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Chairman Roe and Ranking Member and distinguished members of the Subcommittee, thank you for the opportunity to testify regarding the impact of multiemployer pension plan obligations on the trucking industry.

My name is Judy McReynolds and I am the President and Chief Executive Officer of Arkansas Best Corporation. I am here to discuss the pension challenges faced by our largest operating subsidiary, ABF Freight System, Inc. (ABF). ABF, which is based in Fort Smith, Arkansas, has been in continuous operation since 1923 and is one of the largest less than truckload (LTL) motor carriers in North America. ABF has more than 10,000 employees and provides interstate and intrastate direct service to more than 44,000 communities through 275 service centers in all 50 states, Canada, Puerto Rico and Mexico.

ABF is a model corporate citizen. We are consistently recognized for excellence in safety, security and loss prevention by the American Trucking Association. We have been named a "Best Company to Sell For" by *Selling Power* magazine for ten consecutive years. We have been a named "Top 125 Training Organization" by *Training* magazine for the last three years. In addition, we currently have three America's Road Team Captains, and have had at least one driver representative on this team every year since the team was established in 1995.

ABF has traditionally been profitable but was hit hard by the economic downturn that began in 2007. We are working our way back to profitability and last year reported a small positive operating income of $9.8 million on more than $1.9 billion of revenue. With an operating loss in the first quarter of 2012, ABF is not out of the woods, but we are making progress. Despite the importance of these cyclical economic factors, the biggest challenge to ABF's long-term viability and its competitiveness within the trucking industry is the current and future liabilities it faces under many of the multiemployer pension plans to which it contributes.

Multiemployer Pension Plans and the Trucking Industry

ABF contributes to 25 multiemployer pension plans associated with the trucking industry. Many of these plans are in difficult financial straits. Multiemployer pension plans cover employees of different employers generally in the same industry and geographic area and are managed by a joint board of trustees, half of whom are appointed by the contributing employers and the other half by the labor union. The plans are independent of both the employers and the union. Neither collective bargaining party can exercise legal control over the plans. Rather, the trustees are fiduciaries who are required to act solely in the interest of the plan participants, and not in the interest of either the employers or the union. The Pension Benefit Guaranty Corporation (PBGC) insures benefits promised under these plans, up to a maximum guaranteed level set by law. If a multiemployer plan becomes insolvent, the PBGC is responsible for providing assets to pay these benefits. The plans pay annual premiums to the PBGC for this insurance coverage.

Contributions to multiemployer pension plans by employers like ABF have skyrocketed in recent years for a number of reasons. First, these plans were established at a time when the trucking industry was heavily regulated by the federal government, which imposed barriers to entry and rate regulation. When the Congress deregulated the trucking industry in 1980, this caused a fundamental shift in the economics of the industry. Since then, the industry has become much more competitive and, as a result, thousands of trucking companies have gone out of business. Under the multiemployer system, due to changes implemented by the Employee Retirement Income Security Act of 1974, as amended (ERISA), the remaining companies in the plan are effectively responsible for the continued funding of all benefits under the plan, including benefits of participants formerly employed by bankrupt or defunct companies. This is a fundamental difference from single employer pension plans, where the employer is responsible only for the benefits it promised to its own employees. While the number of companies contributing to trucking industry multiemployer pension plans has been greatly reduced, the number of retirees who receive pension benefits has increased. Thus, an unsustainable demographic situation has developed where an ever-declining number of employers are responsible for funding the benefits of retirees with whom they have no connection. For example, ABF understands that more than 50 cents of every dollar that it contributes to the Central States, Southeast and Southwest Areas Pension Fund (the "Central States Pension Fund") goes to fund benefits of former employees of bankrupt or defunct trucking companies, so-called "orphan" participants.[1]

[1] On the other hand, multiemployer plans that are less dependent on the trucking industry and have a more diverse base of contributing employers, such as the Western Conference of Teamsters Pension Fund, are in much stronger financial positions.

