



The STB and the Regulation of Coal Transportation in a Capacity-Constrained Environment

STB Commissioner Francis P. Mulvey

EUCI Coal Transportation Workshop

Coal: Volatile Markets and Risk Management

St. Louis, Missouri – November 10, 2005



The Railroads and the Surface Transportation Board

Created by ICC Termination Act of 1995

Born out of the Deregulation Movement

Residual Economic Regulation of the Railroads

Far Smaller Staff and Scope of Authority



STB Mission

Exclusive authority to approve of rail mergers

Review rail rates and practices to ensure they are reasonable and not discriminatory

Approval, including environmental review, of

(i) construction of any new rail line or

(ii) abandonment of existing lines

Motor carrier collective ratemaking activities

Rates for non-contiguous domestic water trade

Rates for pipelines not carrying energy products



STB Responsibilities over Rates and Service

Oversee and Monitor Railroad Practices Nationally

Enforce the Railroads' Common Carrier Obligation

Ensure that Rates Charged Captive Shippers are Reasonable

Assist Railroads in Earning Adequate Revenues

Calculate the Railroads' Cost of Capital



Recent Changes in STB Procedures

- Greater openness, more public meetings
- Increased reliance on mediation and technical conferences
- Expedited discovery procedures
- Greater shipper and carrier outreach



STB Past Year in Review

- Board at full strength with confirmation of two new members
- Agency worked off a significant backlog in year
- Held 19 Public meetings on significant issues:
 - Nine Voting Conferences
 - Five Oral Arguments
 - Five Hearings



Year in Review – Maximum Rate Cases

- Decisions on seven maximum coal rate cases
- Oral arguments in three coal rate cases and one pipeline case
- Hearings on the SAC process and small rate cases



Year in Review – Service Issues

- Board carefully monitored rail trends and performance metrics
- Facilitated communications between railroads and shippers in cooperation with AAR at conference in St. Louis
- Asked railroads to submit their fall peak plans
- Site visits by Board to PRB, shipper facilities



Year in Review

- Chairman Nober's decision not to seek a second term
- Implications for the Board's Functioning



Coal Transportation Issues

- Powder River Basin Maintenance
- Rates and Rate Cases
- Fall Peak 2005 Service
- General Freight Capacity



The Powder River Basin

- Highest density rail lines in world
- Unique “joint” line
- Focus of great deal of Board attention due to key role PRB coal plays in economy and regulatory scheme
- Made first-ever agency site visit to PRB last year



PRB – STB Action Items

- BNSF and UP addressed Board members on PRB situation in July 2005
- Numerous meetings with utilities and other coal shippers to hear concerns about PRB service
- STB's Office of Compliance and Enforcement hosts weekly conference calls with BNSF and UP to address PRB and Joint Line issues



Joint Line/PRB Status

- Joint line handling an average of 61-65 trains per day, about 4 less than necessary
- Loading levels improving, but sporadically
- Joint Line maintenance is on schedule according to BNSF. BNSF says maintenance will be completed by mid-November
- Not all transportation problems are railroad's fault –some lay with mines also



Next Steps -- PRB

- Carriers must cooperate in completing maintenance
- Railroads must determine causes and best way to treat fugitive coal dust
- Railroads, mines and utilities must all be part of solution to prevent future coal-dust related line failures
- Will finalize EIS on DM&E PRB expansion project by early next year
- STB will continue to focus on PRB as a core agency responsibility



Coal Rate Cases

- Board currently has 6 pending SAC Cases.
- Regulatory responsibility to adjudicate cases on record before agency
- Shippers often want redress for large increases
- Railroads feel commercially reasonable rates should govern



Alternative Approaches

- SAC approach has been criticized as artificial and overly complex
- SAC approach is very costly and time consuming
- Only feasible for large shippers
- Is it time to look for alternative approaches?
What happens if railroads become revenue adequate?



