

Railroad Customers Deserve Free Markets, Not Monopolies

By U.S. Senators Conrad Burns, John D. Rockefeller IV, Larry Craig, and Byron Dorgan

In 1862, Theodore Judah looked across the vast expanse of America and envisioned criss-crossing bands of steel connecting sea to shining sea. The dawn of the Industrial Revolution brought with it the American Railroad. Driven by private investment and land-grant subsidies from a national government eager to span the continent, railroads sprung up around the nation, powering economic growth unrivaled in the world.

Fast-forward to today. The United States has established itself as an economic powerhouse, and our goal now is ensuring our global competitiveness into the future. Underpinning the American economy, and sustaining our growth, are a few key principles: free markets, innovation, competition, choice. When those principles have been absent, our history shows abuses of monopoly power, lagging investment, and stagnating markets.

Monopolistic Abuses

Unfortunately, the railroad industry today is characterized by unrestrained monopoly power - a condition that always spells trouble. The lack of competition and choice for rail service in many areas is now restraining economic growth. Instead of supporting American competitiveness, high rail rates and poor rail service often stand in the way of job creation and expansion.

The harms caused by monopolistic abuses of power cut across major sectors of our economy. Chemical plants in West Virginia's Kanawha Valley and along the Gulf Coast in Louisiana and Texas are faced with the unacceptable choice of reducing expansion or moving offshore to remain competitive. Major Fortune 500 companies feel they have no bargaining power with the railroads and must find a way to cover the risk of unreliable service and inflated rates that deliver no value to the bottom line. One captive grocery manufacturer paid more to ship a pallet of frozen peas a few hundred miles than it cost to send a trainload of peas from the Pacific Coast to New Jersey.

While corporations may feel constrained by a lack of rail competition, family farmers throughout the nation are powerless in the face of a rail monopoly. Exorbitant fuel surcharges and high shipping costs cut into the already razor-thin margins most family farmers operate under. As a result, American farmers pay the freight both ways: reduced prices for their crop due to transportation costs and increased prices for inputs, such as fertilizer, that come into their communities by rail.

The Coal Connection

Perhaps no industry in America relies on rail more than coal. Nearly 70 percent of all the coal shipments in this country are by rail. Low-sulfur coal out of Appalachia and the Powder River Basin in Wyoming and Montana is an important strategic resource. The

frequent failure of the railroads to deliver coal in a timely fashion to our nation's electric generating facilities, and the propensity to charge rates unrelated to costs, translates into higher electricity rates for working families all across America.

When utilities cannot generate electricity from coal, they must use natural gas, purchase power on the spot market, or curtail their power deliveries - all of which drives up electric bills for American consumers. In fact, utilities purchasing natural gas to meet an unforeseen need for electricity places upward pressure on our finite supply of natural gas - which adversely affects industries and consumers nationwide.

In 2005, the railroad industry failed to deliver almost 23 million tons of Powder River Basin coal that they had contracted to move to utilities. The forecast for 2006 is that the railroads will be another 20 million tons short in deliveries. Based on an average natural gas price that is predicted to be between \$7 and \$9 per million BTUs, the use of natural gas by utilities to replace this undelivered coal will add between \$2 billion and \$3 billion to electric bills around the nation -- a direct tax on industrial users, small businesses, and residential consumers.

Likewise, utilities in the East and Southeast, which depend on coal from West Virginia and other Appalachian states, have endured both horrendous service and exorbitant rates. When challenged on arbitrary rate increases of as much as 50 percent, the railroads argued to the Surface Transportation Board (STB) that ratepayers of two utilities in the Carolinas could afford to pay \$100 million more annually. Further, the railroads said they needed to impose excessive surcharges on their captive customers to offset revenue bases weakened by a spate of mergers in the 1990s and losses from unrelated business activities.

Against all logic and the consumer protection provisions of the Staggers Act - the 1980 law that partially deregulated the rail industry -- the STB found to be "reasonable" rates that were 350 percent of the railroads' variable costs, and four to five times higher than previous record rates awarded in rate challenges for western coal.

Ironically, at this very time that America's railroads are at their most profitable, they simply aren't getting the job of transportation done for the nation. We are pleased that the railroads are financially healthy. Financially healthy railroads are essential to a healthy American economy. The massive distances we must cover to move raw materials and finished products in our nation require rail. But healthy railroads are only important to the nation if they are performing their job of transporting goods effectively and at reasonable prices.

Healthy Competition

Only competition, not unrestrained monopoly power, ensures effective transportation at reasonable rates. When rail providers must compete for their customers, service improves, investment in infrastructure increases, and rates reflect market realities.

We have introduced legislation in Congress to address the current abuses of monopoly power in the rail industry. We believe it is long past time to end the railroads' practice of unreasonably burdening captive customers in our states and every other one in the Lower 48. Our legislation would prevent the Class I railroads from coercively limiting competition from other major or short-line railroads and from engaging in monopolistic pricing and other activities made possible by the stranglehold the railroads have on American commerce. It is the only way American consumers are going to have the rail system they deserve and that we need to compete in the global economy of the 21st Century.

Senators Burns, Rockefeller and Dorgan are members of the Senate Commerce, Science and Transportation Committee; Senators Burns, Dorgan and Craig are members of the Senate Energy and Natural Resources Committee.

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