

304358

ENTERED
Office of Proceedings
April 22, 2022
Part of
Public Record

5507 W. Calumet Road
Milwaukee, WI 53223
(262) 220-8101
sherr@glacierstone.net

April 22, 2022

Surface Transportation Board
Washington, DC

via Email, .pdf format

COMMENTS IN RE: Reciprocal Switching Docket No. EP 711 (Sub-No. 1)

First of all, I would like to state my qualification to be making these comments: I hold both a bachelors and masters degree in transportation, my senior paper and master's thesis were on the the economics of differing aspects of railroad operations (shortline railroad economics and per diem economics) I worked at Southern Pacific as an operations analyst and in the executive department costing group, and as a marketer for SP, Wisconsin & Calumet (now part of WSOR) and the Chicago West Pullman/Omnitrac shortline group. Since 1994, I have operated my own business as a transloader and receiver of rail shipped goods, primarily low value items such as road salt and landscaping stone.

There is no question the rate freedoms of the Staggers Rail Act have brought back a large degree of financial strength to the railroad industry. Some will cite the competitive atmosphere going against a trucking industry now having trouble attracting drivers as a reason for the recent profitability of the railroad industry, I would view it more as a correction of market forces that is now driving both the railroad and trucking industry to pay closer to realistic prices for the labor and capital they need.

On the trucking side, it is the decline of owner-operators who didn't know to price high enough to capture enough reserves to cover depreciation of their tractor, so that when O-O's broke down they didn't have the financial wherewithal to keep going has brought some economic sanity to that market. For the railroad industry, the newfound financial strength gives them access to capital at reasonable interest rates and the advent of two man crews reduced their labor cost to what was truly needed.

However, the market correction of increased trucking rates due to the demise of inexperienced operators has given the railroads a greater opportunity to increase rates with impunity or little competitive consequence for captive traffic. Shippers everywhere have suffered as a result.

Economists will tell you that in order for there to be true free market competition there needs to be:

1. Many buyers and many sellers
2. Freedom of entry and exit to and from the market
3. Perfect price discovery

In the market for transporting low value commodities that can't withstand trucking long distances to be economic in distant regions, there clearly isn't enough competition. These goods are not amenable to intermodal transport in containers due to the loading and unloading setups of the shipper and receiver, and the limited terminals for that service are absent throughout large swaths of

rural America. Trucking to an alternative railroad for transloading isn't always feasible, especially for low volume moves, due to the need for specialized equipment to actually perform the transload.

Fundamental economics has been forgotten in the regulatory process since the Staggers Act. Local monopolies exist for most rail stations. Even when two carriers serve an industry, it seems almost inevitable that one of them is not interested in capturing traffic. Sometimes this is manifested as a slovenly disinterest in providing service, sometimes it is a lack of interest on the part of their marketing teams to develop new business through rate action. True competition does not really exist in most non-jointly-served cases, especially for low value commodities.

Let me enumerate several instances of how railroads have demonstrated their interest in not providing competition and service:

- I am aware of one instance where a Class 1 railroad prohibited single carload manifest traffic and closed an interchange except for unit train traffic, and another instance where a Class 1 railroad closed an interchange from a captive shortline to unit train traffic, when unit trains are the primary means of moving the low-value commodity involved. In both cases, these service impairments diminished competition.
- I was told by both BNSF and CP that they were not interested in cutting rates in competitive situations to 'chase after traffic', in both cases it was for business that was moving by truck. Based on my background in costing, I felt there was significant room for them to make adjustments to compete. In effect, even a duopoly functions to hold up rates. This is probably contrary to several national policy goals, in terms of reducing fuel consumption and air pollution. These were for 350 to 700 miles hauls.
- CP Rail quoted me rates on handling bales of tree bark, I went out and bought specialized boxcars for the move, traveled to western Canada to meet with the operating personnel, understood the weekly service they would provide, and then CP said "Oh, we're not going to let you load there in Revelstoke". The trucking cost to the next nearest transload point destroyed the economics of the move and it did not come to fruition. I had asked for a contract given the investment I was going to make, but was told that contracts were not available for smaller volumes. I took the risk of buying the equipment, I got burned.
- A site my business used served by the UP in Granville, WI had the WSOR literally on the other side of the fence, and they interchanged to the UP using tracks on either side of the switch leading into my facility. I approached the UP and asked that they accept \$1000 for switching five car blocks of ethanol from the WSOR on one side of the fence into my facility, I was very sternly told "We don't do anything for reciprocal switch charges." This was for a commodity that, as I understand it, UP would not have had any conflicting commercial reason for not doing that switch.
- For some of the landscape stone I purchase from Wyoming and ship to Wisconsin, the stated preferred interchange protocol and least mileage route is BNSF-St.Paul-CN. However, neither road is willing to adjust their rates to move it by the preferred routing, it moves over the circuitous Chicago interchange.
- My business is presently located on a point served by the WSOR but the rates and interchanges are controlled by CN. I recently asked CN to quote rates for a potential local transload

customer to receive soybean meal from Minnesota via the Twin Cities interchange, CN replied that two potential shippers from Minnesota involved have established a policy with CN that CN is to not quote the rates to the receivers without the permission of the shipping mill. Essentially, this keeps the local receiver from receiving much of the benefit of reduced freight charges, since the mills will price based upon the rates that they are provided and capture the savings of shipping by rail over truck. There is no competitive price transparency.