Summary of Recent SAC Cases

Case Name	Decision Date	Tariff Rates (per ton)	Shipper Requested Reduction	Result
FMC	2000	wide range*	wide range	~15% reduction
WPL	2001	\$14.66	~ 32%	~11% reduction
PPL Mont.	2002	\$5.33 - \$7.74	~ 31%	dismissed
TMPA	2003	\$19.09	~ 30-42%	~1-3% reduction
Duke/NS	2003	\$16.00 - \$21.01	~ 53-62%	Not shown unreasonable
CP&L	2003	\$16.56 - \$16.86	~ 57%	Not shown unreasonable
Duke/CSXT	2004	\$16.66 - \$19.00	~ 53-63%	Not shown unreasonable
APS	2004	\$4.21 prescription	no change	prescription vacated
Xcel	2004	\$8.98 - \$9.24	~ 44%	~16% reduction
AEPCO	2005	\$9.05 - \$10.17	~ 25-40%	dismissed

* 16 origin/destination pairs involving 5 commodities



Pending SAC Cases

Case Name	Date Filed	Tariff Rate	Statutory Deadline
Otter Tail	2001	\$13.49 - \$15.96	Jan. 20, 2006
AEP Texas North	2003	\$17.25 - 18.04	Mar. 9, 2006
Western Fuels	2004	\$5.69 - \$8.13	Record not closed
APS v. BNSF	2004	\$6.91 - \$8.75	Complaint stayed pending appeal
West Texas v. BNSF	On remand from D.C. Circuit	\$13.68 prescription	None
KCPL v. UP	2005	\$15.84 - \$14.26	Record not closed



Current SAC Issues

- Held Spring 2005 hearing on SAC issues. Major substantive issues discussed included:
 - The appropriate use of “cross-over” traffic;
 - How the agency should project operating expenses; and
 - Possible changes to the rate prescription methodology.
- No party offered a detailed proposal on how to revise the SAC test.
- *Rulemaking v. Adjudication*: Shipper groups favored resolution of SAC issues via adjudication, Railroads favored rulemaking.



2005 Service Actions

- 2005 Letter to railroads asking them to submit Fall Peak plans, capacity bottlenecks and plans to alleviate those identified issues
- Impact of Hurricane Katrina still being evaluated
- Individual carrier meetings where appropriate

