



Founded
December 29, 1899

Transportation Communications International Union

**Challenging
the future
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century
of pride!**

Robert A. Scardelletti, International President

LEGAL DEPARTMENT

Mitchell M. Kraus, General Counsel

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October 11, 2005

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VIA HAND DELIVERY

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
Attn: STB Ex Parte No. 658
1925 K Street, NW
Washington, DC 20423-0001



Re: STB Ex Parte No. 658
The 25th Anniversary of the Staggers Rail Act of
1980: A Review and Look Ahead

Dear Secretary Williams:

Please accept for filing an original and ten copies of the Transportation•Communications International Union's (TCU) Written Comments in the above-captioned matter.

This filing is several days late. TCU had previously timely notified the Board of its intent to participate in this hearing, and this late filing should not prejudice the interest of any other party. Accordingly, TCU requests that the Board accept these comments.

Your cooperation is appreciated.

Respectfully submitted,

Mitchell M. Kraus

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General Counsel
Transportation•Communications
International Union

MMK:fm
Enclosures

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Before the
SURFACE TRANSPORTATION BOARD

STB EX PARTE No. 658

THE 25TH ANNIVERSARY OF THE
STAGGERS RAIL ACT OF 1980:
A REVIEW AND LOOK AHEAD

TRANSPORTATION•COMMUNICATIONS INTERNATIONAL UNION'S (TCU)¹
WRITTEN TESTIMONY

While the Staggers Act's principal goal was to remove the ICC from rate regulation, an unintended consequence was to permit Class I rail carriers to divest themselves of a significant amount of their non-trunk line track by sale to so-called short line railroads. Initially, these transactions were without any labor protection for affected employees under the ICC's interpretation of 10901, and then limited severance pay under the ICC Termination Act.

These transactions were justified by the theory that "marginally" profitable lines could avoid abandonment by being sold to newly formed carriers that would bring new investment to the industry. The reality has been in sharp contrast to this theory.

While the ICC, in a carefully devised legal fiction, has characterized short line sales as involving non-carriers, the

¹TCU is a labor organization representing approximately 45,000 active members employed by the Class I carriers as well as regional carriers and short lines in the clerical, carmen, supervisors and yardmen craft and class

overwhelming majority of short line purchasers have been wholly owned subsidiaries of parent corporations owning numerous short lines. These transactions do not involve new players in the industry, and they certainly are not being made by small corporations. Second, while capital has been transferred from the short line purchasers to the Class I rail carriers, these transactions have not resulted in any meaningful investment in upgrading the purchased lines.

This capital transfer to the Class I carriers has come at a cost to rail employees. The number of jobs has been significantly reduced, and those losing employment entirely now receive only limited severance. Generally, salary for those remaining employed has also been reduced. If the track had been abandoned instead of sold, the affected employees would have been covered by labor protection. Oregon Short Line, 360 ICC 91 (1979). So the picture is clear that the Staggers Act, as interpreted by the ICC and the STB, resulted in a transfer of capital to Class I railroads, a loss of jobs and reduction in pay for employees, with very little, if anything, being invested to upgrade the system.

The question for the future is whether it is equitable to continue this process when the big losers are employees, and the big gainers are Class I rail carriers which are currently enjoying record profits. Further, there remains a significant question of whether highly profitable Class I carriers, with responsibility to

serve the public welfare, should be able to continue to engage in the wholesale abandonment of their rail system. Finally, it should be asked whether short line subsidiaries of large corporations should be permitted to buy track without any responsibility to invest in upgrading it and whether Class I carriers can sell these lines, ending their responsibility for their upkeep.

Any fair assessment of the impact of the Staggers Act should include a careful response to these questions.

Respectfully submitted,



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