

Statement Of

Paul Victor

President

Anacostia & Pacific Railroad Company, Inc.

On Behalf Of

The American Short Line & Regional Railroad Association

Before The

United States House Of Representatives

Committee On Transportation And Infrastructure

Subcommittee On Railroads, Pipelines And Hazardous Materials

Hearing On

Federal Regulatory Overreach in the Railroad Industry:
Implementing the Rail Safety Improvement Act

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Anacostia & Pacific Railroad Company, Inc.
53 West Jackson Blvd.
Suite 335
Chicago, IL 60604
(718) 928-2319

I am Paul Victor, President of the New York & Atlantic Railway (NYA), a 250 miles short line railroad that operates the freight service over the Long Island Rail Road. We carry approximately 22,000 carloads annually, including 350 HAZMAT (LPG) cars. That means we take approximately 180,000 one way truck trips off the highways of New York City and Long Island annually. New York & Atlantic is one of five short lines owned by Anacostia Rail Holdings (ARC) and four of those railroads will be required to install PTC. Because the New York & Atlantic Railway operates over one of the busiest passenger corridors in the country I have been heavily involved in the Positive Train Control (PTC) issue, and our railroad is heavily impacted by this mandate.

I am also appearing here on behalf of the American Short Line and Regional Railroad Association (ASLRRA) which represents the nation's 550 Class II and III railroads.

In the time I have today I would like to make a number of points.

As you know, short line railroads are not exempt from the PTC mandate. While the statute specifies that it applies to Class I railroads, the impacts reach many of the short line and regional railroads. Railroading in the U.S is an integrated network. Short line railroads interact with their Class I partners in many ways. We cross their tracks to enter our yards. We switch cars to and from their tracks at interchange points. We often have operating rights over their tracks for various reasons, including interchange and picking up or delivering railcars to individual shippers. We cannot enter and exit the Class tracks without their permission and when we do so we must operate under their rules. Their rules will now include the PTC mandate and each Class I will be obligated under the mandate to determine whether an individual short line must be PTC equipped.

In those cases where short lines are handling TIH cars or where short lines are operating over track used by passenger trains, there is no question. Under the mandate, the short line will have to install PTC. Beyond that, each Class I railroad has the ability to require any short line that operates in any way over its property to operate under its PTC system. The Class I's have already identified some of those short lines for sure and are still working on a list of others where a final determination has not been made. In the end we believe the number of short lines covered will be well over a hundred.

Second, this is a very expensive unfunded mandate. Looking at just Anacostia Rail Holdings, the company I work for, we own or lease 36 locomotive units, 27 of which will need to be PTC equipped. The estimated cost to equip these units is currently estimated at \$2.2 million. This cost includes both equipping 8 units with an AMTRAK compatible system as well as 19 units to be equipped with the GPS based nationwide system. This \$2.2 million cost is equal to 5% of our companies' combined annual gross revenues as well as 92% of the combined annual capital expenditure budget. Literally, we will have to take monies we would normally use to repair and upgrade our tracks and infrastructure, and reallocate it to installation of PTC. Ultimately we could end up with safe locomotives, but with a less safe railroad to run them on.

Anacostia Rail Holdings is also an example of another issue plaguing the PTC initiative. My railroad, NYA, will equip its locomotives with one type of PTC (ACSES Type 2) because we operate over passenger railroad owned rights of way along or adjacent to the North East Corridor. Our sister roads will be installing a GPS based technology (ITCS/ETMS), since they will be operating of non-NEC rights of way. Because of the lack of interoperability between these systems, we will not have the luxury of being able to move PTC equipped locomotives from NYA to our sister roads, or utilizing PTC equipped from those roads on our property

For many short lines, like my railroad, this enormous expense is exacerbated by the fact that we don't have the luxury of outfitting just a portion of our locomotive fleet. Short lines have been successful because they offer flexible local service to many small customers. Our operations are not large enough to have two sets of locomotives, one for PTC territory and one for non-PTC territory. Consequently, a locomotive that might only be in PTC territory once a month will have to be fully outfitted and maintained.