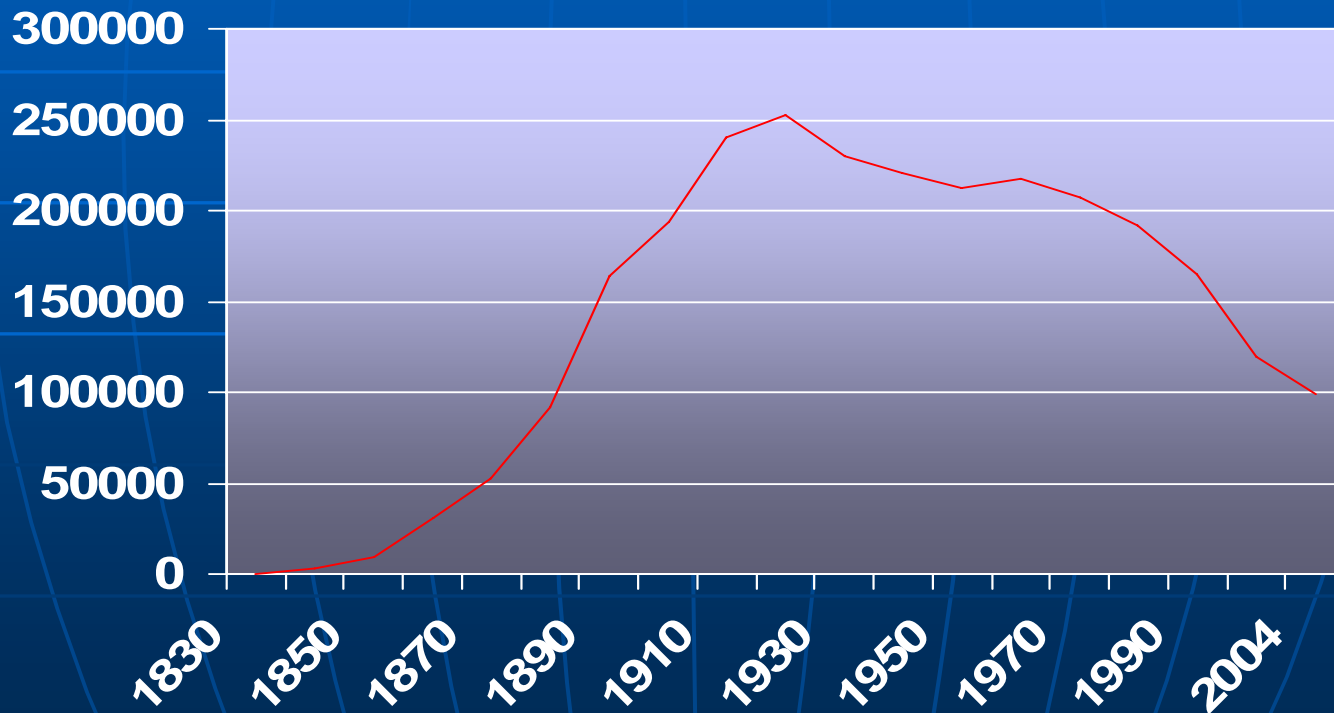


Constrained Capacity Environment

- Shrinking Workforce and Infrastructure Partly Offset by Productivity Improvements
- But Continuous Increase in Traffic Begins to Absorb “Excess Capacity”
- Network becomes More Vulnerable to Stochastic Events such as Katrina, derailments, etc.
- A Perfect Storm or the Rail Version of Global Warming

