September 23, 2010

Legislation

Rockefeller reiterates commitment to rail reform. Senator Jay Rockefeller (D-WV), Chairman of the Senate Commerce, Science, and Transportation Committee, reiterated his commitment for reform of the rail industry in a September 15th hearing titled, “The Federal Role in National Rail Policy.” John Porcari, Deputy Secretary of the U.S. Department of Transportation, and Daniel Elliott, Chairman of the Surface Transportation Board (STB), were witnesses during the hearing.

“I want everybody in this room to know that whether we do it this year or next year, railroad reform is going to happen,” Rockefeller said. “Either Congress will do it, or it will need to be done through regulation.”

In December of 2009, the Senate Commerce Committee passed S.2889, “The Surface Transportation Board Reauthorization Act of 2009.” However, that bill has not been brought to the full Senate for a vote. A summary of the legislation can be accessed on the Soy Transportation Coalition website at: http://soytransportation.org/newsroom/STBReauthorizationSummary.pdf.

Hours before the start of the hearing, Rockefeller issued a committee staff report that highlighted the financial health and profitability of the rail industry.

“What this important report tells us is that the railroads are earning 12% and 13% profit margins, which puts them at the top of the Fortune 500,” Rockefeller claimed. “And they’re just getting more profitable because they’re raising their shipping prices by an average of 5% a year. But the railroads say different things depending on their audience.

When they’re talking to the Surface Transportation Board, they act like it’s still 1980. They say they’re barely making enough money to keep the lights on. But when they’re on their quarterly calls with Wall Street investors, it’s a very different story. These companies tout their high profit margins and their power to dictate prices to their customers. And at the same time they’re telling Congress that they don’t have enough money to invest in needed capital projects, they’re using billions of dollars of their profits to reward their shareholders with dividends and stock buybacks. This is all happening at a time when shippers all over our country are paying more than their fair share to transport their goods to their customers – paying more because they have no other alternative.”

In response to the committee report, Ed Hamberger, President and CEO of the Association of American Railroads, issued the following statement:

“We vehemently disagree that there is a need to roll back the successes achieved since the 1980 Staggers Act. The vision held by Congressional Democrats and President Carter 30 years ago – allowing railroads to succeed or fail in the marketplace – has resulted in railroads becoming a true American success story. Imposing new Washington regulations will undermine railroads’ ability to sustain the private investments in the nation’s rail network that provides hundreds of thousands of American jobs, and the foundation for both freight and passenger rail.

The report makes profits and corporate efficiency sound like dirty words. The reality is the railroad industry’s return to financial health has resulted in private capital – not taxpayer dollars – getting turned back into building and maintaining the nation’s rail network. Even during the worst recession in 80 years, America’s freight railroads have kept investing, spending $21.8 billion of their own private capital in 2008 and $20.2 billion in 2009 to build, maintain and modernize the nation’s 140,000-mile rail network that serves both passengers and freight.”

There’s nothing wrong with success. We’ve run smart, successful businesses, improving efficiency and service for our customers, while keeping prices below what they were 30 years ago. Now is not the time to inject greater regulatory involvement from Washington, but instead to keep letting the current balanced system work.”

During the hearing, STB Chairman Daniel Elliott conceded the need to review the relationship between railroads and rail customers to determine if greater balance can be achieved.

“I believe that the arena has significantly changed since the Staggers Act’ and that a wide-ranging review is needed to determine whether shippers lack access to competing railroads,” Elliott stated. He committed to reviewing the rules put in place in the 1980s designed to restore railroads to financial stability that may have resulted in reducing competition in certain areas of the country. Elliott also said he would explore eliminating regulatory exemptions for railroads, and lowering the filing fee for challenging rates before the board – making the process more accessible.

Ocean lines oppose removing antitrust exemption. The World Shipping Council, a trade association representing the ocean vessel companies, expressed concern with an effort to revisit and potentially amend the industry’s antitrust exemption.

On September 14, a group of 32 importers, exporters, and third-party logistics companies sent a letter to Congressman James Oberstar (D-MN), Chairman of the House Transportation and Infrastructure Committee, requesting an end to the antitrust exemption the shipping industry enjoys.

At a June transportation forum, Chairman Oberstar announced his intentions to seek repeal of the antitrust immunity.

The letter from shipping groups to Chairman Oberstar explained, “Since the early 20th century, ocean carriers serving the U.S. have been exempt from U.S. antitrust laws. This extraordinary privilege may have made sense some 100 years ago, but in today’s fully integrated global marketplace, competition rather than joint carrier discussions should be the determining factor which governs the price for moving freight. Freight rates, surcharges and other ancillaries should be determined by each individual carrier based on that carrier's cost plus a reasonable return on investment.

Under today's law, carriers may band together in "agreements" to discuss and agree upon rates and other freight charges and terms of service, or they may agree upon so-called "voluntary guidelines" for service and pricing."

The letter continues, "While we agree that carriers should continue to be permitted to engage in cooperative agreements that result in more efficient services for their customers (which U.S. antitrust law certainly allows), Congress must end the legalized cartels which, under the current OSRA, are specifically allowed to engage in price fixing, cargo allocation among the carriers, and even agreements to restrict capacity. The marketplace should be allowed to determine the prices at which freight moves."

The World Shipping Council stated, "All sectors of the liner shipping industry had difficulties adjusting to the rapid and unexpected growth in trade volumes following the unprecedented and financially disastrous year of 2009."

"Ocean carriers have added sufficient capacity to handle all U.S. imports. Capacity presently deployed to carry U.S. exports far exceeds shipper demand," the organization said. "Carriers have also made substantial capital commitments in ordering additional container equipment to meet customers' needs."

Administration

White House Supports Bigger Trucks in Maine, Vermont. The Obama Administration recently provided its support for a pilot project in Maine and Vermont allowing heavier trucks on interstate highways.

In its continuing resolution for fiscal year 2011, the White House proposed that the one year test program be made permanent. The continuing resolution would fund the federal government beyond October 1, 2010, the start of the new fiscal year.

The pilot project allows semis up to 100,000 lbs to operate on interstates in Maine and Vermont provided the existence of a sixth axle. Both states have sizable logging industries that utilize larger, heavy trucks.

Federal law prohibits trucks weighing more than 80,000 lbs. from utilizing interstate highways without oversize, overweight permits from states.

Senators Susan Collins (R-ME) and Patrick Leahy (D-VT) support the pilot program, in part due to the opportunity to reduce semi traffic on the states' secondary roads.

"It simply makes no sense to force heavy trucks off the federal highway and onto our smaller roads in Maine," Collins said.

In 2009, the Soy Transportation Coalition completed a study titled, "Heavier Semis: A Good Idea." The analysis focused on the impact on motorist safety, infrastructure integrity, and the cost savings to the soybean industry of increasing semi weights given a six axle configuration. By increasing semi weights to 97,000 lbs. from the current 80,000 lbs. threshold, farmers can load 183 additional bushels of soybeans in a semi. Over the course of a harvest season, farmers can save an entire day simply due to fewer trips being made to the initial delivery location.

The summary document for the study can be accessed at the STC's website at: http://soytransportation.org/whatsnew/STCSummarySemiWeightLimitAnalysis2.pdf.

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