Locomotive installation costs are not the only costs we will have to account for. Short lines will be hiring consultants, training personnel, installing new communications, computers, office equipment and wayside equipment. Perhaps the largest and yet undefined expense will be for the operation and maintenance of the new system.

Third, the vast majority of short lines are not running the kind of operations that require the presumed sophistication of PTC. Short line operations are characterized by relatively low speeds and light traffic density. I have worked in the railroad industry my entire adult life and I understand that even a single injury or fatality is something to be avoided. But surely, it is reasonable for public policy makers to balance the need for action with the cost of that action. PTC will be an enormous financial burden on our small businesses with very little impact on the safety of our railroad operations. Indeed it is likely to have an adverse impact on our short line safety. Implementing the PTC mandate will take millions of dollars away from short line track rehabilitation that does more to improve railroad safety than any other expenditure we can make.

Fourth, short line railroads serve light density customers where the cost benefit ratio of adding new service is often a very close call. One of the key factors in making that call is the cost of installing and maintaining the so-called rail switch into the customer's facility. Future switch installation cost will be much higher in PTC territory. This simply raises the "price of admission," the cost a local company will have to pay to get rail service. This added cost will drive potential customers away from rail. Where will their traffic go then? It will end up on our already overcrowded highway system. The PTC mandate will impact shippers and receivers, large companies as well as small companies. To the extent that it drives traffic from rail to truck, it will increase truck traffic and the highway congestion associated with that traffic.

Fifth, the potential for negatively impacting the national railroad network is substantial. PTC involves a vast array of satellites, computers and communication devices. Dispatch offices will be transmitting millions of bits of data in continuous data streams to

thousands of locomotives across 150,000 miles of railroad. Even with a 99.9 percent system success rate every second, we will experience 100 train shut downs a day across the rail network due to PTC malfunctions.

At the end of the day I know that the PTC mandate will remain. Notwithstanding the problems I have outlined above, I am not here to suggest that the New York & Atlantic be exempt from the mandate. We operate in a high density passenger corridor. We want to do so safely, and want to utilize every available tool to do so.

I have actually been involved in establishment of PTC platforms in Brazil, Chile and Panama. My Transportation Superintendant at NYA was the person who oversaw the installation of the PTC system currently operating on the Panama Railroad. We understand the value of PTC when PTC is prudently developed and installed,

In the instant case, I am suggesting that the federal government has imposed an enormously expensive mandate that cannot be afforded by most short lines, that will have virtually no impact on the safety of short line operations and that will dramatically reduce a short line's ability to invest in real safety improvements. Presumably the government believes this mandate is in the public interest and if that is the case, I would hope that the government would provide public monies to help pay for the cost.

I appreciate the opportunity to present these thoughts and welcome any questions.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
Truth in Testimony Disclosure

Pursuant to clause 2(g)(5) of House Rule XI, in the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include: (1) a curriculum vitae; and (2) a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness. Such statements, with appropriate redaction to protect the privacy of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

(1) Name:

Paul M. Victor

(2) Other than yourself, name of entity you are representing:

New York & Atlantic Railway, a subsidiary of
Anastasia Rail Holdings

(3) Are you testifying on behalf of an entity other than a Government (federal, state, local) entity?

YES

If yes, please provide the information requested below and attach your curriculum vitae.

NO

(4) Please list the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by you or by the entity you are representing:

New York and Atlantic is participating in a Air Quality Mitigation Program in the New York City / Long Island Metropolitan Area. Federal funding about \$650,000 which represents 80% of the "CMAQ" project's cost.

