

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

EX PARTE NO. 677

222141

COMMON CARRIER OBLIGATION OF RAILROADS

SUMMARY OF TESTIMONY ON BEHALF OF BNSF RAILWAY COMPANY

- I. A railroad's common carrier obligation is to respond to reasonable requests for service. Thus, when a railroad's capacity is constrained, its obligation is to act fairly and reasonably to provide service with its available capacity.
- II. The Board can promote efficient rail operations that benefit all shippers by allowing the market to function without regulatory interference.
 - The market provides railroads with sufficient incentive to expand capacity as necessary to meet increasing demand.
 - The Board should continue to allow railroads to develop market-based programs to maximize capacity utilization. For example, BNSF's COTs program has been successful in maximizing utilization of limited rail cars in periods of peak demand
 - BNSF has also developed market-based programs that encourage shipper investment in infrastructure. For example, BNSF's grain shuttle program has produced improvements in capacity utilization that benefit all shippers, including shippers that do not use shuttles.
- III. The Board has well-established standards for determining when a railroad will be relieved of its common carrier obligation.
 - There are circumstances in which railroads are permitted temporarily to embargo service over particular lines, so long as the railroad acts reasonably to restore service.
 - Railroads may also seek to abandon service altogether over line segments.

IV. The common carrier obligation has a limited scope.

- Railroads do not have a universal service obligation akin to that of public utilities.
- Railroads do not have an obligation to provide infrastructure necessary to serve individual shippers.
- The common carrier obligation does not extend to exempt traffic.

V. It is critical that railroads have the flexibility to charge market-based rates, including rates reflecting volume incentives. Market-based pricing promotes efficient rail operations and maximizes service across the entire network.

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