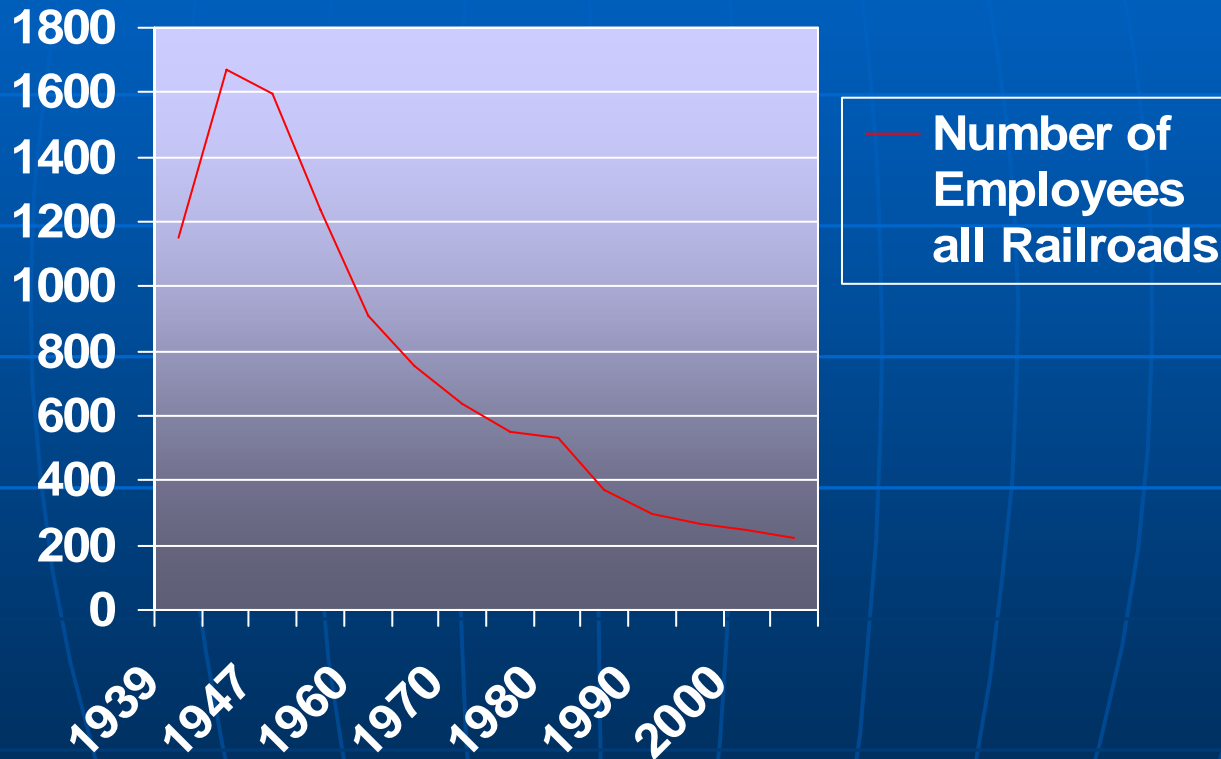


Growth and Decline of Railroad Mileage



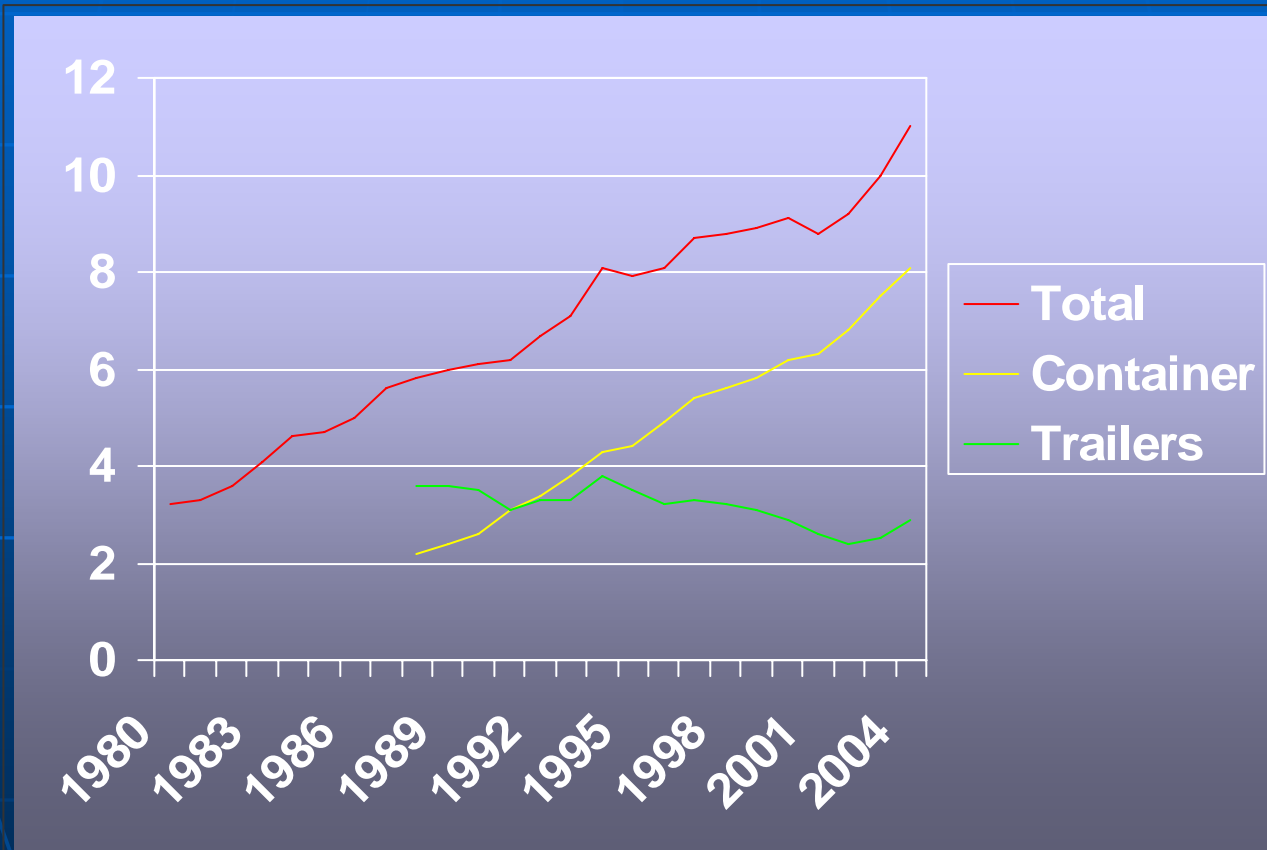


Railroad Employment 1939-2003 (in thousands)



