

Transportation Subcommittee Hearing on Rail Mergers

Mr. Kerry. Thank you Madam Chairman for the opportunity to address the STB's recent decision to place a moratorium and instituting a rulemaking on rail mergers. I fully support the Board's decision to take time to consider the impact future mergers will have on the entire industry. I give great credit to Ms. Morgan for this thoughtful decision.

By announcing a pause before future mergers can be considered and by instituting a rulemaking, the Board has recognized the need to update its merger standards to reflect current circumstances and to apply such standards to any future rail merger.

The Board took this action after four days of hearings that enabled more than a hundred fifty witnesses to be heard. I know the state of Massachusetts' Executive Office of Transportation was among those who commented and who supported the moratorium and the rulemaking. Based on those hearings, the STB clearly acted in a reasoned manner to ensure the public interest is served. It is important that we do not take any actions that could be construed as impeding or influencing the process.

In addition, I would strongly urge the STB to use this opportunity to address another issue which greatly concerns me. The willingness of the STB to modify or even break collective bargaining agreements to effectuate rail mergers **B** a practice known as cramdown **B** strikes me as inherently unfair. I know that the Supreme Court has affirmed the right of the Surface Transportation Board to do this, but even with this right, the Board is certainly not *mandated* to take such dramatic action.

Collective bargaining agreements are contracts, fairly negotiated and agreed to by both sides. They are relied upon by both sides once they are entered into. The cramdown practice has a tremendous impact on rail workers. Some lose their hard earned seniority. Others are forced to spend more time away from home and family when the size of the area they work is increased. And others suffer financially when even wages are altered. There is a fundamental unfairness when our workers are treated this way.

The law that allows this has to be changed. I am a cosponsor of the Crapo bill that would address this problem, but I believe that the STB can also remedy this situation through its rulemaking process. There are ways, I am sure, to make mergers work without breaking workers' contracts. This rulemaking process, as it focuses on rail mergers, provides the STB with a valuable opportunity to address this issue. I strongly urge the STB to take advantage of the opportunity, and while it looks at the impact of rail mergers on the industry, I hope it considers ending the practice of cramdown.