

BEFORE THE
SURFACE TRANSPORTATION BOARD

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Public Record

COMPETITION IN THE RAILROAD INDUSTRY

NOTICE OF THE ASSOCIATION OF AMERICAN RAILROADS'
INTENT TO PARTICIPATE AT THE JUNE 22-23, 2011 HEARING

Pursuant to the Board's Orders Dated January 11, 2011 and February 4, 2011, the Association of American Railroads hereby notifies the Board of its intent to participate in the oral hearing scheduled for June 22nd and 23rd in the captioned proceeding.¹ AAR will present its views through the testimony of five witnesses. The witnesses and the topics they will address are identified below.

Edward R. Hamberger – Mr. Hamberger, who is the President and CEO of AAR, will address:

- The freight rail industry's commitment to capital investment in the rail infrastructure.
- The projected need for additional freight rail capacity in the coming years and the expected role of the freight rail industry in meeting those capacity needs.
- The potential impact of involuntary access on the freight railroads' ability and willingness to invest in additional capacity.
- An overview of the operating efficiencies achieved by today's freight railroads and the need to preserve those operating efficiencies.

¹ The Board's February 4, 2011 decision set the hearing for June 22, 2011 but also stated that "[i]f necessary the Board will extend the hearing for a second day on June 23, 2011."

Edward A. Burkhardt – Mr. Burkhardt, who is the former Chairman, President and CEO of Wisconsin Central and currently has multiple interests in the rail industry, internationally and in the United States, submitted a Verified Statement in support of AAR's initial comments on April 12, 2011. Mr. Burkhardt will elaborate on aspects of his opening statement, with particular emphasis on:

- The emergence of today's transformed U.S. freight rail industry from the failed industry of the pre-Staggers era.
- The dangers of government mandated access particularly as reflected in the failed access regimes in other parts of the world over the past 20 years.
- The implications of voluntary access and operating agreements as opposed to involuntary access and operating agreements.

William J. Rennie – Mr. Rennie, who is a Partner with Oliver Wyman, Inc., specializing in transportation strategic planning, submitted initial and Reply Verified Statements in support of AAR's initial and reply comments on April 12 and May 27, 2011. Mr. Rennie will elaborate on aspects of his prior statements, with particular emphasis on:

- The comparative operating strengths of the U.S. freight rail network vis-à-vis the strengths of the rail networks in other developed countries with which the U.S. competes in the global economy.
- The role of private investment in fostering a strong U.S. rail transportation network and its expected role in supporting the growth of that network.
- The role of the U.S. rail industry in supporting both imports into and exports from the United States.
- Significant rail operating trends including the importance of density in supporting efficient rail operations and the operational risks posed by involuntary access.

Robert Willig – Professor Willig, who is Professor of Economics and Public Affairs at Princeton University, submitted initial and Reply Verified Statements in support of AAR's initial

and reply comments on April 12 and May 27, 2011. Professor Willig will elaborate on aspects of his prior statements, with particular emphasis on:

- The existence of widespread competition in the surface transportation markets in which railroads participate.
- The economic soundness of the Board's existing competitive access policies.
- The differences between competition resulting from the operation of market forces and competition introduced by regulatory fiat.
- Principles that should guide access pricing in the rail industry.
- Why involuntary access in the telecommunications and natural gas industries is not an appropriate model for involuntary access in the rail industry.

Samuel M. Sipe, Jr. – Mr. Sipe, who is outside counsel for AAR in this proceeding, filed initial and reply comments on behalf of AAR in this proceeding on April 12 and May 27, 2011. Mr. Sipe will address legal issues raised by possible Board adoption of alternative standards for competitive access, including:

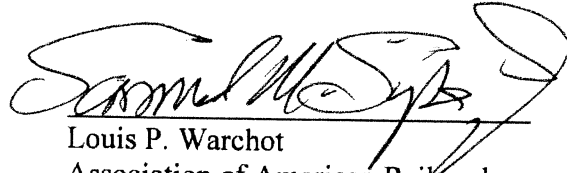
- Aspects of rail transportation policy relevant to the access issue and the legal significance of the ICC's and the Board's prior reliance on those policies.
- The formulation of the competitive abuse standard and the appropriateness of that standard as articulated by the D.C. Circuit in the *Baltimore Gas & Electric* and *Midtec* cases.
- The statutory and case law underpinnings of the Board's *Bottleneck* rules.
- The reasons the Board should refrain from any change in access rules absent a clear directive from Congress.

AAR requests that its witnesses present their testimony as members of a panel and that they be allotted 75 minutes to present their testimony.

Respectfully submitted,

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