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SERVICE DATE - APRIL 6, 2005

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## DECISION

STB Ex Parte No. 542 (Sub-No. 12)

### REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED IN CONNECTION WITH LICENSING AND RELATED SERVICES–2005 UPDATE

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Decided: March 31, 2005  
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The Board adopts the 2005 User Fee Update.

## BACKGROUND

The Surface Transportation Board (Board or STB) is required by regulations at 49 CFR 1002.3 to update its user fees annually. The Board's regulation at 49 CFR 1002.3(a) provides that the entire fee schedule or selected fees can be modified more than once a year, if necessary. The Board's fees are revised based on the cost study formula set forth at 49 CFR 1002.3(d). In previous years, selected fees have been modified to reflect new cost study data or changes in Board fee policy.<sup>1</sup> The Board's last annual user fee update was issued in Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services–2004 Update, STB Ex Parte No. 542 (Sub-No. 11) (STB served Oct. 1, 2004) (2004 Fee Update).

Because its employees received a salary increase of 3.71% in January 2005, the Board is updating its user fees to recover those costs. All fees, with the exception of those discussed later, will be updated based on the cost formula at 49 CFR 1002.3(d). The Board notes that the current master fee schedule reflects the same number of fee or sub-fee items (127) as contained in its 2004 Fee Update decision.

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<sup>1</sup> The current annual update includes new fees that were adopted in Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services–2002 New Fees, STB Ex Parte No. 542 (Sub-No. 4) (STB served Mar. 29, 2004) (2002 New Fees).

## 2005 UPDATE FACTORS

For the 2005 update, direct labor cost data have been revised to reflect the combined 2005 Government-wide general salary and 2005 locality salary increase of 3.71% that took effect in January 2005. The Government Fringe Benefit Cost used in the update formula remains at 49.55%. Based on the Board's fiscal year (FY) 2004 actual budget data, its Office General and Administrative Expense Factor has decreased from 21.96% to 20.30%, while its Operations Overhead Factor, which is developed from FY 2004 payroll cost data, has increased slightly from 22.31% to 22.68%. Meanwhile, the Board's General and Administrative Expense Factor has decreased modestly from 12.87% to 12.37%. The 2005 full cost for each fee item developed from these factors is set forth in column 9 of **APPENDIX A**.

## FEDERAL REGISTER COST

On March 1, 2002, the cost of publishing documents in the Federal Register was increased to \$155 per column. The minimum cost of publishing a document also was increased to \$155. The \$155 represented an increase of approximately 4.73% over the then-existing \$148 level of Federal Register costs. Based on a recent inquiry made to the United States Government Printing Office, no increase to the publication cost is anticipated at this time. Thus, publication costs reflected here are at the same level of rates as those included in the 2004 Fee Update.

## FEE ITEMS INCREASED BASED ON ADDITIONAL CONSIDERATIONS

### 1. Formal Complaints (Capped):

In Regulations Governing Fees for Service--1996 Update, 1 S.T.B. 179 (1996) (1996 Fee Update I), based on concerns expressed by various parties commenting in that decision, the Board determined that fees for formal complaints should be set at 10% of full cost and increased gradually to the full cost level. However, because of ongoing legislative debate regarding complaint fees when 1996 Fee Update I was decided, the Board maintained all complaint fees at \$1,000.

In Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services-1996 Update, 1 S.T.B. 883 (1996) (1996 Fee Update II), the Board established fees for coal rail rate complaint cases and for all other types of complaints, except those that involve rail maximum rate complaints filed by small shippers, at \$23,300 and \$2,300, respectively. Those fees became effective on January 16, 1997, and remained in effect until the Board's decision in Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services--1998 Update, 3 S.T.B. 11 (1998) (1998 Fee Update), at which time the fees, based on a cost-of-living update and overhead changes, increased to \$27,000 and \$2,600, respectively. For the year 1999, in Regulations Governing Fees for Services Performed

in Connection with Licensing and Related Services--1999 Update, 4 S.T.B. 5 (1999) (1999 Fee Update) the Board increased the percentage from 10% to 20% of full cost<sup>2</sup> and set the two items at \$54,500 and \$5,400, respectively.

