Rail Policy Reform Must Come First

By Diane Duff

Here we go again. Another proposed railroad merger, only this time it's Canadian National with Wisconsin Central, and the transaction is being characterized as "minor." At this moment in time, can any merger—regardless of its particulars—really be considered "minor"?

With four regional monopolies, there aren't many ways to restore the rail-to-rail competition that was the intended by-product of deregulation. Unless and until the railroad industry can come to an agreement with its customers as to how to enhance rail-to-rail competition for the future, no more railroad mergers should be permitted to take place. None.

Mergers were important in 1980, but that was then. Two decades and numerous transactions have changed the face—and the circumstances—of the railroad industry. As far as many rail customers are concerned, merger mania has gone too far, and rail regulators have been too short-sighted in their evaluation of recent transactions. Today's concentrated rail industry offers its customers significantly fewer routing options, leaving more of those customers under the thumb of their increasingly market dominant rail carrier, more susceptible to the inevitable service disruptions of a rail network with few providers, and less capable of responding as most consumers would to declining service levels and increasing transportation costs.

The real essence of the debate over rail competition is whether rail customers ought to have the ability to "vote with their feet"—or more appropriately, their transportation dollars. If, as the railroads claim, all rail customers are able to do so already, then why are railroads so adamantly opposed to rail policies that would clearly promote competition among railroads? Despite claims that they don't want to fight with their customers, the monopoly position these railroads enjoy in various markets is just too good to give up. The rail industry's cries of alleged financial frailty apparently make its monopoly power a defensible form of corporate welfare—in spite of the fact that any current financial frailties can be laid largely at the doorstep of poorly structured mergers and an unresponsiveness to customer needs.

Railroads claim consolidation hasn't harmed competition because most rail shippers never had access to more than a single railroad anyway. Perhaps. But before merger-after-merger-after-merger, the proximity of competing carriers permitted many rail customers enough access to alternative routes so as to ensure that their carrier met their service needs at a reasonable price. As proximate carriers were swallowed up in mergers and remaining carriers gained control of entire routes, the captivity of the customer increased. And once you're down to only two competing carriers, any economist will tell you that there is as much likelihood for collusion as competition.

So, what does any of this have to do with a CN-WC merger? After all, CN is a Canadian railroad and could offer some alternatives, right? And Wisconsin Central isn't quite large enough to be classified as a Class I railroad.

Don't be fooled. The entire U.S. railroad industry has already made it clear that we have entered the "end-game" of mergers, and many predict that two railroads will dominate all North American rail traffic in just a few years. Thus, this seemingly minor transaction has some pretty major implications:

- It further weakens the position of the Canadian Pacific as a possible merger partner, and therefore, potentially places Northwestern rail customers at a disadvantage in this "end-game."
- It raises concerns about merger-related service disruptions, avoidance of which cannot be guaranteed.
- It reduces the number of players available to resolve future service problems.
- It diminishes at least some rail customers' leverage because of the parallel proximity

between the Wisconsin Central and the Illinois Central, also owned by CN.
- But maybe most importantly, it removes the opportunity for building a new Class I competitor.

Almost two years ago, DM&E President Kevin Schieffer told *Traffic World* that "the free-market solution" to injecting new major market competitors at major gateways and enhancing service was to "connect the small guys." An alphabet route including DM&E, Wisconsin Central and other regional railroads and short lines could be an effective competitor for many commodities besides coal and grain, said Schieffer.

Now is the time for all of us to consider what we need and expect from the national asset that is our rail transportation network. The rail customer community has advocated a system that offers competitive choices among rail carriers so that they can negotiate equitably with their carriers in the marketplace and reduce or even eliminate regulatory morass.

How we achieve that kind of customer choice remains up in the air. But until an agreement over this issue is reached and implemented, rail customers would be smart to unite in opposition to any further mergers.

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