

TESTIMONY BEFORE SURFACE TRANSPORTATION BOARD

Senator Al Franken

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*As Prepared for Delivery*

Chairman Elliot, members of the Board, thank you for holding this hearing on competition in the rail industry and for giving me the opportunity to testify today. I can't tell you how important rail-to-rail competition is for shippers in Minnesota. Whether you're talking about our agricultural producers, electric utilities, or manufacturers – they all depend on rail for shipping. It's critical that we have a competitive rail industry that provides affordable rates and reliable service for America's shippers—both to keep jobs here in America and to keep American industries competitive in the global marketplace.

This issue is deeply personal for me. I moved to Minnesota when I was four years old. My dad didn't graduate from high school and he didn't have a career as such. But my grandfather—my mom's dad—owned a quilting factory out east, and he gave my dad a chance to start up a new factory in the Midwest.

So we moved out to Albert Lea, Minnesota to start a quilting factory. My dad was a great dad—but not the best businessman—and the factory failed after only two years. With no other hope of finding work in Albert Lea, my dad decided to move us all up to the Twin Cities, where I grew up.

Years later, I asked my dad, "Why Albert Lea?" And he said, "Well, your grandfather wanted to open a factory in the Midwest, and the railroad went through Albert Lea, so it seemed like a good spot." So I asked him, "Why did the factory fail?" And he said "Well, the railroad went through Albert Lea, but it wouldn't stop."

Now I am going to date myself here—but that story is 50 years old. And sadly, I don't think things have changed all that much for shippers over those 50 years.

The railroads may be doing a heck of a lot better. But in my two years in office, as I've traveled around Minnesota, I've heard nothing but horrible stories from shippers—companies in a variety of different industries in Minnesota—who are all struggling to get the big Class I railroads to play fair and quote them equitable, reasonable rates.

These businesses have come in to my office in DC and told me stories of rate hikes and unreliable service—and of unexpected tariffs being tacked on to their normal deals. I've also heard from some companies who have decided it's cheaper to import products from overseas into the U.S. — rather than producing them and shipping them out of a plant in Minnesota, where they are captive to a single railroad that's charging them an arm and a leg for transportation.

This is not right. And you don't need to be an economist to see that. It isn't just bad for small businesses and farmers in this country—it's absolutely terrible for our nation's economy.

Most of these shippers don't want to say anything publicly because they realize it would be a fight between David and Goliath. These businesses need to maintain their relationship with the one railroad that serves them. And they've got no other way to ship their goods.

In my view, that's one of the most telling signs that we do not have a competitive rail industry in America today. If shippers are too scared to speak up out of fear of retaliation, we've got a major problem.

And if we don't fix it, we're being complicit in handicapping U.S. industries in the global economy. That's the point I want to drive home today. And I realize I am not alone on this point. The President's Export Council, chaired by the CEO of Boeing, agrees with me on this.

In a letter to the President back in March, the Council identified Surface Transportation Board reform as part of a national strategy to make American industries more competitive in the global marketplace. And I know the Department of Justice, and the Department of Transportation, and USDA, and the GAO are all saying the same thing.

It's the responsibility of this Board to protect shippers from anticompetitive practices in the rail industry. Congress has given you broad authority and the flexibility to take action. It's time to examine the STB's policies and make necessary changes to protect shippers from unreasonable rates.

Now, there is no question that we need a financially healthy rail industry to have a strong economy. And thanks to STB policies over the past three decades, we've got a profitable railroad industry today. Class I railroads are some of the most profitable businesses in this country. Despite a sluggish economy over the last several years, railroads are announcing record earnings that have allowed them to more than double their dividend payments to stockholders and spend billions more repurchasing stock. We have a very healthy rail industry, and that's a good thing.

But it's only one side of the coin. We can't have a healthy rail industry at the expense of shippers. And there are things that the STB can do now to make sure shippers remain competitive.

The GAO has laid out several possible open access policies that the STB should strongly consider to increase competition in the rail industry. I know that USDA and others have laid these out in detail in their filings, so I won't spend time delving into those now. But

I hope the STB will take a serious look at these long overdue proposals.

I'd also like to encourage the STB to reconsider its current accounting policies that allow the inclusion of acquisition premiums in a railroad's asset base. I led a bipartisan group of senators in a letter to the Board in March on this topic, and I appreciated your reply indicating that you would consider a shift in this policy.

The Board's treatment of acquisition premiums puts captive shippers at risk, because they have no choice but to pay higher rates passed on to them by the railroad. And it ultimately means that a smaller number of shippers will meet the 180 percent threshold that's required to challenge rates before the STB. I strongly urge you to address this issue when you're considering ways to improve competition in rail markets.

In closing, I'll just say that contrary to how this issue is often portrayed, rail competition isn't about shippers versus the rail industry. It's about the health of American economy, and keeping America competitive in the global economy. That's in everyone's interest — shippers, railroads, and the millions of people that work in these industries. I hope the Board will act soon to make sure that American industries can stay competitive in our increasingly global marketplace.

Thank you again for the opportunity to testify, and I appreciate your careful consideration of these issues.