

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

HCR 1025

4
5 By: Representative Thomason
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8 **HOUSE CONCURRENT RESOLUTION**

9 URGING THE CONGRESS OF THE UNITED STATES TO TAKE
10 IMMEDIATE AND DECISIVE ACTION TO PROTECT THE
11 CITIZENS OF THE STATE OF ARKANSAS FROM ABUSIVE
12 RAILROAD PRACTICES.

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14 **Subtitle**

15 URGING THE CONGRESS OF THE UNITED STATES
16 TO PROTECT THE CITIZENS OF THE STATE
17 FROM ABUSIVE RAILROAD PRACTICES.
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20 WHEREAS, important commodities, such as coal for electric generating
21 facilities, are dependent on railroad transportation into the State of
22 Arkansas; and
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24 WHEREAS, two-thirds (2/3) of the coal that is brought by rail into the
25 State of Arkansas to be consumed by Arkansas electric generating facilities
26 is dependent on a single railroad for transportation and the other one-third
27 (1/3) of the coal that is brought into the State of Arkansas is dependent on
28 two (2) other railroads for transportation, such that normal market forces
29 are not present to constrain the price charged Arkansas electricity
30 generators for the transportation service that they received; and
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32 WHEREAS, coal brought into the State of Arkansas by Arkansas
33 electricity generating facilities is used to generate forty-nine percent
34 (49%) of the electricity produced in the state; and
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36 WHEREAS, nearly two-thirds (2/3) of the cost of the coal goes to pay



1 the railroads to ship the coal to Arkansas; and

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3 WHEREAS, the unreasonably high rail rates of captive coal are passed
4 through to the Arkansas consumers of electricity in the amount of over two
5 hundred million dollars (\$200,000,000) per year, thus increasing the price of
6 electricity to the families and businesses of Arkansas and decreasing the
7 disposable income available for other family and business needs; and

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9 WHEREAS, in 1980, the Congress of the United States deregulated
10 railroad transportation where rail competition exists but directed a federal
11 agency, now the Surface Transportation Board, to ensure that "captive" rail
12 customers not be charged higher rates than are appropriate; and

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14 WHEREAS, the Surface Transportation Board, in implementing its
15 responsibilities under the deregulation act, has allowed the railroads to
16 increase their market power through mergers and acquisitions and has allowed
17 the railroads to avoid rail-to-rail competition wherever possible; and

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19 WHEREAS, the Surface Transportation Board has developed a process that
20 ensures "captive" rates are reasonable and that places all burdens of proof
21 on the rail customer in rate cases that, according to recent congressional
22 testimony, cost the rail customer at least three million dollars (\$3,000,000)
23 to prosecute and take at least two (2) years for resolution and rarely result
24 in victory for the rail customer; and

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26 WHEREAS, the Surface Transportation Board's implementation of its
27 responsibilities under the deregulation act is not constraining "captive"
28 rail rates and is resulting in unreasonably high costs for the electricity
29 consumers of Arkansas; and

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31 WHEREAS, despite the inadequacy of the current federal regulatory
32 regime for "captive" rail rates, the American railroad industry continues to
33 be the only American industry that is exempt from major portions of the
34 nation's antitrust laws,

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36 NOW THEREFORE,

1 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-FIFTH GENERAL
2 ASSEMBLY OF THE STATE OF ARKANSAS, THE SENATE CONCURRING THEREIN:

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4 THAT the Congress of the United States protect the citizens of the
5 State of Arkansas from abusive railroad practices by enacting legislation
6 that ensures that the Surface Transportation Board will facilitate rail-to-
7 rail competition wherever possible, that the Surface Transportation Board
8 will develop a cost-effective and time-effective process that ensures that
9 "captive" rail customers pay reasonable rates, and that the American railroad
10 industry is subject to all provisions of the nation's antitrust laws.

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12 BE IT FURTHER RESOLVED THAT the Congress of the United States enact
13 legislation similar to the Railroad Competition Act of 2003, S. 919 and H.R.
14 2924, from the One Hundred Eighth Congress of the United States.

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16 BE IT FURTHER RESOLVED THAT upon the adoption of this resolution the
17 Chief Clerk of the House of Representatives shall transmit a copy to the
18 President of the United States Senate, the Speaker of the United States House
19 of Representatives, and each member of Congress from the State of Arkansas.