

THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT  
OF 1976: IMPLICATIONS FOR OKLAHOMA

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The Railroad Revitalization and Regulatory Reform Act of 1976 (P. L. 94-210), enacted February 5, represents sweeping changes in federal policy toward railroads. The stated purpose of the Act is "to provide the means to rehabilitate and maintain the physical facilities, improve the operations and structure, and restore the financial stability of the railway system of the United States". However, the Act actually reflects the reaction of the federal government to numerous railroad companies as businesses with the same objectives as grain elevators and food processors--to sell a service at a profit. Railroad companies are no longer assumed to be instruments through which government can implement social policy, without complete compensation.

The two policy changes most directly affecting Oklahoma are:

1. Revised railroad rate regulation allowing railroads to participate more freely in a competitive transportation market.
2. Local communities and the state must accept the financial burden of unprofitable, but economically important, branch line operations.

Railroad Rate Regulatory Reform

The new law permits railroads to

raise and lower their rates in quick response to changing market conditions. The rate flexibility is regulated to protect other transportation modes from predatory competition by railroads and to protect shippers from excessive rates where a railroad dominates particular types of traffic.

For the next two years, railroads may raise or lower specific rates by as much as 7 percent from the level in effect on January 1 of each year, without Interstate Commerce Commission (ICC) suspension on grounds of unreasonableness. In all other rate cases, the ICC may suspend a proposed rate change for up to seven months, with a possible three month extension, while studying complaints that specific or general rate changes are unreasonable.

The ICC cannot judge a rate to be unreasonably low and a threat to transportation industry competition as long as rates cover variable costs of railroad service. Variable costs are those expenses which change as volume of service changes. This provision implies that railroad rates can no longer to be held at a high level in order to protect traffic volumes of other transport modes.

The ICC cannot judge a rate to be unreasonably high unless the railroad possesses "market dominance" over traffic affected by the rate. A railroad holds market dominance over a particular type of traffic when no effective competition

exists from other railroads or other transport modes. That is, the ICC can only put a lid on railroad rates when the railroad holds a monopoly position in traffic, unchecked by competition.

Provision for seasonal rate differentials adds further rate flexibility. By February, 1977, the ICC is to establish standards and procedures for setting differential rates for seasonal, regional or peak-period variations in traffic. With seasonal rates in effect, crops such as wheat, soybeans, grain sorghum, cotton and peanuts will tend to be transported at higher rates during harvest periods and at lower rates during the remainder of the year.

Peak-period, or seasonal, rate-making has precedence in utility rate-making. Long-distance telephone rates serve as an example. During the business day when circuits are busy, long-distance rates are high. During evenings, weekends and holidays, when circuits are less occupied, rates are lower. Long-distance callers whose calls need not be placed during the day, shift their calls to evenings when rates are lower. Peak-period pricing smooths demands upon equipment, reducing the amount of equipment capacity needed and increasing utilization of each equipment unit. Seasonal rates for seasonal crops will smooth demands upon the rail car supply, reducing the number of cars required and increasing utilization of rail cars.

The Act also orders the ICC to establish standards for developing separate rates for distinct railroad services. This practice will allow shippers to compare prices and desirability of specific transport service options.

### Rail Line Abandonments

Interstate Commerce Commission procedure for abandoning railroad lines have been made faster and more precise. However, the public will be given substantially longer prior notice

of line abandonment proposals. For a line to be abandoned or rail service discontinued, the ICC must judge the action to be consistent with the public interest. A railroad desiring to abandon a line or discontinue service must apply for ICC approval at least 60 days before the intended action. The application must be given automatic approval unless the ICC wishes to investigate the proposed action on its own initiative or in response to complaints by affected shippers and communities. An investigation must consider the seriousness of resulting impacts upon rural and community development. If the ICC approves the application, actual abandonment or service discontinuance can take place 120 days after the date of approval.

The public will be informed of potential line abandonments at least four months before applications to abandon are filed with the ICC. Each railroad must publish a diagram of the transportation system operated by the company. Each railroad diagram must include a detailed description of each line segment which is "potentially subject to abandonment", a term to be defined in ICC regulations. Also, the railroad must identify lines which the railroad currently plans to abandon. These diagrams and identities of weak rail lines must be amended periodically to maintain accuracy. Any line abandonment application which is opposed by a shipper or by the state cannot be approved by the ICC unless the affected line has been identified on the diagram as "potentially subject to abandonment" at least four months prior to the date of application.

