

Product and Geographic Competition

ASSOCIATION OF AMERICAN RAILROADS

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WHAT SHOULD BE DONE?

Restore consideration of product and geographic competition in Surface Transportation Board (STB) railroad rate regulation proceedings.

WHY?

The STB's exclusion of evidence of product and geographic competition is contrary to a fundamental premise of the economics of competition: the ability to raise prices can be constrained by a variety of forces.

Overview of Product and Geographic Competition

- The Surface Transportation Board, an independent agency within the U.S. Department of Transportation, is authorized to resolve rate disputes between a railroad and a shipper if it finds that the railroad has “market dominance” over the traffic at issue. For this to happen, the STB must determine, among other things, that there is an “absence of effective competition from other rail carriers or modes of transportation.”
- In determining whether market dominance exists, the STB has always considered competition from other railroads and competition from trucks, barges, and pipelines. Prior to December 1998, the STB also considered two other types of competition:
 - ✓ Product competition, referring to the ability of rail shippers and their customers to substitute one product for another.

For example, electricity can be generated by coal, natural gas, nuclear power, or other fuels. The rates railroads charge for hauling coal to electric utilities must be low enough to keep the electricity generated from that coal competitive in the electricity marketplace, or utilities will generate (or purchase) electricity from sources other than coal.
 - ✓ Geographic competition, referring to the ability of a shipper to ship a product to, or obtain a product from, different geographic areas served by other transportation providers.

For example, a poultry producer in North Carolina may be able to obtain feed grain from distant areas by train or from local areas by truck. This option constrains the rate a railroad can charge. Likewise, a railroad serving a Louisiana plastics plant must price its transportation service at a level that makes the plastics produced at that plant competitive in the plastics marketplace compared to plastics sourced from different states — or different countries — and transported by other transportation providers.

- In December 1998, the STB eliminated product and geographic competition from consideration in market dominance proceedings, claiming that “consideration of product and geographic competition significantly impedes the efficient processing” of the proceedings.
- In July 1999, the STB rejected a rail industry request to reconsider its decision, concluding that the refusal to consider evidence of product and geographic competition “is necessary and appropriate...to remove the undue burdens and obstacles that their consideration imposes on the filing and processing of rate complaints by captive shippers.”

Why Should the STB Consider Evidence of Product and Geographic Competition?

- When it passed the Staggers Rail Act of 1980, which instituted a set of balanced regulations in the U.S. freight rail industry, Congress intended to eliminate “to the maximum extent possible” Washington’s authority to regulate railroad rates for traffic that is subject to effective competition. The STB acknowledges that rail rates are often effectively constrained by product and geographic competition. Therefore, excluding all evidence of product and geographic competition in all circumstances is contrary to the intent of Congress to deregulate rail rates that are subject to effective market forces.
- Shippers complain that because considering product and geographic competition is time-consuming and complex, it deters shippers from filing legitimate rate cases. The STB can address concerns about complexity and expediency with procedural changes. Exclusion of all evidence of product and geographic competition in all cases is excessive.
- For example, the STB did not consider the possibility of distinguishing between large shipper cases and small shipper cases. Coal cases, where product and geographic competition are increasingly relevant and tens of millions of dollars can be at issue, usually involve large shippers.
- Railroads agree that procedural obstacles and the cost of litigation should not be barriers to obtaining regulatory relief when such relief is warranted. To that end, railroads support the adoption of more efficient procedures to improve the rate relief process — but without rejecting evidence of real competitive constraints on rail rates.