

STATEMENT OF JOHN W. MAYO
PROFESSOR OF ECONOMICS, BUSINESS AND PUBLIC POLICY
GEORGETOWN UNIVERSITY, MCDONOUGH SCHOOL OF BUSINESS

Hearing on
“The 35th Anniversary of the Staggers Rail Act:
Railroad Deregulation Past, Present and Future”

Before the House Subcommittee on Railroads, Pipelines, and Hazardous Materials
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Chairman Denham, Ranking Member Capuano and members of the Subcommittee:

My name is John Mayo. I am a Professor of Economics, Business and Public Policy at Georgetown University’s McDonough School of Business. I am also the Executive Director of the Georgetown Center for Business and Public Policy.

For 30 years I have studied the economics of regulation and deregulation in the American economy in a variety of industries including electricity, telecommunications, cable television, pharmaceuticals, the Internet, as well as the domestic freight rail industry. A summary of my research publications and relevant experience is included as an attachment to this testimony.

In 1980, the Staggers Act passed Congress in an overwhelming bi-partisan fashion. It was also signed and enthusiastically endorsed by President Carter.¹ This Act fundamentally altered the governance structure of the rail industry, shifting from a highly granular model of regulation to a model in which markets, rather than regulators and rate bureaus, are largely responsible for establishing prices and investment.

Importantly, this legislation was not driven by simple ideology. It did not embrace deregulation out of a belief that markets are *always* superior to government. Neither at the time of the passage of the Act did ideologues argue that steps to free railroads from regulatory constraints should be halted out of a fear that large railroads would *necessarily* act against the public interest. Rather,

¹ When signing the Act, President Carter observed “By stripping away needless and costly regulation in favor of marketplace forces wherever possible, this act will help assure a strong and healthy future for our Nation’s railroads and the men and women who work for them. It will benefit shippers throughout the country by encouraging railroads to improve their equipment and better tailor their service to shipper needs. America’s consumers will benefit, for rather than face the prospect of continuing deterioration of rail freight service, consumers can be assured of improved railroads delivering their goods with dispatch.” Available at <http://www.presidency.ucsb.edu/ws/?pid=45284>

the deregulatory measures adopted in Staggers were embraced for a simple and profound reason. Deregulatory steps in the industry were as a practical – not ideological – matter being revealed to produce superior economic outcomes for the industry and for the economy more generally. Legislators from both political parties, economists and industry observers at the time were all optimistic about the potential for improved rail performance with the Staggers Act. Of course, optimism on the front end of any legislation is normal. The real question is how have economic outcomes evolved for consumers, for producers and for the American economy in the wake of Staggers.

Fortunately, we now have 35 years of experience with the Staggers, and I can tell you with considerable confidence that the governance structure of the Act has been significantly successful.

This was recognized by Congress as early as 1995, when the Senate Commerce Committee declared, “The Staggers Act is considered the most successful rail transportation legislation ever produced, resulting in the restoration of financial health to the rail industry.”² Consequently, with President Clinton’s support, Congress took the additional step of further easing regulatory constraints by eliminating the Interstate Commerce Commission, replacing it with the current Surface Transportation Board. Importantly, the bill transferring authority to the STB “carefully avoided alteration of the fundamental premises of the Staggers Act.”³

With the benefits of an additional twenty years of observation since the 1995 Congressional blessing of the Staggers Act, it is now possible to look afresh at whether the Act is succeeding in promoting “a safe and efficient rail transportation system”⁴ as called for in the Act.

Economic signals of efficiency include increased output, increases in the breadth and utility of service offerings (manifested by increased modal market share for rail), reduced costs, and indications of consumer value (favorable raw prices, prices after accounting for cost changes, and quality of service). As with all transportation modes, safety is principally gauged by the frequency and severity of casualties.

While a detailed discussion of these retail economic metrics is beyond the time permitted by my oral testimony, I am taking the liberty of attaching a recent study that I co-authored with Professors Jeffrey Macher and Lee Pinkowitz also of Georgetown University’s McDonough School of Business that examines the economic metrics associated with the industry. We find, as have numerous other scholars, that the liberalizations introduced by Staggers and their subsequent implementation have produced a variety of positive economic consequences, for the industry, for consumers and for the economy as a whole.⁵

² REPORT OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION on S. 1396 NOVEMBER 21, 1995, p. 3.

³ Ibid, p. 7.

⁴ §10101a(3).

⁵ Beyond our analysis, see *inter alia*, Burton, Mark L., “Post-Staggers Railroad Oversight as an Example of Results-Based Regulation,” working paper, University of Tennessee, February 2015; Carew, Diana G. and Michael Mandel, “US Investment Heroes of 2013: The Companies Betting on America’s Future,” Progressive Policy Institute, (2013); McCullough, Gerard J. and Louis S. Thompson, “A Further Look at the Staggers Act: Mining the Available Data,”

We also identify areas of vulnerability as future rail policymaking unfolds. Of particular concern is the prospect that the emerging successes in the industry may be coopted by the imposition of earnings regulation in the industry. These concerns are discussed in detail in the research article that is appended to my written testimony.

Thank you very much for your time and attention today, and I look forward to any questions that you might have.

Research in Transportation Business and Management 6 (2013): 3-10; Burton, Mark L., "The Economic Regulation of US Railroads: Understanding Current Outcomes and Deliberating a Future Course," *Journal of Transportation Law, Logistics and Policy* 78 (2011): 271; Caves, Douglas W., Laurits R. Christensen and Joseph A. Swanson, "The Staggers Act, 30 Years Later," *Regulation* 33 (2010): 28; Eakin, B. Kelly and Philip E. Schoech, "The Distribution of the Post-Staggers Act Railroad Productivity Gains, Christensen Associates, University Bay Drive, Madison (2010); Eakin, Kelly, et al., "A Study of Competition in the US Freight Railroad Industry and Analysis of Proposals that Might Enhance Competition: Executive Summary," (2008); Gaskins, Darius W., "Regulation of Freight Railroads in the Modern Era: 1970-2010," *Review of Network Economics* (2008): 561-572; Winston, Clifford, "The Success of the Staggers Rail Act of 1980," *AEI-Brookings Joint Center for Regulatory Studies* (2005); Ellig, Jerry, "Railroad Deregulation And Consumer Welfare," *Journal of Regulatory Economics* (2002): 143-167; Wilson, Wesley W., "Cost Savings And Productivity in The Railroad Industry," *Journal of Regulatory Economics* (1997): 21-40; Burton, Mark L., "Railroad Deregulation, Carrier Behavior, and Shipper Response: A Disaggregated Analysis," *Journal of Regulatory Economics* 5 (1993): 417-434; Barnekov, Christopher C. and Andrew N. Kleit, "The Efficiency Effects of Railroad Deregulation in the United States," *International Journal of Transport Economics* (1990): 21-36; McFarland, Henry, "The Effects of United States Railroad Deregulation on Shippers, Labor, and Capital," *Journal of Regulatory Economics* 1 (1989): 259-270; Ferguson, Lucy, "Regulation and Innovation: The Case of Piggybacking," *Eastern Economic Journal* 5 (1979): 453-462; Houston, Douglas A., "A Note on Railroad-Shipper Transactions: Appropriation, Private Contracts, and Regulation," *Transportation Journal* (1979): 60-66.