

# RAHALL

## Weekly Report

NATION'S GOVERNORS CONCERNED OVER ICC IMPLEMENTATION OF STAGGERS RAIL ACT

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, October 27, 1983*

● Mr. RAHALL. Mr. Speaker, I have stood on a number of occasions to deplore the manner in which the Interstate Commerce Commission is implementing the Staggers Rail Act of 1980. The Commission is ignoring the intent of Congress that captive shippers and users of coal be protected from monopolistic railroad pricing practices and has instituted a policy which will lead to increased electrical rates from coal-fired utility powerplants.

To counter the most disruptive and subversive of the ICC actions, I have introduced legislation, H.R. 2584, which seeks to place some reason back into railroad coal ratemaking.

I am pleased to report that the Southern Governors' Association, during its recent annual meeting in Austin, Tex., has adopted a resolution expressing similar concerns. This resolution makes the same points as does a resolution adopted by the National Governors' Association in August and an earlier resolution adopted by the U.S. Conference of Mayors. All state that Congress should intervene in this matter if the ICC fails to adjust its deregulatory course.

I ask that the Southern Governors' Association Resolution No. 12 be printed in the RECORD.

### RESOLUTION NO. 12. RAIL RATE DEREGULATION

(Approved by the Southern Governors' Association, Sept. 28, 1983; Submitted by Gov. Mark White of Texas)

#### BACKGROUND

The nation's rail freight system continues to be of key importance to the transportation of coal. In the Staggers Rail Act of 1980, Congress recognized the unique dependence of coal shippers on rail transportation and the importance of balancing the needs of rail carriers, coal shippers and the public. However, the Southern governors are extremely concerned that the way in which the Interstate Commerce Commission (ICC) has been implementing provisions of the law is placing an unfair burden on captive coal shippers, coal producers, consumers of electricity and consumers of coal and is unduly inhibiting the ability of United States coal to effectively compete in the international market.

#### RECOMMENDATIONS

Product and Geographic Substitution or Competition.—Under the Staggers Act, rates for shipments are deregulated unless the ICC determines that a particular shipment is captive or a carrier has market dominance in transporting goods. The ICC in its regulations does not consider a shipment as captive or a rail carrier as having market dominance if geographic modal or product substitutions are available. The Southern governors are troubled by this overly restrictive interpretation of the law and believe that the application of this theoretical standard to coal shippers is unfair and inappropriate. With regard to product substitution the negative effect on shippers and consumers of coal is particularly severe because an electric utility plant could be required to convert to other energy sources at prohibitive costs. The governors urge the ICC to revise its regulations immediately so that a finding of captive shipments and market dominance of a railroad is made when no economical alternative means for transportation exists for a particular rail movement.

Coal Rate Guidelines.—The proposed coal rate guidelines for coal shipments subject to ICC review do not give equitable consideration to all parties involved. The Southern governors urge the ICC to immediately revise these guidelines so that the needs of captive shippers are balanced against the railroads' need for a reasonable rate of return, as provided in the Staggers Rail Act.

In the absence of such immediate ICC regulations and guidelines revision, the Southern Governors' Association urges Congress to take all actions necessary to protect captive coal shippers. ●