

UNITED STATE OF AMERICA
DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD

216424

IN RE: MAJOR ISSUES IN RAIL RATE
CASES

STB Ex Parte
NO. 657 (Sub - No. 1)

INITIAL SUBMISSION OF
THE IOWA OFFICE OF CONSUMER ADVOCATE

The Iowa Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, and for its Initial Submission states:

1. It appears that the railroads uniformly support this rulemaking. It appears that rail customers uniformly oppose this rulemaking. It therefore appears this is a rulemaking which must carefully and thoughtfully be conducted by the Surface Transportation Board (STB) to avoid harm to rail customers. Moreover, it appears that this rulemaking proceeding may not properly be aimed at addressing the fundamental regulatory problem arising currently involving the railroads, namely, the STB recent asymmetrical and very one-sided application of its governing Stand-Alone Cost (SAC) rate case standards in uniform favor of the railroads.

2. In this rulemaking, the STB will be dealing with rail transportation issues which are of the utmost concern to Iowa electric consumers. Iowa electric consumers already pay rail costs in substantial excess of \$100 million in their electric rates. Rail cost increases are only initially and briefly borne by Iowa utilities who then turn around and charge such rail cost increases to their Iowa electric customers through an automatic energy adjustment clause, a base rate proceeding or some other regulatory mechanism. It is the public, not simply the electric utilities, which is ultimately harmed by rail cost increases.

3. The vast majority of the fuel used for the generation of electricity in Iowa is derived from coal, most of which is moved hundreds of miles from the Wyoming Powder River Basin coal fields to electric generating plants by two massive, market dominant railroad entities: The Union Pacific Railroad Company and the BNSF Railway Company. Iowa electric utilities and other coal consumers, as well as other businesses, farmers, and residential and other consumers are vitally and extremely concerned about the current lack of railroad competition in the marketplace and about the need for more forceful regulatory protections against dramatically increasing railroad rates and recurring poor railroad service.

4. Before the STB takes any official or unofficial action in this rulemaking, the STB must as a matter of statutory law consider and implement the following matters.

5. The STB, at page 4 of its February 27, 2006 Decision, states:

And the Board must recognize that rail carriers should have an opportunity to earn “adequate revenues” . . . Adequate revenues are defined as those-under honest, economical, and efficient management - to cover operating expenses [etc.] . . .

The current reality is that the railroads are attempting to charge grossly excessive rates and are providing abominable service.

Moreover, the STB should fully carry out its statutory obligation to assure that the railroads have “honest, economical and efficient management.”

In way of background, the current STB policies in SAC cases have allowed the railroads to generally maximize revenue at the expense of rail customers. Only a fair, equitable and thoughtful STB can provide “adequate revenues” to railroads *and* protect the interests of rail customers.

If the STB decides to revise its maximum rate guidelines through this rulemaking, the public interest requires the STB to provide effective, fair and equitable regulatory standards and protections in order for rail customers to have a reasonable opportunity to have a balanced economic playing field with the railroads in cases brought before the STB.

Through this rulemaking proceeding, the STB has an opportunity and an obligation to prevent unfettered railroad market power and regulatory abuse, and to fulfill its statutory mandate that the railroad rates on market dominant rail traffic “be reasonable.” The STB was specifically created by Congress as the federal regulatory protector of the

public. The STB offers the last line of defense for rail consumers and their ultimate customers against railroad monopoly rate and service abuses. The Iowa Office of Consumer Advocate has every expectation that the STB will perform its protective function of the public against railroad rate and service abuses in this rulemaking.

Respectfully submitted,

John R. Perkins
CONSUMER ADVOCATE

Ben A. Stead

Ben A. Stead
Attorney

310 Maple Street
Des Moines IA 50319-0063
Telephone: (515) 281-5984
Fax: (515) 242-6564
E-mail: Ben@mail.oca.state.ia.us

OFFICE OF CONSUMER ADVOCATE

CERTIFICATE OF SERVICE

A copy has been served on each party this
28th day of April 2006.

Ben A. Stead