



ARC

Alliance for Rail Competition

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Federal News Update October 28, 2008

ARC Joins Shipper Groups in U.S. Court Appeal

Last week, ARC joined twenty-five national and regional shipper groups to submit a petition before the U.S. Court of Appeals for the District of Columbia Circuit to review a final rulemaking decision of the Surface Transportation Board in STB Ex Parte No. 646 Simplified Standards for Rail Rate Cases. ARC had participated on behalf of its members in the rulemaking proceedings before the STB regarding this case earlier this year and in 2007. ARC members have the right to challenge the reasonableness of their rail transportation rates under the standards and procedures adopted by the Board in Simplified Standards.

The specific issues as listed in the filing are:

1. Whether the Board's failure to determine if the levels of the relief caps for Three-Benchmark and Simplified-Stand Alone Case (SAC) presentations provide a simplified and expedited method for challenging the reasonableness of rail rates for *all* cases when a Full-SAC presentation is too costly, given the value of the case, was arbitrary, capricious, and not in accordance with current statute.
2. Whether the Simplified-SAC methodology is an arbitrary and capricious departure from Board precedent without a cogent explanation.

While the Simplified-SAC is supposed to provide a similar relief to a shipper without the enormous and often prohibitive costs of the Full-SAC, in reality the present simplified approach gives results that are always considerably higher than the 180% Revenue to Variable Cost threshold. If, as a result of this petition, the Court sides with the shippers, STB will have to develop a method that would provide results that are more comparable with those of the Full-SAC method.

STB to Review Competition Study

Christiansen Associates has completed the STB commissioned study to provide a comprehensive analysis of rail competition, capacity and interplay between the two. The study was also supposed to examine various regulatory policy alternatives. The study included Christiansen's quantitative research as well as interviews with various industry stakeholders.

STB will publicly discuss the study on November 6th, at 10 a.m. in the Board's Hearing Room on the 1st Floor of the agency's headquarters at Patriots Plaza, 395 E Street, S.W., Washington, D.C. The public is invited to attend the meeting but will not be permitted to testify. The Christensen study will be released to the public, via the Board's website at www.stb.dot.gov, prior to the public meeting.

H.R. 2125 The Rail Competition and Service Improvement Act (Co-Sponsors: 55)

Rep. Oberstar, James (D-MN)
Rep. Alexander, Rodney (R-LA)
Rep. Andrews, Robert (D-NJ)
Rep. Baldwin, Tammy (D-WI)
Rep. Berry, Marion (D-AR)
Rep. Bonner, Jo (R-AL)
Rep. Boren, Dan (D-OK)
Rep. Boustany, Charles (R-LA)
Rep. Braley, Bruce (D-IA)
Rep. Cubin, Barbara (D-WY)
Rep. Delahunt, William (D-MA)
Rep. Ellison, Keith (D-MN)
Rep. Franks, Trent (R-AZ)
Rep. Frelinghuysen, Rodney (R-NJ)
Rep. Garrett, Scott (R-NJ)
Rep. Gillmor, Paul (R-
Rep. Grijalva, Raul (D-AZ)
Rep. Hare, Phil (D-IL)

Rep. Herseth Sandlin, Stephanie (D-SD)
Rep. Hinojosa, Ruben (D-TX)
Rep. Hirono, Mazie (D-HI)
Rep. Holden, Tim (D-PA)
Rep. Holt, Rush (D-NJ)
Rep. Hooley, Darlene (D-OR)
Rep. Inglis, Bob (R-SC)
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Rep. Kagen, Steve (D-WI)
Rep. Kind, Ron (D-WI)
Rep. McCollum, Betty (D-MN)
Rep. McNulty, Michael (D-NY)
Rep. Melancon, Charlie (D-LA)
Rep. Miller, Brad (D-NC)
Rep. Mollohan, Alan (D-WV)
Rep. Moore, Gwen (D-WI)
Rep. Murphy, Patrick (D-PA)

Rep. Musgrave, Marilyn (R-CO)
Rep. Lampson, Nick (D-TX)
Rep. Obey, David (D-WI)
Rep. Paul, Ron (R-TX)
Rep. Perlmutter, Ed (D-CO)
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Rep. Pomeroy, Earl (D-ND)
Rep. Ramstad, Jim (R-MN)
Rep. Rehberg, Dennis (R-MT)
Rep. Renzi, Rick (R-AZ)
Rep. Ross, Mike (D-AR)
Rep. Simpson, Mike (R-ID)
Rep. Sires, Albio (D-NJ)
Rep. Snyder, Vic (D-AR)
Rep. Space, Zack (D-OH)
Rep. Towns, Edolphus (D-NY)
Rep. Udall, Mark (D-CO)
Rep. Walz, Timothy (D-MN)
Rep. Wamp, Zach (R-TN)

S. 953 The Rail Competition and Service Improvement Act (Co-Sponsors: 13)

Sen. Rockefeller, John (D-WV)
Sen. Baucus, Max (D-MT)
Sen. Cantwell, Maria (D-WA)
Sen. Craig, Larry (R-ID)
Sen. Crapo, Mike (R-ID)

Sen. Dorgan, Byron (D-ND)
Sen. Feingold, Russ (D-WI)
Sen. Johnson, Tim (D-SD)
Sen. Klobuchar, Amy (D-MN)

Sen. Landrieu, Mary (D-LA)
Sen. Tester, Jon (D-MT)
Sen. Thune, John (R-SD)
Sen. Vitter, David (R-LA)