

Report on STB Regulatory Filing, July 2013 on Ex Parte No. 431 - dealing with Rail Costing at the STB

The ALLIANCE FOR RAIL COMPETITION together with MONTANA WHEAT & BARLEY COMMITTEE, COLORADO WHEAT ADMINISTRATIVE COMMITTEE, IDAHO BARLEY COMMISSION, IDAHO GRAIN PRODUCERS ASSOCIATION, IDAHO WHEAT COMMISSION, MONTANA FARMERS UNION, NEBRASKA WHEAT BOARD, OKLAHOMA WHEAT COMMISSION, SOUTH DAKOTA WHEAT COMMISSION, TEXAS WHEAT PRODUCERS BOARD, WASHINGTON GRAIN COMMISSION, WYOMING WHEAT MARKETING COMMISSION, NATIONAL ASSOCIATION OF WHEAT GROWERS, and U.S. CLAY PRODUCERS TRAFFIC ASSOCIATION, INC. banded together in June, 2013 to represent captive and agricultural producers in front of the Surface Transportation Board (STB) in a proceeding to modernize the Uniform Rail Costing System (URCS) (Opening Comments in DOCKET NO. EP 431 (Sub-No. 4) REVIEW OF THE GENERAL PURPOSE COSTING SYSTEM). John Cutler, Washington DC; Gerald Fauth, Alexandria, VA and Terry Whiteside – Whiteside & Associates, Billings, Montana formed a team to represent the group. While we realize this discussion is somewhat technical and this is one of the most important proceedings in front of the STB, we want all of you to understand the breadth of activities of the group including representing producer's interests at the STB.

URCS is the system that the STB utilizes to model the rail cost of a particular movement of a commodity on a railroad. The shipper's interest is having a costing model that provides accurate costing of rail movements. The STB is looking at updating the model in this proceeding. The Board and Congress set up a measure called R/VC (Revenue to Variable Cost ratio) to provide a threshold for STB jurisdiction for adjudicating unreasonably high rates (180%). The railroads watch the URCS Revenue/Variable Cost ratios very closely on wheat and barley, pea and lentils and clay shipments because the railroads want to keep the ratio around 180% - 220% in order to minimize and block the parties from filing unreasonable rate cases against them at the STB. Keeping the costs elevated (even if artificially in the formulas) allows

the railroad to charge higher rates and still keep their ratios around 180% (the STB threshold of unreasonableness).

The Board's interest in modernizing URCS comes as no surprise. In May 2010, the Board produced its Report to Congress Regarding the Uniform Rail Costing System. In that Report, the Board noted that URCS is now more than 30 years old, and that it is used in determining quantitative market dominance based on R/VC (Revenue to Variable Cost – a measure of the profitability of a rail movement) percentages, and in determining maximum reasonable rates in cases under the SAC (Stand Alone Costing Cases – large rate cases like utility movements), SSAC (Simplified Stand Alone Costing – medium sized rate cases) and Three Benchmark (for small rate cases before the STB) approaches. URCS Costing is also recognized to be relevant to access remedies under 49 U.S.C. § 11102 (id.), an issue currently before the Board in EP No. 711 dealing with Rail Competition.

Of particular importance to ARC, et al., and the captive shippers of commodities they represent, was the Report's discussion of the need to revisit the "make-whole" adjustment, which has had the effect in the past of allocating significant costs to smaller and single-car shipments. If the Board were to adopt what it is studying in this proceeding without seeking further analysis captive shippers will be harmed. This is why it is so very important that captive shippers band together to represent their interests.

Summary Of STB's Proposed Changes To URCS

- **“Make-Whole” Adjustments** - The STB has proposed eliminating the use and application of upward “make-whole” adjustments to non-trainload movements (currently less than 50 cars per shipment).¹
- **Switching Costs Related to Switch Engine Minutes** - The STB has proposed changing the method by which URCS switching costs are developed by calculating URCS Switch Engine Minute (SEM) cost on a “per shipment” basis rather than on a “per-car” basis.
- **Station Clerical Costs** - The STB has also proposed changing the method by which URCS station clerical costs on a “per shipment” basis rather than on a “per-car” basis.
- **Empty/Loaded Ratio (E/L Ratio)** - Currently, URCS applies an empty return ratio of 2.0 to all trainload movements, which assumes all trainloads (50 or more cars per shipment) are dedicated unit trains, which return empty to the same location.
- **I&I Switching Mileage** - The STB has proposed increasing the distance between I&I switching from every 200 miles to every 320 miles.
- **Definition of Trainload** - For decades, a trainload, for regulatory purposes, has been defined by the STB and ICC as a shipment consisting of 50 or more cars. The STB has proposed changing this trainload definition from 50 to 80 or more cars per shipment.
- **Locomotive Unit Mile** - The STB has proposed changing the way that URCS allocated locomotive unit mile (LUM) costs.
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¹ According to the STB’s May 27, 2010 Report to Congress concerning URCS, the make-whole adjustments “redistribute the efficiency savings that a railroad obtains in higher-volume shipments across all of that carrier’s lower-volume shipments. The make-whole adjustment maintains the same total sum of variable costs across all of the carrier’s shipments, while recognizing the efficiency in the carrier’s higher-volume movements.” (page 4) The adjustments are developed by using the STB’s Waybill Sample data and by making separate downward “270” volume shipment adjustments to trainload (50 or more cars) and multiple-car shipments (6 to 49 cars) and then re-allocating the savings in the form of upward adjustments to multiple-car and single car (1 to 5 cars) shipments.

Summary

The Team provided strong testimony including a verified statement by Gerald Fauth, a rail costing expert. Mr. Fauth's testimony clearly shows the complexity of this proceeding and how the STB needs to take another look at what they are trying to do because their proposed actions will burden the captive rail shippers.

Depending on the URCS adjustments that are made, the STB's proposals could over or under-allocate URCS costs to the carriers' movements. For this reason, the STB's URCS proposals should be thoroughly tested before they are formally adopted by the Board. The railroads should be required to provide shipment data for the last three years (2010, 2011 and 2012), which could then be used by the STB and interested parties to test the Board's proposed URCS SEM adjustments.