Because of continuing legislative debate over the Board's rail rate reasonableness procedures, the Board has held the percentage at 20% of full cost since the 1999 Fee Update decision. However, during the time period from 1999 through 2004, cost-of-living increases have been applied to the direct labor costs, as well as changes to the STB overheads for these two items.

Below is a summary of the user fee updates for formal complaints for the years 2000 through 2004. The table contains the filing fee amounts and changes to the fee amounts from the prior year for both the maximum coal rate complaint cases and for all other formal complaint cases.

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<sup>2</sup> This increase was in keeping with the fourth recommendation found in the Department of Transportation Inspector General's Office Report (Report on Surface Transportation Board's User Fees, Report Number: CE-1999-021, Issued Nov. 17, 1998, at 11), for the Board to update the complaint fees by 10% each year until fees reflected the full cost.

**SUMMARY OF USER FEE UPDATES FOR FORMAL COMPLAINTS**  
(Years 2000 through 2004)

<b>Year of the User Fee Decision</b>	<b>Fee for Maximum Coal Rate Complaints</b>	<b>Fee Change from Prior Year</b>	<b>Fee for All Other Formal Complaints</b>	<b>Fee Change from Prior Year</b>
1999 Fee Update	\$54,500	----	\$5,400	----
2000 Fee Update <sup>3</sup>	\$55,000	\$500	\$5,400	\$0
2001 Fee Update <sup>4</sup>	\$57,500	\$2,500	\$5,700	\$300
2002 Fee Update <sup>5</sup>	\$61,400	\$3,900	\$6,000	\$300
2003 Fee Update <sup>6</sup>	\$62,100	\$700	\$6,100	\$100
2004 Fee Update <sup>7</sup>	\$66,600	\$4,500	\$6,600	\$500

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<sup>3</sup> For the 2000 update, the Board adopted a fee for item 56(i), Formal complaints filed under the coal rate guidelines, set at \$55,000 per filing [\$275,479.82 (total 2000 cost) times 20% and then rounded]. The Board also adopted the fee for item 56(ii), All other formal complaints, set at \$5,400 per filing [\$27,332.27 (total 2000 cost) times 20% and then rounded].

<sup>4</sup> The Board adopted a fee for item 56(i), Formal complaints filed under the coal rate guidelines, set at \$57,500 per filing [\$287,749.20 (total 2001 cost) times 20% and then rounded]. It also adopted the fee for item 56(ii), All other formal complaints, set at \$5,700 per filing [\$28,549.60 (total 2001 cost) times 20% and then rounded].

<sup>5</sup> For the 2002 update, the Board adopted a fee for item 56(i), Formal complaints filed under the coal rate guidelines, set at \$61,400 per filing [\$307,365.01 (total 2002 cost) times 20% and then rounded]. It also adopted the fee for item 56(ii), All other formal complaints, set at \$6,000 per filing [\$30,495.80 (total 2002 cost) times 20% and then rounded].

<sup>6</sup> The Board adopted a fee for item 56(i), Formal complaints filed under the coal rate guidelines, set at \$62,100 per filing [\$310,623.05 (total 2003 cost) times 20% and then rounded]. The Board also adopted a fee for item 56(ii), All other formal complaints, set at \$6,100 per filing [\$30,819.06 (total 2003 cost) times 20% and then rounded].

<sup>7</sup> The Board adopted a fee for item 56(i), Formal complaints filed under the coal rate guidelines, set at \$66,600 per filing [\$333,008.61 (total 2004 cost) times 20% and then rounded]. The Board also adopted the fee for item 56(iii), All other formal complaints, set at \$6,600 per filing [\$33,040.07 (total 2004 cost) times 20% and then rounded].

For the 2005 Fee Update, the Board is increasing the application percentage from its current 20% to 30% of full cost as it is entitled to do. As noted earlier, the Board has not increased the percentage amount since 1999. Based on the 30% calculation, fees for the two types of complaint proceedings are set at \$102,000 (\$35,400 increase over the 2004 fee) and \$10,100 (\$3,500 increase over the 2004 fee), respectively.<sup>8</sup> In addition, the Board emphasizes that had it applied the 10% increase to each and every year starting in 1996, the full cost level would have been attained this year.

