



The STB, the Congress, and the Nation's Railroads

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Southwest Association of Rail
Shippers

October 1, 2009

The Woodlands, Texas

STB Background

- Three member board—non-partisan
- New Chairman
- Railroad rate and service disputes
- Railroad mergers and acquisitions
- Board considers approval of abandonments and new construction
- Limited jurisdiction over other modes

Rail Rate Cases at the STB

- Much railroad traffic exempt from STB regulation
- Many claimed that cases took too long and cost too much to adjudicate
- Many shippers felt they had no access to STB's processes for rate relief
- Congress directed the Board to develop procedures for small rate cases

Changes to Large Rate Case Procedures

- Streamlined procedures to reduce time and cost for adjudicating large rate cases—Court of Appeals upheld
- First large rate cases handled under new guidelines—AEP North Texas, Western Fuels, KCPL, Oklahoma Gas & Electric
- Major shipper win in Western Fuels
- Major case involving DuPont and CSX resolved through STB facilitated mediation

New Approaches to Small Rail Rate Cases

- Provides access to the rate reasonableness process for all sizes of rail rate disputes, and in particular, to the estimated 73% of challengeable rail traffic for which the large rate case process would be financially impracticable
- Requires, for all rail rate disputes, mandatory, nonbinding mediation—a mechanism that has been used successfully in previous cases to arrive at negotiated settlements

New Approaches to Small Rail Rate Cases

- Allows rail customers to choose the methodology that is most appropriate for consideration of their complaint:
 - A rail customer choosing the simplest approach, the “Three-Benchmark” methodology, is eligible to recover up to \$1 million over a 5-year period.
 - A rail customer choosing the “Simplified Stand-Alone Cost” methodology is eligible to recover up to \$5 million over a 5-year period

Experience with Small Rate Case Guidelines

- First cases brought by DuPont
- Six lines of traffic found to be market dominant; rate relief ordered
- Cases were on appeal; court docket held in abeyance while STB considers correction
- Recently, parties notified the Board that they have reached a settlement
- STB currently Adjudicating 2 UP/USM cases (1 SSAC; 1 3BM)

Review of Carrier Operating Practices

- Two hearings on the railroads' common carrier obligation
- Issued new disclosure rules on paper barriers; Entergy Case
- Fuel surcharge decision, changes in how railroads assess surcharges

Railroad Restructuring

- The Board's classification of railroad mergers
- Canadian Pacific's acquisition of the DM&E—first significant case
- Canadian National's acquisition of the EJ&E—minor transaction but full EIS
- Patriot Corridor

Environmental Reviews

- Overall responsibility for environmental review of new railroad construction and abandonments
- DM&E Powder River Basin expansion project and the IC&E
- Environmental review of the CN/EJ&E acquisition
- Patriot Corridor
- Alaskan Projects

Changes in the STB's Practices and Procedures

- Rail cost of capital methodology revision and adoption of Capital Asset Pricing Model
- Inclusion of Multi-Stage Discounted Cash Flow Model
- Creation of Rail Energy Transportation Advisory Council
- Merger of Compliance and Enforcement and Public Affairs Sections
- Hearing on Uniform Rail Costing System, April 30, 2009

Changes in STB's Responsibilities

- Changes incorporated in Clean Railroads Act
- Requirements to mediate commuter/freight rail access disputes
- Requirements to decide causes of intercity passenger train delays and prescribe remedial actions

Pending Legislation Involving the STB

- House and Senate drafting legislation that proposes to
 - Reauthorize the STB
 - Change how the railroad industry is regulated
- Removal of railroad antitrust exemptions
- Rail infrastructure tax credits

