guest opinion

Derail the Monopoly

RAILROADS NEED COMPETITION

By Bill Mohl

MOST INDUSTRIES UNDERSTAND that reliable service and competitive pricing are critical to their success – unless they enjoy unrestrained monopoly market power like the railroads. The railroad industry is exempt from most antitrust laws and virtually exempt from performance standards. As a result, they can get away with exorbitant rate increases, while at the same time failing to provide reliable service, due to a lack of competition on certain routes.

Major railroads frequently charge customers with no alternative rail delivery option higher rates than those charged on competitive lines. Furthermore, with current capacity constraints, railroads are quoting rates to competitive locations that are at times more than twice the level of rates charged a few years ago. The U.S. power industry has been hit hard by this and suffered substantial rail rate increases and lower levels of service and delivery guarantees, and customers carry the burden. Since a large number of these rate increases are under non-negotiated contracts, terms and conditions provided in a 'take-it-or-leave-it' contract, even minor oversight of the Surface Transportation Board (STB) can't mediate rate relief.

We understand the need for railroads to earn reasonable rates of return and to recover actual fuel costs, but railroads are exploiting their monopoly power in many cases and are recovering more than their actual fuel costs under many new transportation agreements, and electric consumers are paying the price. It's vital to this nation to have a healthy rail system. The electric utility industry has a similar need for infrastructure investments and a larger exposure to fuel volatility; however, the utility industry's rates are monitored by utility commissions and the Federal Energy Regulatory Commission.

Monopoly rates are not the only unfair practices captive shippers must endure. Aggregate scores for railroad service have been poor with late or partial deliveries. Entergy resorted to purchasing more than 350,000 tons of coal from Indonesia and Columbia in an effort to maximize the output of its coal-fired generating facilities due to railroads delivering only 86 percent of Entergy's contracted coal from the Powder River Basin, despite the fact that the U.S has a 250-year supply of coal and is considered "the Saudi Arabia of coal."

Rail shippers are asking Congress to pass legislation to address these issues, including the Railroad Antitrust Enforcement Act of 2006 (S.3612) and the Railroad Antitrust and Competition Enhancement Act of 2005 (H.R. 3318), which would remove railroads' antiquated antitrust exemptions. Other efforts are under way to require railroads to provide customers with access to other rail service providers to promote competition and improve the existing STB rate challenge process and costs.

Railroads claim the proposed bills would cause them to lose money they need in order to improve rail infrastructure. Of course rail infrastructure needs to be expanded and improved. A healthy railroad is vital to dependable service. But infrastructure improvements need to be funded in a reasonable and fair manner – through profits gained from fair competition – not by unjustified rate increases or surcharges. Railroads have suggested that an Investment Tax Credit is the best way to stimulate investments. Entergy and other utilities are open to supporting an ITC as long as railroads would be held accountable for service reliability.

Entergy recognizes that utilities and other customers need to cooperate with railroads to improve the situation, but Congress needs to provide balance by stimulating competition and fairness.

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