## **2. Other Original Below-Cost Fees (Capped):**

Certain other fees have historically been held to levels well below full cost. In the 2002 New Fees decision, the Board raised from \$150 to \$200 the filing fees established in the 1996 Fee Update I and 1996 Fee Update II decisions for items involving: Trails use requests – item 27(i); Amtrak conveyance and compensation proceedings – items 47 and 48, respectively; Appeals to Board decisions – item 61(i); Motor carrier undercharge proceedings – item 62; and Labor arbitration proceedings – item 60. Fees for these six items remain at the \$200 level in this proceeding. In addition, the fee for item 13, A feeder line development program, remains at \$2,600, and fees for item 58(i), Petition for declaratory order involving a dispute over an existing rate or practice, and item 58(ii), All other petitions for declaratory order, are also held at their current levels of \$1,000 and \$1,400, respectively.

## **3. Certain Fees from the 2002 New Fees Decision Held Below-Cost (Capped):**

New and revised fee items were adopted by the Board in the 2002 New Fees decision, which became effective on April 28, 2004. In that proceeding, the Board added 19 new fee or sub-fee items to its user fee schedule and, as mentioned in the paragraph above, increased to \$200 the six fee items previously capped at \$150. In addition, six of the 19 new fee or sub-fee items were also capped for reasons discussed either in the 2002 New Fees decision or in the NPR decision to that proceeding.<sup>9</sup> The six new capped fee items include: item 12(iv), A request for determination of a dispute involving a rail construction that crosses the line of another carrier; item 56(ii), A formal complaint involving rail maximum rates filed under the small rate case procedures; item 56(v), A request for an order compelling a rail carrier to establish a common carrier rate; items 63(i) and 63(ii), A request for expedited or temporary relief for service emergency or service inadequacy, respectively; and item 88, Basic fee for STB adjudicatory

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<sup>8</sup> The Board adopts a fee for item 56(i), Formal complaints filed under the coal rate guidelines, set at \$102,000 per filing [\$340,179.37 (total 2005 cost) times 30% and then rounded]. The Board also adopts the fee for item 56(iii), All other formal complaints, set at \$10,100 per filing [\$33,751.54 (total 2005 cost) times 30% and then rounded].

<sup>9</sup> Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2002 New Fees, STB Ex Parte No. 542 (Sub-No. 4) (STB served Aug. 29, 2002).

services not otherwise covered. Except for the fee for item 56(ii), all new capped item fees were set at \$200. The capped fee for item 56(ii) was set at \$150.

The six new below-cost fees remain unchanged in this proceeding. However, the remaining 13 new fee items included in the 2002 New Fees decision have been adjusted for the 2005 combined salary increase and changes to the Board's overheads.

### **RESULTS FROM THE 2005 UPDATE**

The Board's current master fee schedule contains 127 fee or sub-fee items. In this decision, 114 of the 127 items (about 89.8%) are either unchanged (66 items) or increased by \$400 or less (48 items). Of the 114 items, 105 or approximately 82.7% of the fee schedule either remain unchanged (66 items) or are increased by \$100 or less (39 items). Moreover, of the 13 fee or sub-fee items that exceed the \$400 increase level, nine have been increased by more than \$5,000, but of that number only one item [Rail maximum coal stand-alone complaints – item 56(i)] currently shows any activity at the Board. Of the remaining four items in the over \$400 increase category, only three reflect any activity with the STB at the present time. The three include: An application or a petition for the construction of new rail lines – items 12(i) and 12(iii) and All other formal complaints – item 56(iii).

Listed below is a summary table depicting the breakdown of user fee increases for this proceeding.

**SUMMARY OF USER FEE INCREASES FOR THE YEAR 2005**

<b>Fee Item Increase Category:</b>	<b>Number of User Fees</b>	<b>Percent of Total User Fee Schedule</b>	<b>Cumulative Number of User Fees</b>	<b>Cumulative Percentage Total of User Fee Schedule</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>
			Add Cur. Ln. of C(2) to Prior Lns. of C(2)	Same Calcu. as C(4) but Using C(3) Data
<b>1. No Increase</b>	66	51.97%	-----	-----
<b>2. Increases of \$1 – \$50</b>	11	8.66%	77	60.63%
<b>3. Increases of \$100</b>	28	22.05%	105	82.68%
<b>4. Increases of \$200 – \$400</b>	9	7.09%	114	89.76%
<b>5. Increases of \$1,000 – \$4,000</b>	4	3.15%	118	92.91%
<b>6. Increases of \$5,000 – \$20,000</b>	4	3.15%	122	96.06%
<b>7. Increases of Over \$20,000</b>	5	3.94%	127	100.00%
<b>TOTAL</b>	<b>127</b>	<b>100.00%</b>		

