

**Supporting
Organizations**



Alliant Energy
American Chemistry Council
Checker Logistics, Inc.
Chippewa Valley Bean Co.
Citizens Utility Board
Customers First! Coalition
Dairyland Power Cooperative
Domtar Industries
Georgia Pacific
Green Bay Area Chamber of
Commerce
Green Bay Packaging
IBEW Local 2150
Leicht Transfer & Storage
Louisiana-Pacific
Madison Gas & Electric
Manitowoc Public Utilities
Menasha Utilities
Midwest Food Processors
Association
Municipal Electric Utilities of
Wisconsin
Neenah Foundry
Ort Lumber
Packaging Corporation
of America
Procter & Gamble
Sadoff Iron & Metal Company
Stora Enso
Timber Producers Association
of Wisconsin & Michigan
Tomahawk Regional Chamber
of Commerce
We Energies
WI Agri-Service Association
WI Cast Metals Association
WI Corn Growers Association
WI Farm Bureau Federation
WI Farmers Union
WI Federation of Cooperatives
WI Crop Production
Association
WI Industrial Energy Group
WI Manufacturers &
Commerce
WI Merchants Federation
WI Paper Council
WI Professional Loggers
Association
Wisconsin Public Power Inc.
WI Public Service Corp.
Wolf River Lumber, Inc.

October 31, 2006

Daniel Ebert, Chairperson
Public Service Commission of Wisconsin
P.O. Box 7854
Madison, WI 53707-7854

Rod Nilsestuen, Secretary
Wisconsin Department of Agriculture, Trade & Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911

Dear Chairperson Ebert and Secretary Nilsestuen:

The members of Badger Consumers United for Rail Equity (Badger-CURE) would like to express our gratitude that the Public Service Commission (PSC) and the Department of Agriculture, Trade and Consumer Protection (DATCP) held hearings to examine how recent railroad service problems and rising rates are impacting the industries that do business in Wisconsin. We trust that your experience in co-chairing these important hearings gave you an even better idea why more than 40 Wisconsin businesses and organizations have joined together as the Badger-CURE coalition to urge Congressional action on the problems faced by rail customers.

The impact of inadequate rail deliveries of coal to Wisconsin utilities set off some of the earliest alarms about emerging rail issues in our state and it was helpful that the hearings provided an update on the situation. Here's what was learned at the hearings. The PSC now estimates that reduced shipments of coal in 2005 cost Wisconsin utility customers \$64 million and likely had effects felt by energy consumers throughout the state's economy. At the hearing in La Crosse, Dairyland Power Cooperative reported a 93 percent rail rate increase in 2006 and an impact of \$35 million on their customers. Green Bay utility, Wisconsin Public Service Corp., estimated its share of the 2005 energy cost increase at \$8 million.

As the hearing also showed, many of the explanations offered by large railroads in defense of their rapidly rising rates and poor service should be closely examined. It's clear that the arguments used to support the railroads are built on the use of carefully selected industry-wide data that spans decades. If not rebutted, the use of the railroad's data would obscure the service and rate conditions experienced today by Wisconsin businesses, utilities, agriculture, and their customers.

Following the hearings, the suggestion was made by one railroad industry supporter that the problems utilities have had maintaining adequate coal supplies is a problem of their own making. This contention simply does not fly. It was a disruption of coal deliveries in 2005 caused by railroad maintenance deficiencies for tracks running out of Wyoming's Powder River Basin that depleted utility coal supplies and drove Wisconsin utilities into using more expensive power generation options. The two railroads that transport coal from the Powder River Basin failed to meet electric utility needs by 23 million tons of coal in 2005, an amount approximately equivalent to the total use of coal by all Wisconsin utilities combined.

It's also important to remember what more reasonable rail rates and improved service can mean for Wisconsin. Again, taking the state's electric industry as an example, for non-profit electrical co-ops and municipal utilities it will translate into better control of the costs their customers face for power. For the state's investor-owned utilities the rate setting oversight of the Public Service Commission would turn coal shipping cost reductions into savings for electric ratepayers. For other industries, it's a matter of managing costs to stay competitive in a global economy.

Beyond the impact on energy costs in our state, the agencies hearings examined rail service problems in other vital areas of our state's economy. All three hearings, Milwaukee, Green Bay and La Crosse, revealed the trouble higher rail rates and reduced service is causing the state's paper industry. The agricultural sector was also found to be experiencing not only declining levels of service, but rapidly increasing rates as well.

The Staggers Act, which deregulated railroads in the 1980's, attempted to reach a balance between the interests of the railroad industry and consumers. It left in place protections where lack of competition might subject consumers to monopolistic practices by railroads. Today, those consumer protection provisions of the law should be given even greater attention following the massive consolidation of the railroad industry that has occurred since passage of the act. When the act passed there were more than 40 class one railroads operating in our country. Now there are only seven, with the largest four controlling over 90 percent of rail traffic.

