



Consumer Federation of America

The Honorable Patrick J. Leahy
Chairman
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

September 10, 2007

Dear Chairman Leahy:

We are writing in support of S.772, the Railroad Antitrust Enforcement Act of 2007. This legislation will correct a public policy oversight that currently allows the railroad industry to operate outside the antitrust laws of the nation.

In 1980, the Congress deregulated the competitive activities of the nation's railroads and made it easier for the nation's railroads to downsize their systems and merge. Since then, the forty major railroads in existence in 1980 have consolidated into four major railroad systems that move over 90% of the nation's freight. Today, few rail customers have access to more than one rail system and the federal agency that is charged with the responsibility of constraining railroad market power has chosen to exercise its responsibilities in a very passive manner.

According to an October 2006 report of the Government Accountability Office, the national railroad system suffers from a lack of competition and an increasing number of rail customers are being forced to pay prices that are three times and more the cost to the railroad of moving their freight. Some of these exorbitant rates are being paid by electric utilities to move coal to their generating facilities. These inflated prices, which many utilities are powerless to restrain, are being passed along to electric ratepayers in the form of higher electric bills. These higher electricity bills and inflated rail transportation costs of other commodities and finished products are driving up the costs consumers pay for a wide range of goods produced in our nation. Meanwhile, the railroads are enjoying a golden age of profitability at the expense of their customers, American consumers and the nation's economy.

We believe very strongly that the railroad industry, like other private sector American industries, should be subject to the nation's antitrust laws. Investor owned electric utility companies are subject to the nation's antitrust laws, even though all are subject to wholesale rate regulation by the Federal Energy Regulatory Commission and most are subject to retail rate regulation by state public service commissions. We see no good public policy reason that the railroads should continue to enjoy immunity from the nation's antitrust laws.

We will appreciate your vote to report S.772 from the Senate Judiciary Committee to the full Senate for enactment in this Congress.

Sincerely,

Jim Kerr
Commissioner, North Carolina
Utilities Commission
President, National Association of
Regulatory Utility Commissioners

John R. Perkins
Iowa Consumer Advocate
President, National Association of
State Utility Consumer Advocates

Stephen Brobeck
Executive Director,
Consumer Federation
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