**NOTICE AND COMMENT REQUIREMENT**

The fee increases adopted here generally are a product of the mechanical application of the current update formula at 49 CFR 1002.3(d), which was adopted through notice and comment procedures in Regulations Governing Fees for Services-1987 Update, 4 I.C.C.2d 137 (1987). This decision contains no new proposed fee or sub-fee items. Accordingly, notice and comment are unnecessary for this proceeding. See Regulations Governing Fees For Services-1990 Update, 7 I.C.C.2d 3 (1990); Regulations Governing Fees For Services-1991 Update, 8 I.C.C.2d 13 (1991); and Regulations Governing Fees For Services-1993 Update, 9 I.C.C.2d 855 (1993).

**REGULATORY FLEXIBILITY ANALYSIS**

The Board certifies that these rules will not have a significant economic effect on a substantial number of small entities because the Board's regulations provide for waiver of filing fees for those entities that can make the required showing of financial hardship.

It is ordered:

1. 49 CFR Part 1002 of the Code of Federal Regulations is amended as set forth in **APPENDIX B**. Notice of the final rules adopted here will be transmitted to Congress pursuant to Pub. L. 104-121 (Mar. 29, 1996).

2. These rules are effective May 6, 2005.

By the Board, Chairman Nober, Vice Chairman Buttrey and Commissioner Mulvey.

Vernon A. Williams  
Secretary

## APPENDIX A

FEE	2004 DIRECT LABOR	2005 DIRECT LABOR UPDATE	GOVT. FRINGES	TOTAL 2+3	(22.68%) OPERATIONS OVERHEAD	(20.30%) OFFICE G&A	(12.37%) BOARD G&A	PUBLICATION COST	TOTAL SUM(4-8)
	1	2	3	4	5	6	7	8	9
1	1,404.41	1,456.51	721.70	2,178.22	494.02	542.46	397.66	4.00	3,616.36
2i	592.08	614.05	304.26	918.31	208.27	228.70	167.65	184.38	1,707.30
2ii	918.67	952.75	472.09	1,424.84	323.15	354.84	260.12	332.38	2,695.34
2iii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2,216.69
3	8,705.30	9,028.27	4,473.51	13,501.77	3,062.20	3,362.49	2,464.90	184.38	22,575.74
4i	1,404.41	1,456.51	721.70	2,178.22	494.02	542.46	397.66	184.38	3,796.73
4ii	33.75	35.00	17.34	52.35	11.87	13.04	9.56	0.00	86.81
5	158.39	164.27	81.39	245.66	55.72	61.18	44.85	5.00	412.40
6	453.27	470.09	232.93	703.01	159.44	175.08	128.34	266.41	1,432.29
11i	2,258.00	2,341.77	1,160.35	3,502.12	794.28	872.17	639.35	155.00	5,962.92
11ii	483.51	501.45	248.47	749.92	170.08	186.76	136.91	284.17	1,527.84
11iii	3,931.71	4,077.58	2,020.44	6,098.02	1,383.03	1,518.65	1,113.26	184.38	10,297.34
12i	23,596.46	24,471.89	12,125.82	36,597.71	8,300.36	9,114.31	6,681.33	199.28	60,892.99
12ii	483.51	501.45	248.47	749.92	170.08	186.76	136.91	284.17	1,527.84
12iii	23,596.46	24,471.89	12,125.82	36,597.71	8,300.36	9,114.31	6,681.33	199.28	60,892.99
12iv	4,687.38	4,861.28	2,408.77	7,270.05	1,648.85	1,810.54	1,327.23	0.00	12,056.66
13	7,247.63	7,516.52	3,724.43	11,240.95	2,549.45	2,799.45	2,052.16	180.84	18,822.85
14i	1,911.48	1,982.40	982.28	2,964.67	672.39	738.32	541.24	184.38	5,101.00
14ii	483.51	501.45	248.47	749.92	170.08	186.76	136.91	284.17	1,527.84
14iii	2,038.52	2,114.15	1,047.56	3,161.71	717.08	787.39	577.21	203.45	5,446.83
15	488.09	506.20	250.82	757.02	171.69	188.53	138.20	158.53	1,413.97
21i	6,982.03	7,241.06	3,587.95	10,829.01	2,456.02	2,696.86	1,976.96	155.00	18,113.85
21ii	1,042.27	1,080.94	535.60	1,616.54	366.63	402.58	295.12	393.39	3,074.26

