

Railroad Bottlenecks

By Lee Buchsbaum

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MERCURY RULE CHALLENGED

A group representing coal producers is challenging a federal rule regulating mercury emissions in federal court in Washington.

The rule allows electric power plants burning Western sub-bituminous coal and lignite to emit more mercury, on a heat input basis, than those burning bituminous coal, according to the filing by the group representing a coalition of Eastern and Midwestern bituminous coal producers.

RAILROADS HAVE MORE power today than since the beginning of the 20th century, asserts Robert G. Szabo, executive director of Consumers United For Rail Equity (CURE), a Washington-based lobbying group whose members include Minnesota Power, Entergy, the National Rural Electric Cooperative Association, AEP (the largest consumer of coal in the United States), and numerous paper and chemical shippers. CURE has been petitioning the Federal Surface Transportation Board (STB) since 1997 to enforce more competitive policies, equitable and transparent shipping rates, and a repeal of the railroad industry's exemptions from federal antitrust laws, especially where these pertain to captive rail customers such as utilities.

After Congress passed the Staggers Act in 1980, partially deregulating America's railroads, the number of Class One railroads (a Federal Railroad Administration term for size of the line) has shrunk from 42 to four — with two serving the West and two the East. Since the '80s, they've single tracked, sold, or abandoned parallel routes, and been rewarded by Wall Street. Adding capacity ahead of traffic — which the Union Pacific and Burlington Northern Santa Fe (BNSF) attempted a decade ago in the Powder River Basin (PRB) — was viewed negatively by investors.

With the economy rebounding, capacity is so narrow that railroads are barely able to handle increased movements of any cargo — let alone the predicted two to three percent annual increase in PRB coal. Despite the fact that 65 percent of all coal moves by train, most railroad capital is allocated toward capturing lucrative East-West intermodal traffic that uses the system as a land bridge for Asian or European-made goods. Coal has rarely received the priority that other cargo has received.

In May, derailments on the PRB Joint Line exposed the need for immediate track work, curtailing 15 percent of the loadings from the coal mines that supply nearly 40 percent of the American total — all of it used by a growing number of power plants nationwide. Given that only two railroads, the Union Pacific and BNSF, ship out of the PRB over one route — these derailments and the subsequent coal shortages highlight both the relative fragility of the rail infrastructure and the utility industry's dependence



Photo by: Lee Buchsbaum

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upon it. Capacity problems are symptomatic of a more complex issue: a lack of oversight upon the railroad system that utilities rely upon.

Almost immediately after the spring derailments, the Western Coal Traffic League (WCTL), representing coal consumers and utilities west of the Mississippi, filed suits against the two railroads to reduce or abolish the current published rates and refund any overages collected under them, claiming their rates reduce competition and violate federal antitrust laws. Furthermore, in February, the U.S. Department of Justice's antitrust division stated it was looking into anticompetitive practices for coal transportation in the southern PRB as well.



► **Recent derailments have disrupted coal shipments.**

Congress has also taken some action in regards to this issue. In July, Rep. Mark Green, R-Wis., introduced the Railroad Antitrust and Competition Act that's designed to restore the application of antitrust laws to rail carriers. "Because in some sectors they have no direct competition, they haven't had to be as responsive to customer businesses as they would be in competitive markets," Green says.

In comments before the Congressional Antitrust Modernization Commission, the WCTL stated "with markets protected from competition, and customers largely without effective regulatory remedies, rail rates are going up, service has become erratic and customers have been asked to pay more to fix service reliability problems."

If you look at delivered prices of PRB coal, Szabo says that 70 percent is railroad costs, 10 percent

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is state and local taxes and 20 percent is the mine mouth price of coal.

The problem, maintains Robert K. Neff, vice president of coal supplies for Ameren Fuel, "is not a shortage of cars, but a lack of space to put them."

While most railroads have been purchasing new equipment, "they need to concentrate their resources on coal," says Neff, "because the consequences could be far worse than not maximizing profits — it might precipitate national action. If they don't do it themselves, it's in everyone's best interest that an oversight agency does."

Perhaps the best hope of alleviating the severe congestion coming off the PRB, and breaking up the pricing and power structure, will be the construction of the proposed Dakota, Minnesota and Eastern Railroad, which will serve as a funnel for PRB coal into the Midwest. "Any addition to capacity would be welcomed by the shippers, and the DM&E would certainly help out in that regard," says Tom Canter, director of the National Coal Transportation Association. "The only salvation for the rail system is to throw money at it." ☒

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GAS PRICES HEAT UP

The Natural Gas Supply Association reports that limited supplies will help force up the price of natural gas this winter. However, there should not be a concern about reliability of supplies, said Joseph Blount, association chairman.