N A R U C

National Association of Regulatory Utility Commissioners

Resolution Urging Legal and Regulatory Reform to Improve Railroad Shipper Rates and Quality of Service

WHEREAS, The Staggers Rail Act of 1980 provided for the deregulation of competitive rail traffic and directed the Interstate Commerce Commission (now superseded by the Surface Transportation Board under the Department of Transportation) to continue to maintain reasonable rates where there is an absence of effective competition for rail traffic within the Board's jurisdiction; *and*

WHEREAS, Today, 25 years after passage of the Staggers Rail Act, over half of the electric energy in the United States is generated using coal, the majority of which is transported to electric utilities under non-competitive conditions, by no more than two railroad companies serving any coal region, which charge unjustifiably high monopoly prices for unreliable service, even though they are presumably subject to regulatory supervision by the Surface Transportation Board; *and*

WHEREAS, This body, the National Association of Regulatory Utility Commissioners (NARUC), passed a resolution in March of 1984, almost 22 years ago, voicing similar concerns about the lack of appropriate regulatory standards and alternatively the lack of competitive market conditions within the rail industry; *and*

WHEREAS, Today, 20 years after the last NARUC resolution on this issue, the railroad industry has consolidated to such a great extent that there are only 4 Class I railroads providing over 90% of the nation's rail transportation; *and*

WHEREAS, Today, in 2006, the nation is experiencing record high prices for natural gas, which has dramatically increased the cost of both natural gas and electricity service to the millions of business and residential customers in this country; *and*

WHEREAS, The cost of producing electricity with a gas-fired plant is several times higher than the cost of producing electricity with a coal-fired plant; *and*

WHEREAS, This economic statistic means that existing coal-fired electric generation should be used as much as possible in lieu of gas-fired generation in order to produce electricity more economically and to avoid upward pressure on natural gas prices; *and*

WHEREAS, Coal plants in the United States are dependent on reliable rail delivery and sufficient capacity to carry coal supplies coming out of the Powder River Basin in Montana and

EXHIBIT

PSC-2

Wyoming, the Illinois Basin and the Appalachian region, yet only two railroad companies are available to ship coal out of any of these regions; *and*

WHEREAS, The 4 Class I railroads have had significant reliability and capacity problems and have reduced their coal deliveries to firm contract customers in numerous States by 10 - 25%, thereby dramatically reducing the amount of coal inventory available for current and future electricity production; *and*

WHEREAS, These reduced coal shipments have resulted in a substantially diminished ability of many electric utilities to rely on lower-cost electricity production from their existing coal plants, thereby necessitating the substitution of much higher priced gas-fired production or market purchases of gas-fired generation to make up the difference; *and*

WHEREAS, These higher costs of substitute gas-fired electricity have resulted in significant rate increases to customers of rural electric cooperatives, public power authorities, and investor-owned utilities all across the country, totaling billions of dollars, and have placed upwards pressure on natural gas market prices; *and*

WHEREAS, These billions of dollars in higher energy bills have contributed to a higher manufactured product cost for many industries, lower net business earnings, less disposable household income, and diminished economic productivity across the country; *and*

WHEREAS, This problem could be alleviated through legislative and regulatory reform at the federal level that would ensure more reliable rail service, more railroad capacity, more rail carrier options for shippers, and more equitable rates for affected rail shippers; *now therefore be it*

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened in its February 2006 Winter Meetings in Washington, D.C., urges Congress to immediately address and resolve these issues by enacting legislation which would empower the Surface Transportation Board to develop and enforce quality of service standards and implement a more equitable rate-setting process, and to interpret the existing deregulation law to promote competition as well as to ensure reasonable rates in a competitive market, and to also remove the railroad industry's exemption from the federal antitrust laws; *and be it further*

RESOLVED, That NARUC urges the development of specific federal legislation that would create mandatory reliability standards for the nation's railroad system, enforced by the Surface Transportation Board, along with rate reform to ensure just and reasonable rates, particularly in the absence of true competition, since this nation is no less dependent on a reliable and reasonably-priced rail system than we are on a reliable and reasonably-priced electric transmission system; *and be it further*

RESOLVED, That NARUC calls upon the members of the Surface Transportation Board to exercise their existing regulatory authority to protect rail customers and consumers in this country, and to support Congressional efforts to pass the additional legislation necessary to ensure reliable rail service at just and reasonable rates, and enhance additional competition within the rail industry.

Sponsored by the Committee on Electricity
Adopted by the NARUC Board of Directors February 15, 2006