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Six years ago, the fifth Federal Railroad Administrator -- Jack Sullivan -- came before this Committee on the very same issue that we meet on this morning. Jack was a Democrat, of course, and I am a Republican. We represent two very different Administrations. But our position on this issue is virtually identical, and because this Committee both shared that view and took leadership in transforming it into reality, America's railroads are very different today than they were in 1979. To assess the real impact of the Staggers Act, it is essential to bear in mind where we were six years ago, and contrast that environment with the industry we know today.

When Congress debated the Staggers Act, nearly one-quarter of the nation's track was in bankruptcy reorganization. The relatively prosperous 1970's had witnessed the failure of 9 major carriers, coupled with a complete collapse of regional systems in the Northeast and Midwest.

Even the strongest railroads had a tenuous hold on stability. Return on investment (ROI) industrywide hovered at about 1 percent. Because investment needs had outstripped retained earnings for eighteen of the previous twenty years, the industry faced a ten year capital shortage in excess of $13 billion. The railroads were on their knees, and nationalization was frequently discussed as a serious policy alternative.

There were no winners under the regulatory system this Committee altered in 1979. The problems afflicting the railroads touched every rail shipper, every community served, and virtually every employee.

Rural shippers were hard hit by branch line abandonments as the railroads focused their declining resources on the heaviest density lines.

Poor cash flows meant deferred maintenance, which translated into car shortages, derailments, and unreliable service. Train accidents in a cash starved industry were three times as high as they are today. In fact, the late 70's brought a new accident category to FRA's reporting data -- the standing derailment, in which a freight car, standing perfectly still, simply fell off a track. That, believe it or not, occurred twice in a single year.

The contrast between then and now is the best testimony to the wisdom of the decisions made in this room six years ago. Today's rail industry is healthy and profitable on an industrywide basis. It survived the deepest recession since the 1930's without a single bankruptcy. Capital investment has increased dramatically, rising even in the deep recession year of 1982.

I cannot represent that the industry has eliminated every dollar of the $13 billion capital gap, but deferred maintenance has been virtually eliminated from the nation's main lines, and the pace of branch line abandonments has slowed.

The so-called "box car shortage" evaporated when legalization of shipper contracts enabled carriers to plan the utilization of their equipment. The number of covered hopper cars is at an all-time high.

The industry's return on investment has increased fivefold to the lofty figure of 5.7 percent -- a revealing figure, because it tells both sides of the story. This 5.7 percent is certainly a dramatic increase from the 1 to 2 percent levels of the past twenty years. But it is still less than the return an investor could receive by simply depositing money in a savings account. As the nation's utilities have argued so persuasively -- and correctly -- in their own rate cases, an industry that cannot generate a return on capital equal to the cost of borrowing is an endangered species. These ROI figures emphasize the extent, and at the same time the fragility, of the industry's recovery. The progress is real, but it can be easily eroded.

In assessing the impact of these accomplishments on national policy, it is essental to recognize that no one has gained more from the railroads' turnaround than the railroad shipper.

It was only a few years ago that "railroad marketing" seemed to be a contradiction in terms. Today, price and service innovations like multiple car grain rates, just-in-time service, and reduced rate back hauls have become standard shipper benefits. Shippers have used the power to contract to lock in rates and service commitments in more than 30,000 shipper contracts. I am convinced that we have only scratched the surface of what the industry will accomplish as it becomes more accustomed to marketing in a deregulated environment.

In addition to becoming more price competitive, railroad service has become more reliable. The industry moved the near record grain harvest of 1984 without the costly bottlenecks that plagued shippers during the harvests of the 70's. Agricultural equipment shortages largely disappeared after the onset of contract rates. The elimination of deferred maintenance from the nation's main lines has meant more timely and reliable service for shippers of time sensitive commodities.

Shippers have also shared in the public benefits of the Staggers Act. The industry's financial recovery has enabled the Federal government to cut its expenditures on rail freight assistance from $1.99 billion in fiscal year 1978 to $64 million appropriated for fiscal year 1985. And with stronger capital investment levels has come an historic improvement in railroad safety. Train accidents have been cut by two-thirds since the adoption of the Staggers Act, an improvement that tracks across every reportable accident category. As the industry's financial picture continues to solidify, these numbers will grow better.

