.

I recognize there is a tension between the concepts of the railroads as organizations with significant public utility characteristics and as private enterprises that must maximize profits for their shareholders. The purpose of this hearing is to explore that tension. Historically, the common carrier obligation has cast the railroads in the role of public utilities. But, I have heard some railroad executives claim that the railroads today no longer have any common carrier obligation because the vast majority of rail traffic either moves under contract or is exempt from Board regulation because it is considered intermodally competitive. This disturbs me greatly.

Vice Chairman Mulvey's Opening Statement
April 24-25, 2008

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What does the concept "common carrier obligation" mean today? Has it changed in recent years and if so, how and why? Are any of the railroads' current marketing and operating practices inconsistent with the common carrier obligation? And finally, what is the responsibility of the Board and the legislature to ensure that railroads live up to their common carrier obligations? These are some questions I hope we will explore today.

Thank you very much Chairman Nottingham.