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<b>FEE</b>	<b>2004 DIRECT LABOR</b>	<b>2005 DIRECT LABOR UPDATE</b>	<b>GOVT. FRINGES</b>	<b>TOTAL 2+3</b>	<b>(22.68%) OPERATIONS OVERHEAD</b>	<b>(20.30%) OFFICE G&amp;A</b>	<b>(12.37%) BOARD G&amp;A</b>	<b>PUBLICATION COST</b>	<b>TOTAL SUM(4-8)</b>
	1	2	3	4	5	6	7	8	9
21iii	1,935.04	2,006.83	994.38	3,001.21	680.68	747.42	547.91	225.95	5,203.17
22	150.99	156.59	77.59	234.18	53.11	58.32	42.75	0.00	388.37
23	602.49	624.84	309.61	934.45	211.93	232.72	170.59	0.00	1,549.70
24	576.52	597.91	296.26	894.17	202.80	222.69	163.24	0.00	1,482.90
25	495.91	514.31	254.84	769.15	174.44	191.55	140.42	0.00	1,275.56
26	7,185.98	7,452.58	3,692.75	11,145.33	2,527.76	2,775.64	2,034.71	0.00	18,483.44
27i	371.81	385.60	191.07	576.67	130.79	143.61	105.28	0.00	956.35
27ii	145.81	151.22	74.93	226.15	51.29	56.32	41.29	0.00	375.05
36	5,952.27	6,173.10	3,058.77	9,231.87	2,093.79	2,299.11	1,685.38	184.38	15,494.53
37	3,187.72	3,305.98	1,638.12	4,944.10	1,121.32	1,231.28	902.60	184.38	8,383.68
38i	470,920.75	488,391.91	241,998.19	730,390.10	165,652.47	181,896.64	133,341.08	5,696.35	1,216,976.65
38ii	94,186.05	97,680.35	48,400.61	146,080.97	33,131.16	36,380.06	26,668.75	1,139.26	243,400.21
38iii	1,911.48	1,982.40	982.28	2,964.67	672.39	738.32	541.24	1,456.48	6,373.10
38iv	453.27	470.09	232.93	703.01	159.44	175.08	128.34	266.41	1,432.29
38v	1,911.48	1,982.40	982.28	2,964.67	672.39	738.32	541.24	1,456.48	6,373.10
38vi	2,917.78	3,026.03	1,499.40	4,525.43	1,026.37	1,127.01	826.17	184.38	7,689.35
38vii	1,755.57	1,820.70	902.16	2,722.86	617.54	678.10	497.09	0.00	4,515.59
39i	470,920.75	488,391.91	241,998.19	730,390.10	165,652.47	181,896.64	133,341.08	5,696.35	1,216,976.65
39ii	94,186.05	97,680.35	48,400.61	146,080.97	33,131.16	36,380.06	26,668.75	1,139.26	243,400.21
39iii	1,911.48	1,982.40	982.28	2,964.67	672.39	738.32	541.24	1,456.48	6,373.10
39iv	328.99	341.20	169.06	510.26	115.73	127.07	93.15	286.75	1,132.96
39v	1,911.48	1,982.40	982.28	2,964.67	672.39	738.32	541.24	1,456.48	6,373.10
39vi	2,917.78	3,026.03	1,499.40	4,525.43	1,026.37	1,127.01	826.17	184.38	7,689.35