Simple statistics make it indisputably clear that the railroads' improved financial condition has not come at the shippers' expense. Rather than simply increasing prices across the board, railroads have utilized their new-found pricing flexibility to attract a greater share of existing markets, and provide competition for commodities -- like perishables -- for which they had been noncompetitive for decades. This base broadening, along with more efficient equipment utilization made possible by deregulation, enabled the industry to increase its cash flows while cutting the rate of increase in rail rates by more than 50 percent. Statistics tell that story in clear, hard numbers.

During the five years preceeding the Staggers Act, rail rates rose by an annual average of 10.6 percent. In the first five years after Staggers, the rate of increase has been cut in half, to 4.6 percent. Over the past twelve months, competitive pressures in a deregulated environment have held the rate of increase to less than one-half a percent -- far below the rate of inflation. And even these numbers understate deregulation's benefit to the shipper, because they measure primarily published rates -- not contract rates, which are lower and longer-term. A recent study done for the railroad industry by an independent accountant surveyed rates for more than 80 percent of rail carried grain tonnage, and found that -- when contracts are added into the equation -- grain rates have actually declined by 18 percent since passage of the Staggers Act.

Coal shippers and utilities have entered more than 1000 long-term contracts, and to assist Tidewater coal shippers the rail industry has four times voluntarily forgone the inflation adjustment it was entitled to under Staggers Act provisions. The result: the railroads' coal revenue per ton mile has actually decreased over the past three years (from 2.6 cents to 2.4 cents), and rail rates for coal are lower today in constant dollars than they were in 1972.

But perhaps the best testimony to the success of the Staggers Act lies not in what it has accomplished, but in what it has not produced. Because it is simply fact that the dire consequences feared by critics when the Act became law five years ago have not materialized.

Rates did not skyrocket, even when the economy came out of the deep recession of 1982. They are rising more slowly today than at any time in the last two decades.

Short line carriers have not disappeared. Their numbers are growing at record rates, and they have prospered with the marketing flexibility made possible by the Act. The marketing choices available to shippers today are unequalled by any in the industry's history.

I have no intention of representing to the Committee that these changes, for all their benefit, came easily or painlessly. The Staggers Act changed shipping and pricing patterns that had been established for nearly a half century. There were pains of transition. There are, in fact, hard cases which must be addressed on a case-by-case basis. And the existence of the captive shipper is a reality, not a myth.

But the theme that should come through clearly from an oversight of the Staggers experience is that the railroad industry has not abused its pricing and marketing opportunities, and because of those opportunities, has become stable while providing better shipper service. It should also be clear that while no system dependent on human judgments will ever be flawless, allowing the commercial relationship between shippers and carriers to be shaped by market forces produces better results, for shippers and carriers, than a system which delegates the major share of those decisions to a board of political appointees.

Perhaps, in the end, the most significant accomplishment of Staggers lies in the fact that it has forced shippers and carriers to work directly with one another, to address their own problems and develop their own compromises. The success of that system can be measured in 30,000 contracts, and in the historic agreements between the National Industrial Transportation (NIT) League and the Association of American Railroads (AAR) on the difficult issues of joint rates, and product and geographic competition. In contrast, a system in which ultimate pricing and contract decisions must be referred to an appointed board of arbitrators is a system which creates incentives for the parties to defer, rather than resolve, the issues of greatest importance in their relationships. It was a slow and cumbersome process, one in which marketing is done by rate attorneys and ICC practitioners. It was a process that served the public and the shipper poorly.

This Committee showed great wisdom in adopting the Staggers reforms six years ago. They have enabled a partially deregulated railroad industry to compete effectively with a deregulated truck industry and a largely unregulated barge industry. There have been transition pains and hard cases, as there inevitably will be in any system. But they do not imply a structural or systemic weakness in the Staggers reforms. The ICC has both the authority and the tools to resolve such problems on a case-by-case basis.

We do not believe that the Staggers Act can be reopened selectively. The Department of Transportation strongly opposes legislatively reopening the Staggers Act because the structure of that Act has worked. It has delivered enormous benefits to shipper and railroad alike. It is one of the great bipartisan accomplishments of our time -- proposed by a Democratic President, and defended by a Republican Administration. And I look forward to maintaining that bipartisan spirit in working with you to make certain that no railroad Administrator, Democrat or Republican, will ever again have to make the kind of arguments that Jack Sullivan made in 1979.