



ARC

Alliance for
Rail Competition

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Terry Whiteside, Chairman of ARC and John Cutler Counsel for Montana Governor Schweitzer and ARC will testify at a two-day hearing before the Surface Transportation Board on common carrier obligation. The hearing will begin on tomorrow Thursday, April 24 2008. If you are interested in viewing the hearing on Webcast go to site www.stb.dot.gov and click on webcast. The hearing will begin at 9am.

Terry and John will be representing Brian Schweitzer, Governor State of Montana, ARC and many Agricultural Groups.

One of John's major points is that common carrier obligation is being overwritten by use of rates. The testimony quotes "*Issues of regulation are relevant to the Railroads' common carrier obligation because, absent effective recourse for captive shippers, railroads will be free to avoid providing service through simple but effective expedient of making services they do not want to provide prohibitively expensive*".

Terry makes several key points in his testimony wherein he outlines specific examples of railroads exerting their economic power while minimizing their common carrier obligation. Two that stand out are:

- *Limited service for existing or new business-Railroads' reliance on capacity constraints or operational efficiency should be examined by this Board. There is evidence that the railroads are exaggerating capacity constraints to provide cover for higher rates and more refusals to serve. This practice could lead to unfairly penalizing the smaller shipper or new shippers in violation of the railroads' common carrier obligation*
- *Rail carriers now appear to believe it is their right to set or affect the market price of commodities they are transporting. This has led to rail carriers demarketing certain shippers while promoting other and controlling access to markets*

This proceeding is a most important forum for captive rail customers to show the Board evidence of the needs for strong and effective common carrier rules in the future.