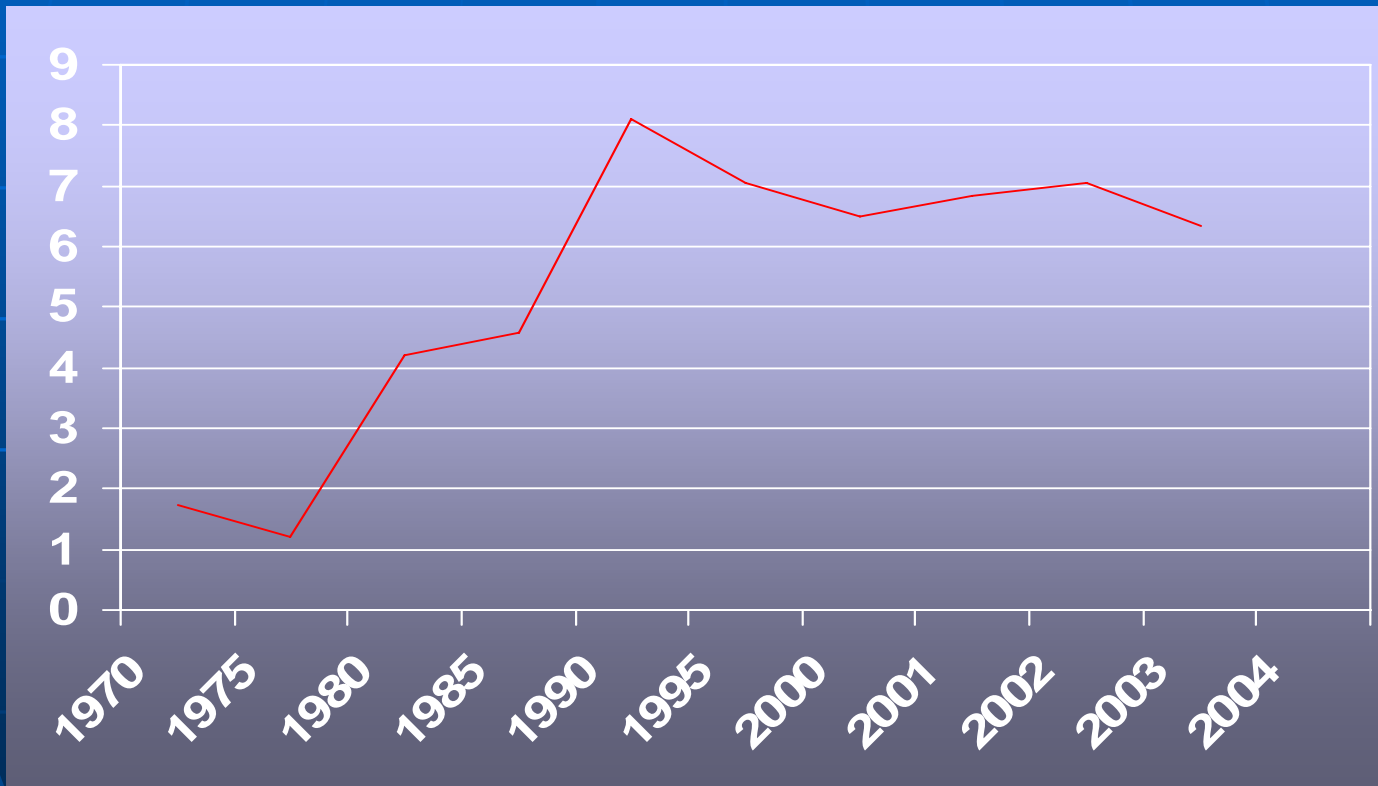


Intermodal Traffic 1980-2004





Railroad ROI 1970-2003



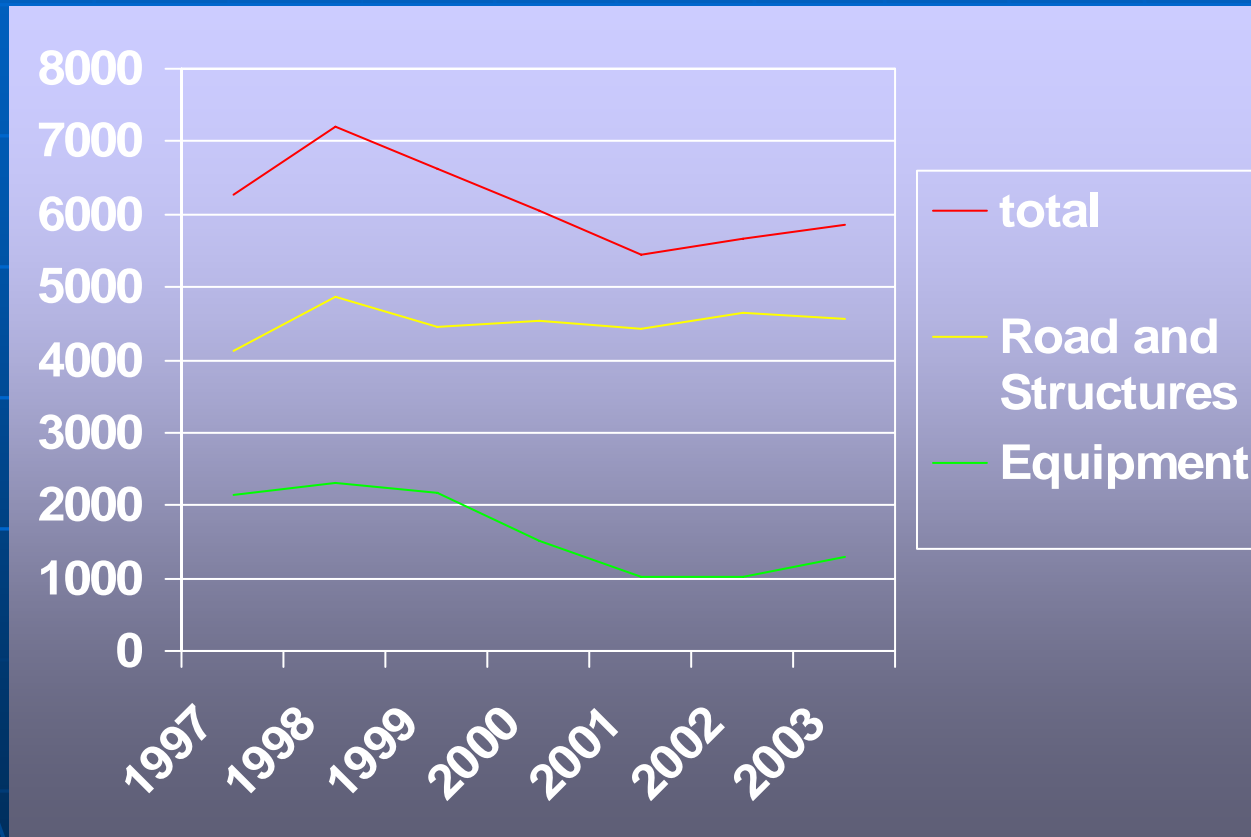


Short term Capacity Problems

- Expanding Economy Led to Surge in Imports
- Large Grain Harvests in 2003 and 2004
- Growth in Export Coal Market & Coal Demand generally
- Crew Shortages due to Wave of Retirements
- Equipment Shortages due to Reduced Purchases
- Cutbacks in Capital Spending Programs
- Tight Capacity in Trucking Industry due to Driver Shortages, Higher Fuel Costs, HOS Rules, etc.



Class I Capital Expenditures (in billions of current \$)





Carrier Responses to Recent Capacity Problem

- More Cars and Locomotives Bought and Leased
- Accelerated Hiring and Training of Train Crews
- Some Infrastructure Expansion Efforts e.g. triple tracking PRB joint line
- Price Rationing of Available Capacity
- Railroads Choosing who they will Serve and the Common Carrier Obligation



Long-Term Rail Capacity Constraint Factors

Demand for Freight Rail Transport Projected
to Grow by 60%-70% over Next Two Decades

Railroads' Inability to Earn Cost of Capital

Pressure from Wall Street to Reduce Capital Costs
and Improve ROI

Long-Term Contracts Limit Railroad
Pricing Flexibility

Railroads tend to Bid Long Term Contract
Rates Down to Long Run Marginal Costs



Approaches to the Transportation Congestion Problem

Build more Physical Infrastructure

Adopt technological innovations

Make better use of existing
facilities

Promote shipper and traveler behavioral
changes

All have potential but all limits

Thank You, Any Questions?