If the ICC approves an application to close a line, the action may be postponed if financial assistance is offered within 30 days of approval. When a financially responsible person, organization or governmental agency offers to subsidize the operation sufficiently to cover its deficit or offers to purchase the line, the ICC must postpone approval of the abandonment for a reasonable time while contracts are drawn. The ICC will continue to postpone abandonment approval throughout the life of a financial assistance contract.

Consequently, the Act provides persons affected by a line abandonment substantially more time to prepare responses than in the past. Formerly, the public was notified of potential abandonments only after applications were filed. Now, individuals have a least seven months notice in which to prepare financial assistance alternatives to abandonment. If the line is to be closed, businesses and communities have a least ten months notice in which to plan adjustments to line closure. The sequence of events for an abandonment case which is not challenged by the public is summarized in Table 1.

Rail freight assistance programs which qualify for federal funding include:

- a) subsidies to continue rail operations,
- b) purchase and operation of a railroad line to provide future rail service,
- c) rehabilitation and improvement of rail properties on a line, and,
- d) adjustments assistance to those losing rail service.

The State of Oklahoma must fulfill two requirements to be eligible for the rail assistance program. First, the State must establish a plan for rail service as a part of an overall state transportation planning process. A state rail plan identifies the types and levels of service required on particular rail lines, consistent with commercial and economic development goals of the State. On the basis of such a plan, lines which are unprofitable yet economically important to the State can be identified for possible financial assistance or other alternatives to abandonment. Typically, broad public participation is solicited to guarantee that the state rail plan reflects the transportation needs of businesses, communities and institutions in the State. A preliminary state

Rail Service Continuation

The Act authorizes appropriation of \$360 million in federal funds, over the next five years, for financial assistance to specific rail line operations given ICC abandonment approval. Of this amount, Oklahoma could receive at least \$3.6 million and up to \$11 million for a state rail assistance program. During the first year of funding, no state matching funds are required to receive assistance. Aid funds are to be matched by states or local communities in the proportions of 10 percent the second year, 20 percent the third year, and 30 percent the remaining two years.

TABLE 1. Timetable for an Abandonment Case Not Challenged by the Public

Event	Time	Cumulative Time (Months)
Line Diagrammed as "Potentially Subject to Abandonment"	At least 4 months before application	0
Abandonment Application		4
Abandonment Approval	60-day waiting period	6
Proposed Financial Assistance	Within 30 days of approval	7
Abandonment if No Financial Assistance is Proposed	120 days after approval	10

rail plan will take approximately one year to complete. This process must begin very soon if the State is to take advantage of the federal rail assistance program.

The second eligibility requirement is that the State have an agency which has authority to "develop, promote, supervise, and support safe, adequate, and efficient rail transportation services". The agency must have authority to implement the state rail plan after approval of the plan by executive and legislative bodies. A State Department of Transportation has been proposed in the legislature with the type of authority over railroad activities required to participate in the rail assistance program. One of the several other agencies would fulfill the role adequately if railroad planning responsibilities were designated by the Governor.

#### Other Provisions

There are numerous other provisions of the Act which may affect Oklahoma either directly or indirectly:

- The Consolidated Rail Corporation (Con-Rail) is granted \$2.1 billion to complete the restructuring of bankrupt railroads in seventeen Northeastern states.
- AMTRAK is granted \$1.75 billion over the next five years to purchase and upgrade right-of-way and track in the Northeast Corridor (Boston to Washington, D.C.) and to improve passenger service to the area.
- A Railroad Rehabilitation and Improvement Fund is established in the Department of the Treasury, providing \$600 million in flexible government loans to railroads for track and equipment rehabilitation and \$1 billion in loan guarantees for track and equipment purchases.

- A new, expedited railroad merger procedure is established requiring that during the next six years, any merger proposal must be either approved or disapproved within a two-year period.

- Railroad property assessment and taxation by state, county and local agencies can no longer be calculated in a manner different from that used in calculating assessment and taxation of other local property.

- Proposals for revision of the Interstate Commerce Commission's structure and rules of practice are to be studied and presented to Congress to stimulate modernization of transportation regulation.

#### Conclusion

The Railroad Revitalization and Regulatory Reform Act of 1976 has been enacted with hopes of reviving a financially weakened railroad industry. The implications for Oklahoma are quite significant. Railroad freight rates will likely change more often in response to competition by trucks and barges and in response to seasonal differences in traffic. Some rates may rise and others may fall. Oklahoma communities on lightly traveled rail lines must determine and document the economic necessity of continued rail service.

The Act requires the state government to be the leader in response to provisions of the new law. A single agency must be designated which can plan and implement a railroad assistance program. The agency must produce a complete plan of railroad activities required to fulfill state and local objectives in commerce, economic development and land use. Effective response to the Act by Oklahoma requires immediate attention by state government officials.