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"Captive Shippers" Call For Policy Changes Increased Competition Among Railroads, Customer Protections Should be Focus

(Washington, D.C.) — The Alliance for Rail Competition (ARC) today called on the Surface Transportation Board to make sweeping changes to its approach to assessing rail mergers and implementing rail policies. Citing a 26 percent growth in the four largest railroads' market power in the last five years alone, accompanied by widespread dissatisfaction with post-merger performance, and questionable financial benefits, ARC Executive Director Diane Duff suggested that the damage caused by the last several mergers must be repaired with pro-competitive policy changes before any more structural changes are made. She also recommended that the foundation for considering any future mergers must be changed to emphasize competition and customer protections.

Repairing "post-merger damages" of deteriorating service and increasing transportation costs has been the central focus of a growing Congressional debate over the need for increased rail competition. ARC has been urging Congress to more clearly define the direction the STB should be taking in interpreting rail policy by enacting S. 621/H.R. 2784, known as the Railroad Competition and Service Improvement Act of 1999.

"If the Board does not believe that it has the authority to independently modify its interpretation of the law to more adequately focus on promoting competition among rail carriers, then we urge the Board to specifically ask Congress to make the necessary changes." Duff told the STB. "Further, the Board should consider offering a number of policy options that might best allow rail customers to have more choices among rail carriers."

In addition, ARC's written testimony offered seven principles upon which the Board's policies toward future railroad mergers should be based:

1. **A viable freight railroad industry is in the public interest**, and the best way to ensure the industry's viability is to encourage carriers to compete among themselves.
2. **The net impact on customers should be the key merger criterion**. In other words, rail mergers should not be approved if the prospective cost reductions are offset by adverse service and/or rate impacts on railroad customers due to a diminishment of competition.
3. **Competitive access is the preferred protection for customers**.
4. **Railroad customers need "safe harbor" protection**. In the absence of effective railroad competition, economic regulation is necessary to ensure that service is adequate and freight rates are reasonable. Opening access and economic regulation is not an either-or choice; they are parts of a whole.
5. **Railroad mergers are not the only way to lower operating costs**. Traffic growth, and managerial and technological means are just some of the other ways railroads can reduce costs.
6. **Post-merger performance must be closely monitored**. The STB should establish procedures to measure post-merger performance and should issue an annual report of its findings for a period of 10 years.
7. **Where desirable, adjustments will be made post-merger**. Unanticipated adverse impacts on customers can be rectified post merger by opening competitive access and/or making economic regulation more effective.

ARC's statement before the Board followed last week's Second Annual Rail Customer Forum, at which members of ARC and other trade associations representing rail customers, corporate business leaders, and congressional representatives gathered to reissue a call-to-action for competition in the rail industry. Approximately two hundred rail customers met to discuss the effects of the rail mergers, the importance of rail competition,

and the prospect of rail policy changes. Rail customers met with their congressmen on the following day to stress the importance of rail competition for industry survival and for the maintenance of a free market economy.

"We are asking Congress to do what it has in every other industry—and that is to require competition. Pro-competitive provisions that better balance the interests of rail customers with the railroads must be included in any legislation reauthorizing the STB," said Duff.

"Nobody wants a strong, financially viable rail system more than we do – rail customers depend on the railroads to transport our goods to markets around the world. But if railroads do not begin to compete, they will stagnate and wither. Bringing rail competition to the railroad industry is the only way to ensure that both railroads and their customers can thrive."

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The Alliance for Rail Competition is a diverse coalition of rail customers, representing many rail-dependent industries, including agriculture, coal, chemicals, consumer products, industrial products, minerals and petrochemicals. ARC was formed in March 1997 to develop and implement a consensus plan for achieving rail-to-rail competition through legislative changes to regulatory policy.