State of the Railroad Industry

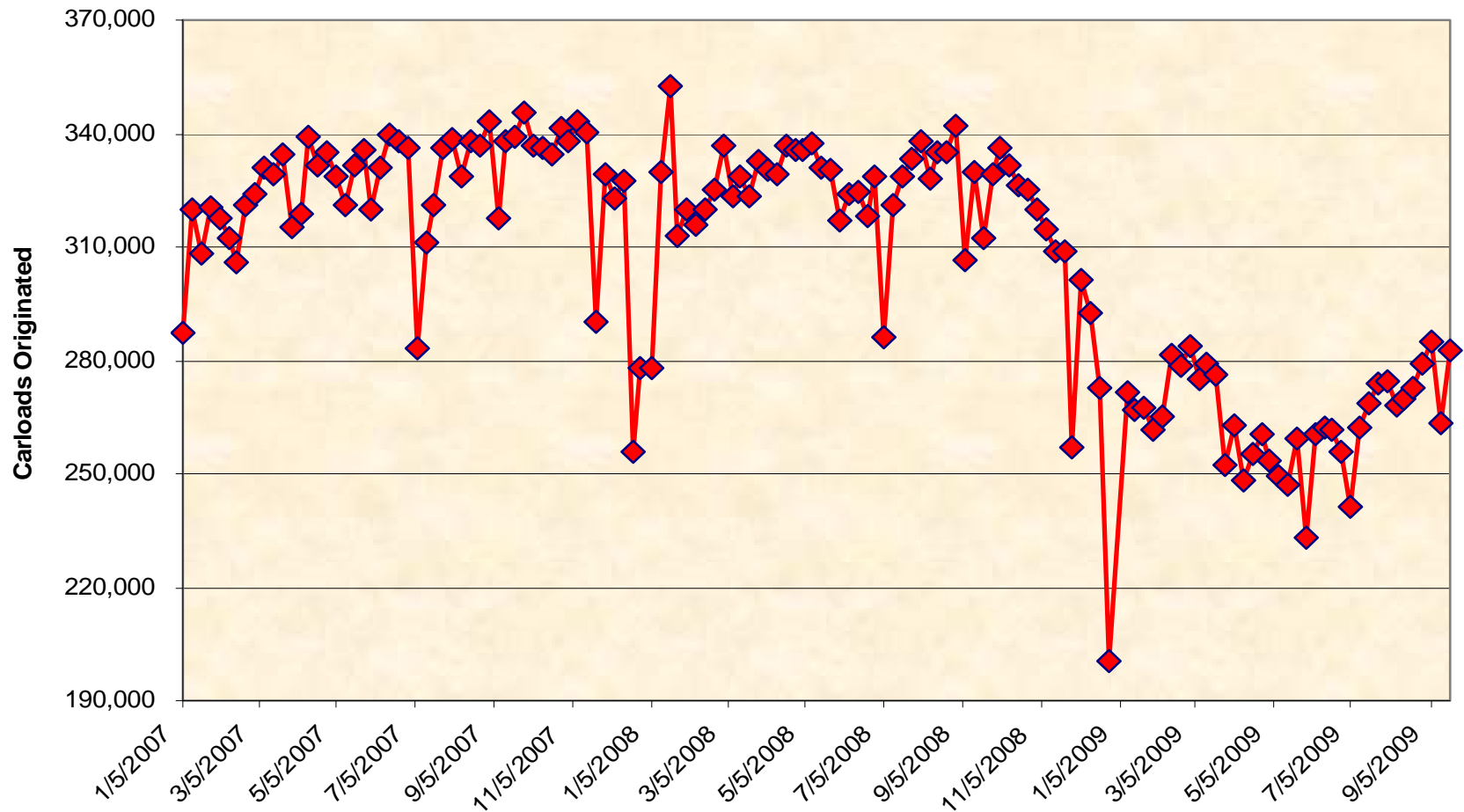
- After several years of constrained capacity, railroads again have excess capacity
- Traffic has been down for virtually every commodity hauled by rail
- Nearly one-half million railcars idled as are thousands of locomotives
- Capital expansion plans are on hold and thousands of workers are being furloughed
- Railroads are going ahead with other capital projects

State of the Railroad Industry

- When will railroads recover??
- Rail carloads are generally a leading indicator—some positive signs that we have reached bottom
- Employment has increased slightly, although changes in HOS could be a factor
- Traffic declines slightly reversed and some commodities are up
- New study for STB by Christensen Associates takes into account economic downturn and the trends in composition of rail traffic

Class Rail I Carloads 1/07-Present

Total Traffic
U.S. Class I Railroads 2007- Present





Thank you
Any Questions?

