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Captive Rail Customers Say Regulator is Asleep at the Switch

Shippers call attention to a regulatory body that does nothing about the railroad's monopoly power

Washington, D.C. (October 23, 2007)—The Surface Transportation Board (STB) continually overlooks the lack of competition in America's freight rail system and refuses to protect rail customers from monopoly rail rates, which hurts our nation's economy as more jobs and manufactures relocate abroad where transportation costs are less expensive than using American freight rail, rail customers said today at a Senate Commerce, Science and Transportation Subcommittee hearing.

Rail customer representatives including Glenn English, National Rural Electric Cooperative; Robert Carlson, North Dakota Farmers Union; and David J. McGregor Senior Vice President, NAFTA Logistics for BASF Corporation testified in favor of rail reform legislation, S.953, the Rail Competition and Service Improvement Act of 2007 (S. 953), at a Surface Transportation and Merchant Marine Subcommittee hearing. S. 953 would promote competition in the railroad industry and direct the STB to fulfill its obligation to protect rail customers from railroad monopoly power. S. 953 is currently pending before the Senate Commerce Committee.

“If you're not going to live up to this provision of the Staggers Act, why don't you repeal it,” said Glenn English, Chairman of Consumers United for Rail Equity and CEO of the National Rural Electric Cooperative Association. “Have the nerve to repeal it. Don't give the Surface Transportation Board that fig leaf that somehow they are taking care and looking after those people who are under their protection, namely stranded shippers.”

Rail abuses are affecting consumers and industries across the board. For example:

- Millions of bushels of wheat were left to rot on the ground this year in Colorado because it was produced in areas of the state served by single railroads leaving farmers with no access to competition. The lack of competitive options for freight rail service have left Colorado wheat producers and elevator operators shut out of the market at a time of record high wheat prices in the United States.
- Electricity customers in Lafayette, Louisiana are paying on average \$300 more a year for electricity because the Lafayette Utilities System is held captive by the railroad that moves coal to its electric generating facility. This “cost of captivity” is \$1.5 million annually for the schools served by the Lafayette Utilities System.
- Shipping rates for the raw materials used to produce Dupont™ Kevlar® para-aramid brand fiber increased significantly for a captive DuPont -- by more than 100 percent in some cases. Meanwhile, the plant has experienced repeat late deliveries of raw products that have

jeopardized the operation of this critical plant. These rail problems have resulted in higher costs for these vital goods sold to the U.S. military, law enforcement and fire protection agencies—leaving American taxpayers to foot the bill.

- In 2004, the Basin Electric Power Cooperative (Bismarck, ND) filed a rate case with the STB after BSNF raised its coal haulage rates to more than 6 times the direct cost to the railroad of moving the cooperative's coal. Three years and \$6 million later, the STB denied Basin's rate challenge finding that the rate in question is "reasonable".

"If you go back and review the Surface Transportation Board since it has been created every former Chairman has gone to work for the railroads," said English.

In 1980, Congress passed the Staggers Rail Act with the intent of reinvigorating the railroad industry through market competition. At the same time, the legislation charged the Interstate Commerce Commission—now the STB—with protecting rail customers from unreasonable rates and practices where transportation competition does not exist.

CURE supports Congressional efforts to bring accountability and fairness to the rail industry. S. 953 would:

- Require the STB to address rail service problems;
- Require the STB to remove artificial barriers to competition and allow more railroad transactions to be governed by market competition; and
- Streamline the rate challenge process to reduce filing fees to common sense levels and provide rail customers with a system that fairly addresses their concerns, consistent with the Staggers Act.

A companion House bill (HR 2125) is currently pending in the House Transportation and Infrastructure Committee. The lead sponsor of the bill is Committee Chairman James Oberstar (D-MN).

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Consumers United for Rail Equity (CURE) represents a wide variety of rail customers including public utilities, rural electric coops, agriculture; chemical, ethanol, cement and other manufacturers, forest and paper companies, and their customers.

For more information about CURE visit: www.railcure.org