IMPACT OF THE STAGGERS RAIL ACT OF 1980

With the passage of the Staggers Rail Act of 1980 and its implementation by the Interstate Commerce Commission, many regulatory restraints on the railroad industry were removed, providing the industry increased flexibility to adjust their rates and tailor services to meet shipper needs and their own revenue requirements. As a result, more than 20 years after deregulation, the railroad industry's financial health has improved significantly, service to rail customers has improved while overall rates have decreased, and rail safety, regardless of the measure, has improved.

Background: Prior to 1980, economic regulation prevented railroads from any flexibility in pricing needed to meet both intra as well as intermodal competition. Regulation also prohibited carriers from restructuring their systems, including abandoning redundant and light density lines, a necessity for controlling cost. Added to these problems was the industry's inability to cover inflation due to the regulatory time lag in rate adjustments. As a consequence, nine carriers were bankrupt, the industry had low return on investment and unable to raise capital, and faced a steady decline in market share.

The effects that Staggers had on the industry have been substantial. In the 30-year period before 1980, railroad market share measured in revenue ton-miles declined by 33 percent, from 56.1 to 37.5 percent. Market share in the post Staggers era became stable and has increased to 41.7 percent. Other measures show similar improvement. Return on investment now averages around 7 percent, up from a 2 percent average in the 1970s. And with the industry's improved financial condition, railroads are investing an average of over $6 billion a year in roadway, structures, and equipment. Between 1980 and 2002, the railroads have expended $364 billion in capital improvements and maintenance of track and equipment. Prior to 1980, the rail plant was in poor repair. The industry also showed remarkable safety improvements since Staggers with train accident rates declining by 68 percent.

The Staggers Rail Act of 1980 limited the authority of the Interstate Commerce Commission (ICC) (now the Surface Transportation Board) to regulate rates only for traffic where competition is not effective to protect shippers. The STB estimated in the mid-90s that only 16 percent of traffic is still regulated. Rates are not regulated when competition keeps them at levels below the statutory threshold (where the ratio of the revenue to the regulatory variable cost of the move is less that 1.8), when a class of traffic has been specifically exempted, or when traffic moves under contract. For example, all traffic moving in boxcars or trailers or containers on flatcars was exempted in the early 1980s.

The Staggers Act also legalized railroad-shipper contracts. These contracts represent privately negotiated agreements between railroads and shippers over rates, service levels, and equipment, minimum annual volume of traffic, just to name a few. According to the STB's *"Carload Waybill Sample,"* at least 55 percent of all traffic moves under contract. Contracts enable railroads to improve asset utilization through better planning of their freight cars.

Since Staggers, shippers have seen a significant decline in rates. Freight rates adjusted for inflation have declined by 1 to 2 percent a year since the passage of the Staggers Act, compared

to an increase of nearly 3 percent per year in the 5 years prior to 1980.

Carl Martland, in *Sources of Productivity Improvement in the U.S. Railroad Industry, 1965 to 1995* (published in the Journal of the Transportation Research Forum in 1999), supports these findings for the post-Staggers period on shipper rates but also shows that through the early to mid 1980s through 1995, the railroad industry had over $17 billion of cost reductions resulting from productivity improvements. Martland points out that this period of cost cutting had little effect on net railroad operating income (NROI) since prices fell by more than 40 percent relative to costs. Martland concludes that the forces of competition compelled the railroads to pass on to shippers through lower rates and better service an estimated 80 percent of the savings from productivity gains.

In 1996, oversight of rail transportation contracts was limited to agricultural products by the ICC Termination Act of 1995 (P.L. No. 104-88, 109 Stat. 803 (1995) (ICCTA) which abolished the ICC and transferred the responsibility for regulating rail transportation to the STB. The Act, intended to streamline the remaining economic regulation of the railroads, also shortened time limits for proceedings in a number of areas, such as mergers and rate cases, and has eliminated the tariff filing requirement for railroads.