

**A Communication from the State Attorneys General of:**

**Arizona, Arkansas, California, Connecticut, the District of Columbia, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Montana, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Dakota, Wisconsin**

August 17, 2006

The Honorable Arlen Specter, Chair  
Committee on the Judiciary  
United States Senate  
711 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Patrick Leahy, Ranking Member  
Committee on the Judiciary  
United States Senate  
433 Russell Senate Office Building  
Washington, DC 20510

Honorable F. James Sensenbrenner, Jr.  
Committee on the Judiciary  
United States House of Representatives  
2449 Rayburn House Office Building  
Washington, DC 20515

Honorable John Conyers  
Committee on the Judiciary  
United States House of Representatives  
2426 Rayburn House Office Building  
Washington, DC 20515

Re: In Support of H. R. 3318 and S. 3612, Applying the Nation's Antitrust Laws to Railroads

Dear Sirs:

We, the undersigned Attorneys General, are writing to encourage Congress to remove the current railroad antitrust exemptions and subject the nation's major railroads to the basic law that ensures competition in our nation. Two bills pending in your committees are essential to this goal, the Railroad Antitrust and Competition Enhancement Act of 2005 (H.R. 3318) and the Railroad Antitrust Enforcement Act of 2006 (S. 3612). Rail customers in our states in a variety of industries are suffering from the classic symptoms of unrestrained railroad monopoly power: unreasonably high and arbitrary rates and poor service.

In 1980, the Congress deregulated most railroad activities through the Staggers Rail Act of 1980. The Interstate Commerce Commission, replaced in 1995 by the Surface Transportation Board (STB), was charged with the responsibility of restraining railroad monopoly power against those rail customers without access to competition. At the same time, the Congress did not remove the antitrust exemptions that had been granted to the railroad industry when they were extensively and tightly regulated. Since 1980, the major railroad industry has consolidated from over 40 companies to only four companies that provide over 90% of the nation's rail service. We understand from citizens in our

states that the Surface Transportation Board has failed in its responsibility to restrain railroad monopoly power. In fact, a 2004 Department of Justice Antitrust Division letter to the Chairman of the House Judiciary Committee strongly suggests that some of the railroad practices allowed by the STB would be of questionable legality under the nation's antitrust laws.

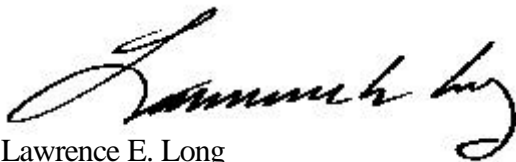
Thus, today, the citizens of our states often find themselves subject to unrestrained railroad monopoly power, with significant adverse consequences:

- ! Coal is used to generate about 50% of the electricity in the nation. A number of coal-fired electricity generators in the west, midwest, southwest and southeastern portions of our nation are having trouble with railroad monopoly power. Not only are they confronting rate increases that sometimes reach 100%, but they are not receiving the amount of coal for which they have contracted with the railroads for delivery. The result is increased electricity costs for consumers from the rate increases and even steeper electricity cost increases where the utility must buy replacement electricity generated from high priced natural gas.
- ! Agriculture is suffering significantly from railroad monopoly power. As an example, increasingly the costs of rail transportation are being shifted from the railroad to the farmer. Small grain elevators are being forced to either consolidate into larger elevators that can load a unit train of grain or transship their grain to such loading facilities. Rates are increasing arbitrarily and service is declining. The net result is that farmers are putting less money into their pockets from their crops.
- ! Two-thirds of the chemical plants in the nation are served by a single railroad, with many of their customers also subject to single rail service. This railroad monopoly power is resulting in rates and service that is making American manufactured goods from chemical products uncompetitive with imported goods – which normally enjoy competitive rail transportation rates because they have their choice of entry points into the nation.
- ! Multi-national companies that can site their plants in any number of countries are extremely reluctant to invest in a U.S. site that is served by a single railroad. One global forest products company is currently considering a major investment at the site of its current paper manufacturing facility in a midwestern state. The site is served by a single railroad. The transportation cost of moving finished product from this midwestern state to its market in another midwestern state, a distance of less than 1,000 miles, is the same as the transportation cost of moving the finished product from Europe to its midwest market, a distance of 5,000 miles. This domestic transportation cost disadvantage presents a significant obstacle to increased foreign investment in our nation.

In summary, the major railroads of our nation provide an essential service to our economy. They must be financially viable and efficient. Historically, our nation has found that the best way to ensure economic success and economic efficiency is through the discipline of competition.

We ask that you ensure a strong and viable rail system in the United States by ensuring that the railroads are subject to market competition through full application of the nation's antitrust laws.

Very truly yours,



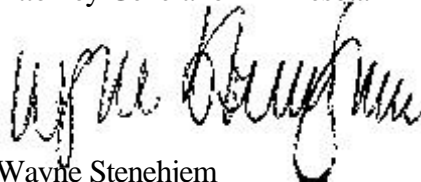
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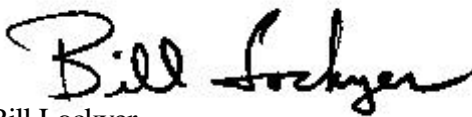
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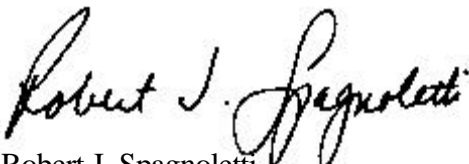
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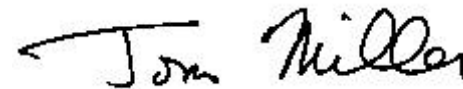
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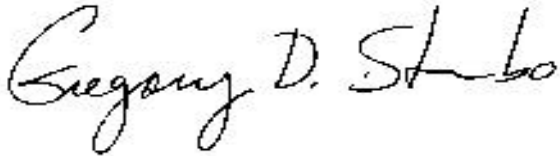


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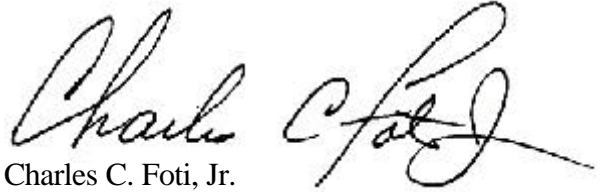
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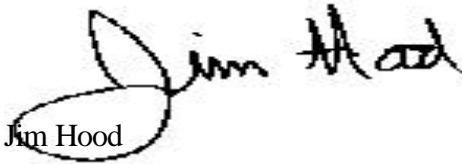
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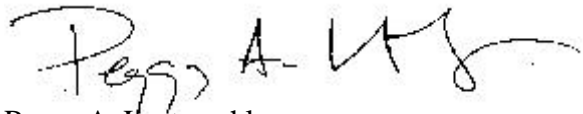
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