Signature

Paul M. Victor

Date

3/15/2011

RESUME
PAUL M. VICTOR

SIGNIFICANT ACHIEVEMENTS

- At Chiapas Mayab - lowered FRA injury index from over 4.0 in 2000 down to 1.6 in 2005.
- One of the first participants to export US operating know-how as a key factor in privatization of former State Railroad – Argentina, 1989.
- Co-founder in one of the first new regional “startup” railroads in the United States - IAIS, 1984.
- Built in FCCM’s shop a prototype slug unit that increased T.E. of mother unit by a factor of 2.5 and achieved fuel savings of 30%/GTKM.

EMPLOYMENT HISTORY

Anacostia & Pacific
New York & Atlantic Railway **President** **New York, NY** 2006 to present
Responsible for all freight service provided over the Long Island RR network in the New York Metropolitan area.

Genesee & Wyoming **Sr. Vice President** 1997 to 2006
General Mgr & COO - Compañía de Ferrocarriles Chiapas-Mayab, SA de CV. Merida, Yucatan, Mexico
A wholly owned subsidiary of Genesee & Wyoming, providing freight and passenger service over a 1,900 km network in Southern Mexico. Public policy issues including rail regulation, fuel tax policy, competitive modal access, labor matters, and public safety form an integral part of directing a rail operation in Mexico.

Chief Operating Officer – Ferrocarril del Pacifico, S.A. Santiago de Chile, Chile 1994 to 1997
Led operational due diligence and startup of FEPASA, a joint venture involving Cruz Blanca, S.A. and principals of Anacostia & Pacific. Operational parameters: 3,000 route kilometers, 600 employees; a fleet of 90 locomotives and 3,800 freight cars.

Outside Project Director 1991 to 1994
Directed operational aspects for the startup of Ferrovia Sur Atlantico (FSA) in Southern Brazil.
Operational parameters: 6,500 route kilometers; 3,600 employees; 200 locomotives.

Directed operational aspects of Burlington Northern’s role in Metrovias and TBA, entities created to take over suburban transit operations in the greater Buenos Aires region in Argentina.

Conducted due diligence efforts for railroad opportunities including potential operations in Mozambique and Mexico. In addition, provided consulting services to Ernst & Young, Techint, Anacostia & Pacific, Ferro Expreso Pampiano and Placer Dome Latin America.

Chief Operating Officer – Ferro Expreso Pampiano, S.A. Buenos Aires, Argentina 1989 to 1991
Developed and directed all operational aspects used in the first privatization of the Argentinean State Railway System, FEPSA which represented about 20 percent of the national network, or approximately 5,200 route kilometers. The operating methodologies implemented were a radical departure from standard practice at that time, and therefore required a new paradigm for operations, regulatory procedures, labor relations and marketing.

Executive Vice President – Iowa Interstate Railroad, Ltd. Iowa City, Iowa 1984 to 1989
Participated in the formation of the first major regional railroad in the United States and subsequently served as its Chief Operating Officer.

Director of Operations Planning – Illinois Central Railroad Chicago, IL 1980 to 1984
Developed and directed ICC’s line rationalization process in addition to managing the operational areas of fleet planning, train simulation, blocking strategy, state regulatory relations and traffic costing.

Highest Degree Masters Public Administration (MPA) Roosevelt University, Chicago, IL
Language Fluency English, Spanish, Italian and Portuguese

MOW Related Experience

Rock Island Railroad

1971 to 1980

Positions held:

- Industrial Engineer
- MOW Planning Engineer
- Manager of Industrial Engineering and CAPEX Maintenance
- Manager of Strategic Planning
- Director of Operations and Engineering Planning

IAIS Railroad

1984 to 1989

Position held:

- Chief Operating Officer – worked with Lee Porter, IAIS's Chief Engineer of Track

Courses Attended:

- Rail Sciences – Track Inspection
- Rail Sciences – Track Train Dynamics
- Rail Sciences – KIP Force Analysis
- Rail Sciences – Derailment Investigation
- FRA (L&IRR) – Track Inspection Seminar

Field Transportation Experience

Licensed Locomotive Engineer

- Currently qualified on Long Island Rail Road Freight Network

2006 to Present