- Some railroads make it very difficult to research their rate levels using their internet tools. Again, price transparency suffers.
- I am aware in some circumstances, rebates are offered to major shippers. Again, smaller shippers do not have the opportunity for true price discovery when the real effective rate is altered by rebate reductions.
- Railroads are too often holding up rates for newcomers to market to protect rates on existing business. For example, I tried to arrange a move of a STCC 01 (grain) commodity from northern Minnesota to Truesdell, WI. Despite the fact it was a move with transloads at both ends, CP would not cut their rate to make it work despite having quoted me a rate on a STCC 08 (Miscellaneous Forest Products) commodity a few months before that if that rate had been applied to the STCC 01 move, it would have worked for the receiver. I doubt CP moves the specific STCC 01 commodity in this lane, but they do move wheat, another STCC 01 commodity and they were protecting the rate -and above market rent profits - on that.
- Rail rates my business pays have increased well above the rate of inflation. Stone I receive from Wyoming to Chicago interchange via BNSF has had a rate increase to from \$2343.94 per carload in July of 2004, to a rate of now \$7531.20. Even if I could take 286K GWR railcars and could ship 112 tons of stone per carload instead of 98 tons of stone in 2004 carloads, the net rate increase per ton is still excessive at 186%. Meanwhile CPI-U has only risen by a factor of 52%. Stone from Virginia to Chicago interchange via CSXT has gone from a rate of \$3837 in April of 2008 to a rate of \$7350 in March of 2022, an 62% increase (adjusted as though I could actually receive 286K cars, which I can't) vs. a CPI-U increase of 34%.
- When I sent an empty railcar my business owns to a remote location on the BNSF, it took 60 days and roughly 3,000 miles extra from the date the car first passed by the destination to when it was actually spotted. When I filed a claim against the BNSF for the delay, they had the chutzpah to dismiss my claim by saying the delays that happened were still within the legal of "reasonable dispatch". Such a blatant non-responsive statement shows how little the regard BNSF has for any competitive response – they aren't worried about losing the business because they know they have the traffic essentially locked up due to the remote location.

Pretty much every single-carload manifest customer will tell you that the Class 1 railroads show very little interest in their business. If the STB listened to the horror stories of shippers from both a rate and service perspective, there could easily be a legal finding that there isn't enough competition and the railroad industry is neglecting the single carload manifest train service shippers.

Clearly more competition is needed. The question is, what is a proper remedy?

One alternative that could be implemented is an arrangement like the Canadian interswitching rules. There would still be a duopoly in most of the country, but the physical and economic ability to

shorthaul a non-competitive, non-service oriented carrier who happens to be the one serving your facility would be a reasonable method to improve the situation with relatively low implementation costs. The principles behind such a program should be:

1. All industrial rail sidings for manifest traffic should have access to at least two carriers – the one that actually switches them, and any interchange up to 500 miles away. The interchanges should be ones that have excess capacity – ie, from central Nevada to Salt Lake City for the BNSF interchange would not qualify, since BNSF is limited to one train per day on the central corridor trackage rights. (Note – I haven't done the calculation to verify if the "500 mile rule" would cover all of Montana/North Dakota)
2. The fees paid for interswitching non-hazmat commodities should set by the STB to be about the equivalent of 3 times the truck rate for the highway distance to the interchange, with a minimum of \$350 switch fee. Fees for commodities that load less than 95 tons/3 truckloads per railcar should be scaled down slightly.
3. For hazmat commodities, there are significant differences in the risk for handling these items – from low level such as spent acids to high level such as hauling PIH chlorine, anhydrous ammonia and ethylene oxide. The STB should establish multipliers of the non-hazmat commodity switch fee for the different classes of hazmat commodities to reflect those risks.
4. In situation where branchlines were spun off to shortlines under favorable lease agreements, where the former Class 1 carrier holds the exclusive rights to interchange with the shortline for a lower lease rate, a different arrangement needs to be made. Clearly, the former Class 1 should receive some compensation for the value of the track provided to the shortline on favorable terms if the shortline hands off the business to a different Class 1. The STB should investigate the various arrangements and come up with a suitable compensation plan, I would suggest something in the range of \$100 per carload as the minimum fee to the former Class 1 to represent the ownership return on the track leased to the shortline if the traffic is interchanged to another Class 1.

There is a second alternative remedy. I have found that non-Class 1 shortlines and regional railroads are much more aggressive in seeking out additional traffic. This is mostly due to the way they think about costs – Class 1's pretty much consider all costs to be variable, while shortlines and regionals view their costs on low density operations to be mostly fixed – if a local train is operated three times a week, and extra carload or five is not going to change the labor cost significantly. Maintenance of way costs are largely due to weather and time deterioration, not ton miles. Therefore, the shortlines and regionals are much more willing to fight for additional traffic, since it represents more contribution to them – above some car cost, fuel expense, and switching time, any additional revenue is going to impact the bottom line.

Therefore, an alternative would be to sell require the Class 1 railroads to auction off their local service rights to shortline or regional railroad groups. Each sale should include trackage or haulage rights for the shortline/regional to connect to two Class 1 carriers. There are enough potential buyers that the Class 1's would receive a fair market value for their local service rights, and it would allow the Class 1's the opportunity to concentrate and specialize in large movements of full trainloads between major terminals, which is what they seem to be interested in. Customers would receive top-notch attention from the newly formed shortlines and regionals. It is a radical remedy, but it would certainly bring the railroad industry out of its' current torpor.

Thank you for considering these ideas.

(signed)
Steven Herr
Glacier Stone and Mulch of Kenosha, LLC