

214922

Surface Transportation Board

STB Ex Parte No. 658

The 25th Anniversary of the Staggers Rail Act of 1980:
A Review and Look Ahead

Comments of the Institute of Scrap Recycling Industries, Inc.

ENTERED
Office of Proceedings

OCT 12 2005

Part of
Public Record

Submitted by Robin K. Wiener
President
Institute of Scrap Recycling Industries, Inc.
1325 G Street, N.W.
Suite 1000
Washington, D.C. 20005-3101

(202) 662-8512
RobinWiener@isri.org

Surface Transportation Board

STB Ex Parte No. 658

The 25th Anniversary of the Staggers Rail Act of 1980:
A Review and Look Ahead

Comments of the Institute of Scrap Recycling Industries, Inc.

Introduction

These comments are submitted in response to the request of the Surface Transportation Board ("STB") for the expression of views on the impact, effectiveness, and future of the Staggers Act. The Institute of Scrap Recycling Industries, Inc. ("ISRI") appreciates this opportunity to comment, and would like to note the impact of poor and inadequate rail service on the scrap recycling industry.

ISRI is the "Voice of the Recycling Industry." With 21 chapters nationwide and headquarters in Washington, D.C., ISRI represents more than 1,200 companies that process, broker, and consume scrap commodities, including metals, paper, plastics, glass, rubber, electronics, and textiles. The Institute provides education, advocacy, and compliance training, and promotes public awareness of the value and importance of recycling to the production of the world's goods and services.

Since Staggers

The Staggers Act was, in part, intended to improve the finances of the railroad industry and to increase competition among railroads. While the financial performance of the railroad industry has improved dramatically, rail shippers often have fewer options, with less competition among railroads than before.

Since 1980, more than forty Class I railroads have consolidated into seven. Even this overstates the competitiveness of the railroad industry. Just four railroads account for the vast

majority of freight traffic in the United States, with two railroads primarily serving the Western U.S. and two serving the Eastern U.S. For a substantial percentage of rail shippers, only one railroad offers service.

In addition, rail capacity has become increasingly constrained. The substantial excess rail capacity of past decades has essentially disappeared. Additions to rail capacity, as opposed to replacement of cars, crews, or locomotives, have been very limited.

Railroads in recent years have favored the use of tariffs over contracts. This provides the railroads with an ability to raise freight rates more quickly, without any corresponding responsibility for improved service.

All of these changes amount to a dramatic shift towards increased market power for the railroads. The law and STB decisions governing the operations of the railroad industry, however, have not changed to reflect this new reality.

Impact on the Scrap Industry

Diminished, inconsistent, and unreliable rail service is one of the gravest transportation threats facing the U.S. scrap recycling industry. In the last eighteen months, the U.S. scrap recycling industry has lost hundreds of millions of dollars in revenue due to a significant shortage of rail cars servicing our industry; the unwillingness of the railroads to invest in new gondolas, boxcars, and locomotives; congestion on the rails; and sharp increases in freight rates while service has declined.

Rail car shortages have made it extremely difficult for the scrap recycling industry to meet the strong demand and time-sensitive supply needs of the U.S. steel and paper industries. The gondola fleet, which is largely used to transport ferrous metal scrap and finished steel products, has lost as much as 25% of its cars in part due to an aging fleet and a lack of capital

investment by the railroads. Without an adequate supply of gondola cars, the scrap industry is in a very difficult position trying to meet the voracious material needs of the steel industry. The same holds true for scrap paper processors, whose orders for boxcars often go unheeded. A substantial majority of ISRI members that ship by rail report problems getting rail cars over the past year.

The railroads have allowed their infrastructure and workforce to wither to the point of near failure for all but the largest shippers. Their efforts are focused on shippers of unit trains and intermodal freight with little regard for the smaller shippers that dominate America's manufacturing landscape. The railroads themselves have blamed their service deficiencies on lack of power units and available manpower. This poor service, however, results from the failure of the railroads to adequately reinvest in an infrastructure that this country has entrusted to them by giving them near monopolies in most areas and an exemption from the antitrust laws in many instances. The railroads have violated the public trust and, as a result, manufacturing industries throughout the United States are suffering.

Rail users often have no effective remedy for insufficient and unsatisfactory rail service. Most ISRI members have complained about poor service directly to their rail carriers, often without result. The STB has not been an effective protector of rail users, particularly scrap recyclers that rely on rail service to deliver their materials to market.

Looking Forward

The STB needs to reevaluate its administration of the Staggers Act in light of the changes in the rail industry over the last twenty-five years. Greater rail capacity and better service are essential to support the continued growth of the scrap recycling industry and the U.S. economy. The legal and regulatory climate must support this expanded capacity.

The STB has the opportunity to encourage greater rail-to-rail competition. This will help create a more efficient rail industry. With the increased revenue and market power of the railroads over the last few years, the STB should become a more balanced regulator.

The STB can begin by gathering better data on rail service, and by requiring more and better service by the railroads. Only then can the unfulfilled promise of the Staggers Act, more competition, and the resulting improvements in service, be realized.