

RAILROADED

A Fact Sheet on Captive Shipping

Since Congress passed the Staggers Rail Act of 1980, more than 40 mergers and consolidations have decreased the number of Class 1 railroads from over 40 to only seven. Four of these major railroads control more than 94 percent of the industry's revenue and own over 90 percent of the country's track miles. The lack of rail-to-rail competition has led to an increase in the number of captive shippers, rising rail rates, and deterioration in service quality. For many products, including coal, chemicals, and agricultural products, it is not feasible to ship by any means other than rail, leaving some of the shippers of these products "captive" to the single railroad that serves them. The following are just a few examples of the industries and companies forced to pay exorbitant rates for poor service because of their captive shipper status.

Utilities

Dairyland Power Cooperative is a generation and transmission cooperative providing power to about 525,000 residents of Wisconsin, Minnesota, Iowa, and Illinois. Each year Dairyland spends about \$40 million to transport 3 million tons of coal, but with rising rates and deteriorating service its transportation expenses could skyrocket.

Other shippers of Western coal have recently experienced rate increases of 50 to 100 percent. Similar increases in the cost of moving Dairyland's coal would increase Dairyland's total annual expenditures by 8 to 16 percent. In 2004, one of the Western railroads failed to deliver more than 25 percent of scheduled shipments, causing Dairyland's fuel budget to jump 10 percent.

Agriculture

Cooperative Plus Inc. (CPI), a farm supply cooperative with several locations throughout Southeastern Wisconsin, has seen its rates to ship grain from Burlington to Chicago more than double since December 2003, due to unannounced rate hikes last November. These increases have put the co-op at a substantial disadvantage because its rates with Canadian National Railway (CN) are now more than twice that of some of its competitors who can use Wisconsin & Southern Railroad Co. Despite cutting expenses in the once

profitable grain department, for the past two years the company has had to absorb huge operational losses that significantly decreases its profitability and has deterred any plans for capital investments in the company's Burlington location.

Lumber and Paper

Johnson Timber Corporation buys and sells timber, logs, and pulpwood. Johnson Timber is only served by CN and is therefore subject to rates that can double at a moment's notice and unreliable service, making it nearly impossible to create any kind of business plan. When only about 30 percent of its requests for rail cars arrive at their scheduled time, Johnson Timber is forced to use trucks to transport its lumber to prevent it from deteriorating in the yards. The move toward using more trucking produces increased transportation costs for the company, making it less competitive within the state and in the global economy.

Current Federal Legislation

The Railroad Competition Acts (S.919, H.R.2047)

The companion legislation introduced in the Senate (S. 919) and House of Representatives (H.R. 2047) focuses on ensuring competition in the railroad industry and providing reasonable rates for captive shippers.



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Among other changes that would benefit captive shippers, these pieces of legislation would:

- **Clarify National Rail Policy** to ensure effective competition, maintain reasonable rates, and maintain the quality of rail transportation service.
- **Require that Railroads Must Quote Rates to Their Customers** between any two points on their systems.
- **Eliminate Barriers to Competition** between Class I, II, and III rail carriers.
- **Cap Filing Fees** for captive rate complaints to the level of comparable federal district court filing fees.

“When enacted into law, this legislation will truly improve rail transportation by providing fairness and openness in the negotiations between railroads and their customers over rates and service.”— *Statement of the Captive Rail Customer Community in Support of the Railroad Competition Act of 2005.*

The Railroad Antitrust and Competition Act (H.R.3318)

H.R.3318, introduced by Representative Mark Green (R-WI), would amend the Clayton Act, giving shippers, states, and the U.S. Justice Department the ability to bring antitrust cases against the railroads if they believe anti-competitive measures are being taken, as well as giving the Justice Department a role in reviewing railroad merger proposals.

“Our principal purpose in this legislation is to update the antitrust law and to really get at the long-standing exemption that the railroad industry has had,” said Rep. Green. “Railroads have now been operating in a deregulated environment for 25 years and I think we’re long past the time when we need to reexamine the anti-trust law in respect to railroads.”

Prepared by the Wisconsin Federation of Cooperatives, August 2005. For more information, contact David Jenkins at (608) 258-4409. ■

Please contact your legislators to encourage them to support S.919/H.R.2047 and H.R.3318.

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