Second, ERISA imposes potentially catastrophic "withdrawal liability" on companies that withdraw from underfunded plans. When an employer withdraws from a multiemployer pension plan, it owes its proportional share of the plan's unfunded vested benefits. Many withdrawals have occurred in the bankruptcy context, and plans typically collect only pennies on the dollar of the withdrawal liabilities owed by these bankrupt or defunct companies. For example, when Consolidated Freightways withdrew from the Central States Pension Fund following its bankruptcy in 2002, the Fund collected a small fraction of the nominal $318 million withdrawal liability. This shortfall ultimately must be funded by ABF and the other remaining employers. Withdrawal liability has also deterred new employers from contributing to the plans and investors from providing additional capital to multiemployer plan contributing employers.

Third, the Pension Protection Act of 2006 (PPA) significantly increased required contributions to underfunded plans, particularly those in endangered ("Yellow Zone") and critical ("Red Zone") status. When the PPA was enacted, interest rates had not dropped to their current historically-low levels, and the stock market decline following Lehman Brothers' bankruptcy had not occurred. In combination, those two events drove up the value of plans' liabilities, while reducing the value of their assets. For example, UPS withdrew from the Central States Pension Fund at the end of 2007 and paid the Fund $6.1 billion in withdrawal liability. The Fund's losses from the stock market decline in 2008 exceeded this payment from UPS. Unfortunately, the PPA gives multiemployer plan trustees little flexibility to address changed circumstances.

ABF's Multiemployer Plan Contributions

Based on the most recent annual funding notices ABF has received from the multiemployer pension plans to which it contributes, approximately 62% of ABF's contributions are made to plans that are in critical/Red Zone status (including the Central States Pension Fund). Close to half of ABF's total contributions are made to the Central States Pension Fund. Plans in endangered/Yellow Zone status represent 12% of ABF's contributions. The remainder of ABF's contributions are made to "Green Zone" plans like the Western Conference of Teamsters Pension Fund.

Approximately 75% of ABF's workforce is represented by the International Brotherhood of Teamsters (IBT). ABF is a party to the National Master Freight Agreement (NMFA) with the IBT, and the current five-year agreement expires March 31, 2013. In order to comply with the requirements of the PPA applicable to Red Zone and Yellow Zone plans, the current version of the NMFA has imposed a 7% annual, compound multiemployer pension plan contribution increase on ABF since it went into effect in 2008. Over the course of the five-year term of the current NMFA, that means a total compounded PPA-required contribution increase of more than 40% relative to the rate in effect before the NMFA became effective in 2008. ABF has contributed the following amounts to multiemployer pension plans in recent years: $104 million in 2009; $120 million in 2010; and $133 million in 2011. Those contributions alone represent almost 8% of ABF's total revenues from those years.

ABF's Competitive Situation

ABF operates in a highly competitive industry that consists predominantly of nonunion freight transportation motor carriers. ABF's nonunion competitors have much lower employee benefit cost structures, and some carriers also have lower wage rates for their freight-handling and driving personnel. In addition, wage and benefit concessions granted by the IBT to a key union competitor allow for a lower pension cost structure than that of ABF. During the recessionary economic conditions that began in 2007 and worsened in 2008, competitors with lower labor cost structures reduced freight rates, resulting in increased pricing competition in ABF's primary market segment.

Furthermore, ABF's labor costs are strongly impacted by its contributions to multiemployer plans that are used to pay benefits to "orphan" retirees who were never employed by ABF. As noted above, more than half of ABF's contributions to the Central States Pension Fund are used to fund benefits of retirees of companies that are no longer contributing employers. Many other multiemployer plans to which ABF contributes also have large numbers of orphan retirees.

Contributions to multiemployer pension plans are the main cost item compromising ABF's competitiveness. For example, according to an April 24, 2012 study prepared by Mercer/WRG's Information Research Center, ABF's contributions for pension benefits of $10.17 per hour worked are 257% higher than those for average union employers. Pension contributions represent almost 21% of ABF's total compensation costs, compared to less than 8% for the average union employer. Not only are the levels higher for ABF, they are increasing more rapidly, with a growth rate of 8% per year since 2007 compared to 4.2% for the average union employer and 2.9% for the average nonunion employer. If ABF's current contribution levels were frozen at current levels, and contribution rates for average union employers grew at their current rate of approximately 4.2% annually, it would take more than 30 years just for those contribution levels to match ABF's current level. The comparable figure for the average nonunion employer is 88 years.

