



# ARC

## *Alliance for Rail Competition*

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### **Federal News Update September 18, 2009**

#### **House Judiciary Committee Approves the Railroad Antitrust Bill**

Earlier this week, the House Judiciary Committee approved H.R. 233, the Railroad Antitrust Enforcement Act of 2009, which would remove the antitrust exemption which the railroads benefit from. During the committee deliberations, several Congressmen mentioned that the railroad industry was concerned that it would be subject to the antitrust liability for activities encouraged by the Interstate Commerce Act. However, Rep. Tammy Baldwin, the author of the legislation, assured the committee members that these concerns were unsubstantiated and, if persisted, could be worked out through committee report language expressing the sense of the Committee.

H.R. 233 is a companion bill to the Senate Railroad Antitrust legislation sponsored by Sen. Kohl. Earlier this year, Sen. Kohl agreed not to pursue a separate bill but rather include this legislation into a broader rail package drafted by Sen. Rockefeller, which would address some of the more specific concerns by the shipper community. Sen. Rockefeller continues to work on the draft of this package, which has not yet been released to the public.

#### **ARC Meets with STB Chairman**

Yesterday, the ARC DC team, including Mike Scanlon of PPL, an ARC Executive Committee member, met with David Elliott, the incoming Chairman of the Surface Transportation Board, and his chief of staff Ray Atkins and head of STB Congressional Affairs Matt Wallen. The ARC team was joined by several other shipper representatives including those from the agricultural community.

ARC briefed the Chairman about the issues that have concerned the shippers over the past several years pertaining to the STB regulations and procedures in the rail/shipper disputes. This was a key opportunity to discuss these concerns with the Chairman, whose exposure to the issue comes from his previous professional experience as a transportation union attorney. The key areas of discussion focused on service and lack of service guarantees, shifting of costs onto shippers, and the Board challenge process which is basically inaccessible to certain groups of captive shippers. The group also discussed current legislative remedies being pursued by Congress, including the Railroad Antitrust Bill and the rail transportation package being drafted by the Senate. The group reiterated that even as Congress is working on these legislative solutions, the Chairman has a real opportunity to make changes at the STB and review the tone and direction of past decisions and rules to forge a new path forward.