To the dismay of shippers, the federal oversight authority that was left in place by the act, and that currently resides with the federal Surface Transportation Board (STB), is not being used to protect rail customers. Instead, over time the railroad industry has been able to obtain decisions from the STB that work to thwart competition over rail lines and made rail customers more captive to the limited number of rail options that remain. The STB processes for resolving rate complaints of shippers are lengthy, complex and hugely expensive.

Railroads want to have it as many ways as they can get away with. They want the freedom to shed capacity and reduce service given by Congress when they were deregulated. They don't like shippers challenging rates, even the higher rates made possible by the monopolistic pricing power that they derived from industry consolidation creating areas where competition is sparse or non-existent, and they want the use of the anti-trust exemption to shield their anti-competitive practices. Railroads protest that legislation proposed by shippers is an attempt to re-regulate their industry. In fact, shippers are seeking legislation which would promote competition in rail markets and complete the deregulation process begun with the 1980 Staggers Act. Consumers are not well served by a deregulated industry that retains monopoly powers.

State and federal officials are right to turn their attention to the situation and Wisconsin policymakers are taking a lead role in this issue. In addition to your agencies' actions on this issue, a bipartisan response by members of Wisconsin's Congressional delegation, led by U.S. Senator Herb Kohl and Representatives Mark Green and Tammy Baldwin seeks to repeal the railroad antitrust exemption. Support is growing not only for the proposals to repeal the railroad anti-trust exemption, but also efforts to reform the STB practices and require a new look at decisions made by the STB that are stifling rail competition. Badger-CURE members applaud these efforts and will continue to support all efforts by policymakers to address problems of rail shippers.

Once again, let me express our appreciation for the leadership you have shown on this important issue.

Sincerely,

**Alliant Energy
Madison, Wisconsin**

**American Chemistry Council
St. Paul, Minnesota**

**Checker Logistics, Inc.
Neenah, Wisconsin**

**Chippewa Valley Bean Co., Inc.
Menomonie, Wisconsin**

**Citizens Utility Board
Madison, Wisconsin**

**Customers First! Coalition
Madison, Wisconsin**

**Dairyland Power Cooperative
La Crosse, Wisconsin**

**Domtar Industries
Port Edwards/Nekoosa, Wisconsin**

**Georgia Pacific
Green Bay, Wisconsin**

**Green Bay Area Chamber of Commerce
Green Bay, Wisconsin**

**Green Bay Packaging
Green Bay, Wisconsin**

**IBEW Local 2150
Waukesha, Wisconsin**

**Leicht Transfer & Storage
Green Bay, Wisconsin**

**Louisiana-Pacific
Hayward, Wisconsin**

**Madison Gas & Electric
Madison, Wisconsin**

**Manitowoc Public Utilities
Manitowoc, Wisconsin**

**Midwest Food Processors Assoc.
Madison, Wisconsin**

**Menasha Utilities
Menasha, Wisconsin**

**Municipal Electric Utilities of Wisconsin
Sun Prairie, Wisconsin**

**Neenah Foundry
Neenah, Wisconsin**

**Ort Lumber
New London, Wisconsin**

**Packaging Corporation of America
Tomahawk, Wisconsin**

**Procter & Gamble
Green Bay, Wisconsin**

**Sadoff Iron & Metal Company
Fond du Lac, Wisconsin**

**Stora Enso
Wisconsin Rapids, Wisconsin**

**Timber Producers Association of
Wisconsin & Michigan**

**Tomahawk Region Chamber of Commerce
Tomahawk, WI**

**We Energies
Milwaukee, Wisconsin**

**Wisconsin Agri-Service Association
Madison, Wisconsin**

**Wisconsin Cast Metals Assoc.
Neenah, Wisconsin**

**Wisconsin Corn Growers Association
Palmyra, Wisconsin**

**Wisconsin Farm Bureau Federation
Madison, Wisconsin**

**Wisconsin Farmers Union
Chippewa Falls, Wisconsin**

**Wisconsin Federation of Cooperatives
Madison, Wisconsin**

**Wisconsin Crop Production Assoc.
Madison, Wisconsin**

**Wisconsin Industrial Energy Group
Madison, Wisconsin**

**Wisconsin Manufacturers & Commerce
Madison, Wisconsin**

**Wisconsin Merchants Federation
Madison, Wisconsin**

**Wisconsin Paper Council
Neenah, Wisconsin**

**WI Professional Loggers Association
Rhinelander, Wisconsin**

**Wisconsin Public Power Inc.
Sun Prairie, Wisconsin**

**Wisconsin Public Service Corp.
Green Bay, Wisconsin**

**Wisconsin Utilities Association
Madison, Wisconsin**

**Wolf River Lumber, Inc.
New London, Wisconsin**

cc: Representative Thomas Petri
Representative David Obey
Representative Mark Green
Representative Tammy Baldwin
Representative Ron Kind
Representative Paul Ryan
Representative Gwendolynne Moore
Senator Herbert Kohl
Senator Russell Feingold

Reply mail may be sent to:

**BadgerCURE c/o
Customers First! Coalition
14 W. Mifflin St. Suite 310
Madison, WI 53703**