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Federal News Update
April 16, 2007

ARC Continues To Build Support for Rail Competition Legislation

As part of an ongoing effort to garner broad-based support for the recently introduced Senate rail competition legislation (S. 953), ARC led a letter with Consumers United for Rail Equity (CURE) and the United Transportation Union (UTU) urging U.S. Senators to co-sponsor the legislation. Ten Senators had signed on as the original co-sponsors prior to bill introduction. The letter was sent to the remaining Senators urging their support. A sample letter is enclosed with this news update.

On the other side of the Capitol, House Transportation and Infrastructure Chairman James Oberstar is working on a draft of companion legislation, although there is no indication when it may be introduced. ARC leadership is working with other shipper groups and senior committee staff to encourage the Chairman to prepare a draft which closely mirrors the Senate version, including a provision regarding the final offer arbitration (FOA).

ARC Executive Director Testifies Before STB on Rail Infrastructure and Capacity

On April 11, 2007, ARC Executive Director Michael Snovitch testified before the Surface Transportation Board in Washington, DC, on the issues of rail infrastructure and capacity. In his capacity as the ARC Executive Director, Snovitch represented ARC members, as well as sixteen groups of shippers of agricultural commodities, and the Honorable Brian Schweitzer, the Governor of Montana. The testimony is enclosed with this news update. Additional written comments, as filed with the STB prior to the hearing, were attached with the most recent news update.

Other hearing witnesses included: a representative of the U.S. Department of Transportation; five representatives of freight railroads; two representatives of short line and regional railroads; two representatives of passenger rail; four representatives of state government interests; two representatives of regional and local government interests; six representatives of coal shippers and utilities; seven representatives of shippers and shipper interests (including Snovitch); a Labor representative; and three representatives of other interested parties.

Encl:
Joint ARC, CURE, UTU letter to Senators urging co-sponsorship of S. 953
Snovitch Testimony before STB, April 11, 2007

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UTU

CURE
PROMOTING RAIL COMPETITION

April 11, 2007

The Honorable Daniel K. Akaka
United States Senate
141 Hart Senate Office Building
Washington, DC 20510

Dear Senator Akaka:

The two rail customer advocacy groups, the Alliance for Rail Competition (ARC) and Consumers United for Rail Equity (CURE), and one of the leading rail labor unions, the United Transportation Union (UTU), are writing to encourage you to cosponsor **S. 953, the Railroad Competition and Service Improvement Act of 2007**. This legislation is critically important to ensure that rail customers have access to competitive rail service and that those rail customers without access to competition are protected from unreasonable railroad rates and practices and have access to reliable rail service.

Our membership organizations are working together in support of public policy that will ensure that rail customers benefit from the Staggers Rail Act of 1980 as intended by Congress. Re-regulation is not our intent but rather gaining access to the rail competition that was promised by that Act and the protections from railroad monopoly power that were provided in that Act.

Thank you for your consideration of this request. Should you have any questions, please contact Michael Snovitch, Executive Director of ARC (202-484-7133); James Brunkenhoefer, Legislative Director of the UTU (202-543-7714); or Bob Szabo, Executive Director of CURE (202-298-1920).

Sincerely,

Terry Whiteside	Paul C. Thompson	Donald W. Kimball
Chairman	President	President
Alliance for Rail Competition	United Transportation Union	Consumers United for Rail Equity

TESTIMONY OF

MICHAEL W. SNOVITCH

EXECUTIVE DIRECTOR, ALLIANCE FOR RAIL COMPETITION,

ON BEHALF OF ARC, ET AL.

I am Mike Snovitch, Executive Director of the Alliance for Rail Competition, and I am here today on behalf of ARC, as well as sixteen groups of shippers[1] of agricultural commodities, and on behalf of The Honorable Brian Schweitzer, Governor of Montana.

The captive shipper interests I represent support efforts by the railroad industry to improve service and meet future demands for rail transportation service. Very few people oppose those goals, and we are pleased to see the issue of the nation's transportation infrastructure attracting more attention in Washington.

At the same time, we are seeing troubling signs that policymakers are turning away from the idea of public funding for many forms of other needed infrastructure.

The Railroad Competition Act of 2005, S. 919, which ARC supported, provided for some $35 billion in loans and loan guarantees for railroad infrastructure investment. ARC is prepared to support Investment Tax Credit legislation for the railroads, so long as it is designed to promote real infrastructure expansion with widespread shipper benefits. The ITC should be good for "all of America," not just selected lanes of rail traffic.

We are concerned that rail infrastructure investment will become new code words for more and higher rate increases for captive shippers. This would be bad law and bad public policy, for many reasons.

[1] Montana Wheat & Barley Committee, Colorado Wheat Administrative Committee, Idaho Barley Commission, Idaho Wheat Commission, Idaho Grain Producers Association, Montana Grain Growers Association, Nebraska Wheat Board, Nebraska Wheat Growers Association, Oklahoma Wheat Commission, South Dakota Wheat Commission, South Dakota Wheat Inc., Texas Wheat Producers Board, Texas Wheat Producers Association, Washington Wheat Commission, National Association of Wheat Growers, & National Barley Growers Association

First, captive shippers have already made disproportionate contributions to the growth and financial strength of the railroads under ICC and STB policies that essentially let market dominant railroads charge whatever they like, force shippers to absorb operating costs, and force shippers to accept second-rate service. Projections of higher freight volumes do not justify more of the same.

Second, many captive shippers are also anticipating higher prices for other forms of infrastructure investment. For example, many grain shippers are facing higher trucking costs as railroads shift to a smaller number of large elevators able to load 100 car trains.

Third, it is not yet clear what infrastructure investments will offer the greatest public benefits, and what investments the railroads intend to favor. Why should grain shippers pay higher rates on grain shipments to Pacific Northwest and Gulf Coast ports if all the increased revenues will be used for international container shipments from the ports of Los Angeles/Long Beach to big box stores in the nation's largest cities?

If major railroads continue to modify their systems so that larger volumes are forced to move from between fewer origins and destinations, maybe the bulk of infrastructure investment will be needed for short lines, not Class Is.

Fourth, major railroads are at or near revenue adequacy. Therefore, they no longer need differential pricing, and should be able to fund needed infrastructure investment through higher rates and charges on non-captive traffic, and by raising capital in financial markets.

The Board already has the tools it needs to strike the right balance between the needs of railroads, the needs of captive shippers, and the public interest. Under the common carrier obligation, railroads "shall provide" transportation and service on reasonable request by a shipper. And under fundamental principles of rate reasonableness, as stated by the Board just a few months ago:

> A captive shipper should not be required to pay more than is necessary for the carrier involved to earn adequate revenues. Nor should it pay more than is necessary for efficient service. And a captive shipper should not bear the cost of any facilities from which it derives no benefit.

We urge the Board to stand by these principles, along with basic principles of fairness, as we transition from a rail industry with excess capacity to an environment in which railroads and rail shippers may face constrained capacity.

For more than 25 years, the ICC and STB have given a high priority to promoting railroad revenue adequacy. Today, the railroads no longer need the Board's help in achieving that goal. However, the need of captive shippers for protection from abuses of railroad market power has never been higher, and will only increase if the railroads seek to fund infrastructure investment through higher rates on captive traffic.

In summary, we believe the American economy is going to grow. This will require the railroads to add infrastructure. We believe that the railroads should be allowed to use innovative ways to fund this investment. Investment tax credits makes sense as long as the outcome is what is best for America and not just best for the railroads financial interests. These could be in direct conflict. In particular, the funding for this investment should not come on the backs of the railroads captive shippers.

Thank you, and I welcome your questions.