The comparison is even worse with respect to ABF's nonunion competitors. For 2011, ABF's average pension plan contribution for its operational employees was $17,392 per employee. The average retirement plan contribution by ABF's key nonunion competitors was $1,131 per employee for that year. Thus, ABF's 2011 per-employee pension costs were 1437% higher than those competitors, who are not responsible for funding legacy liabilities of retirees they never employed.

Relative to its nonunion competitors, ABF had market share of around 5.5% in 2004. That has dropped to below 4%. Unless multiemployer pension plan contribution obligations are brought under control, ABF will continue to lose market share. ABF's significantly higher cost structure that results from the multiemployer pensions plans has been highlighted in numerous financial analysts' reports and is reflected in the Company's stock price. For example:

> "[W]e see an above-peer cost structure keeping ABF from generating earnings based on what the market will offer. ABF has a higher cost structure than union and non-union peers, which could keep the company at a competitive disadvantage . . . an above-peer

cost structure and persistent challenges in the core less-than-truckload business present meaningful long-term risks." Anthony Gallo, Senior Analyst, Wells Fargo

"We believe better relative tonnage levels will not solve the problem of [ABF's] reduced profitability. It appears that a structural change in compensation and benefits to its Teamster workforce is necessary to better align costs with volumes . . . without material progress [on compensation issues] Arkansas Best has structurally higher costs than its peers stunting potential growth." Chris Wetherbee, Research Analyst, Citi

"The most prevalent risks, in our opinion, to the performance of ABFS' shares are the cyclical nature of LTL freight and legacy cost headwinds from its unionized workforce. Additional risks include the presence of well-capitalized integrated carriers (FedEx and UPS) in the LTL market and uncertainty surrounding multi-employer pension liabilities." Todd Fowler, Vice President, KeyBanc Capital Markets

ABF's stock traded at $12.29 on June 15, 2012. The 52-week high as of that date was $27.44, more than double the current price. Before the 2008 financial crisis, ABF's stock price exceeded $45 per share.

If pension obligations are ignored, ABF's cost structure is in line with that of its key competitors. It is ABF's multiemployer pension obligations that require it to charge prices that its competitors are able to undercut. This creates a vicious cycle, where higher prices result in reduced market share, revenues drop, and ABF's ability to invest in its business are jeopardized.

A solution to the multiemployer pension plan crisis is critical for ABF and other trucking companies.

Conclusion

ABF is working with a number of groups to formulate multiemployer pension plan reforms that make sense for plans, active and retired employees, and contributing employers. Many multiemployer plans are in an untenable situation. Further raising of contribution rates will jeopardize the ability of employers to survive and continue contributing to the plans. The PPA restrains plans' abilities to accept reduced contribution rates for employers in financial distress. Plans cannot survive without contributing employers, but current legal rules make it difficult for plans to make changes that are necessary for the long-term viability of the plans and their contributing employers. Plan trustees currently have few tools to address the structural problems faced by the plans and the employers on which they depend. ABF strongly supports efforts to save the multiemployer pension plans that its active and retired employees depend on for their retirement income.

In addition, action is required because the PBGC lacks the resources to fulfill the multiemployer plan obligations it expects to incur under current law. In its 2011 annual report, the PBGC noted that the financial deficit of its multiemployer program doubled in its most recently-completed fiscal year. The PBGC further stated that "the greater challenge, however, comes from those plans that have not yet failed: our estimate of our reasonably possible obligations (obligations to participants), described in our financial statements, increased to $23 billion." Without sufficient contributing employers, plans will eventually become insolvent and the PBGC will have to assume responsibility for the benefits under those plans. Currently, all of the PBGC's multiemployer program revenues come from premiums charged to multiemployer plans themselves. However, if the PBGC cannot fulfill its benefit guarantee obligations, there will be great pressure on the federal government to provide additional funding to the PBGC from general revenues. By taking action now, Congress can help avert a crisis that otherwise is almost certain to occur.

I would be pleased to answer any questions that the members of the Subcommittee may have. Thank you.