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<b>FEE</b>	<b>2004 DIRECT LABOR</b>	<b>2005 DIRECT LABOR UPDATE</b>	<b>GOVT. FRINGES</b>	<b>TOTAL 2+3</b>	<b>(22.68%) OPERATIONS OVERHEAD</b>	<b>(20.30%) OFFICE G&amp;A</b>	<b>(12.37%) BOARD G&amp;A</b>	<b>PUBLICATION COST</b>	<b>TOTAL SUM(4-8)</b>
	1	2	3	4	5	6	7	8	9
39vii	1,755.57	1,820.70	902.16	2,722.86	617.54	678.10	497.09	0.00	4,515.59
40i	470,920.75	488,391.91	241,998.19	730,390.10	165,652.47	181,896.64	133,341.08	5,696.35	1,216,976.65
40ii	94,186.05	97,680.35	48,400.61	146,080.97	33,131.16	36,380.06	26,668.75	1,139.26	243,400.21
40iii	1,911.48	1,982.40	982.28	2,964.67	672.39	738.32	541.24	1,456.48	6,373.10
40iv	304.72	316.03	156.59	472.62	107.19	117.70	86.28	234.46	1,018.25
40v	1,911.48	1,982.40	982.28	2,964.67	672.39	738.32	541.24	1,456.48	6,373.10
40vi	2,917.78	3,026.03	1,499.40	4,525.43	1,026.37	1,127.01	826.17	184.38	7,689.35
40vii	1,755.57	1,820.70	902.16	2,722.86	617.54	678.10	497.09	0.00	4,515.59
41i	470,920.75	488,391.91	241,998.19	730,390.10	165,652.47	181,896.64	133,341.08	5,696.35	1,216,976.65
41ii	94,186.05	97,680.35	48,400.61	146,080.97	33,131.16	36,380.06	26,668.75	1,139.26	243,400.21
41iii	1,911.48	1,982.40	982.28	2,964.67	672.39	738.32	541.24	1,456.48	6,373.10
41iv	362.31	375.75	186.18	561.94	127.45	139.94	102.59	265.72	1,197.64
41v	1,911.48	1,982.40	982.28	2,964.67	672.39	738.32	541.24	1,456.48	6,373.10
41vi	2,038.52	2,114.15	1,047.56	3,161.71	717.08	787.39	577.21	203.45	5,446.83
41vii	1,755.57	1,820.70	902.16	2,722.86	617.54	678.10	497.09	0.00	4,515.59
42	654.30	678.57	336.23	1,014.81	230.16	252.73	185.26	335.84	2,018.80
43	22,081.92	22,901.16	11,347.52	34,248.68	7,767.60	8,529.31	6,252.49	184.38	56,982.46
44i	4,045.49	4,195.58	2,078.91	6,274.49	1,423.05	1,562.60	1,145.48	184.38	10,590.00
44ii	33.75	35.00	17.34	52.35	11.87	13.04	9.56	0.00	86.81
45	251.27	260.59	129.12	389.72	88.39	97.05	71.15	0.00	646.30
46	2,483.08	2,575.20	1,276.01	3,851.21	873.46	959.11	703.08	184.38	6,571.24
47	47,759.59	49,531.47	24,542.84	74,074.31	16,800.05	18,447.50	13,523.11	0.00	122,844.98

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<b>FEE</b>	<b>2004 DIRECT LABOR</b>	<b>2005 DIRECT LABOR UPDATE</b>	<b>GOVT. FRINGES</b>	<b>TOTAL 2+3</b>	<b>(22.68%) OPERATIONS OVERHEAD</b>	<b>(20.30%) OFFICE G&amp;A</b>	<b>(12.37%) BOARD G&amp;A</b>	<b>PUBLICATION COST</b>	<b>TOTAL SUM(4-8)</b>
	1	2	3	4	5	6	7	8	9
48	57,927.29	60,076.39	29,767.85	89,844.24	20,376.67	22,374.85	16,402.10	0.00	148,997.86
56i	132,254.71	137,161.36	67,963.45	205,124.81	46,522.31	51,084.37	37,447.88	0.00	340,179.37
56ii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00
56iii	13,121.90	13,608.72	6,743.12	20,351.84	4,615.80	5,068.43	3,715.46	0.00	33,751.54
56iv	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00
56v	16,355.20	16,961.98	8,404.66	25,366.64	5,753.15	6,317.32	4,630.97	0.00	42,068.08
57	2,814.46	2,918.88	1,446.30	4,365.18	990.02	1,087.11	796.91	0.00	7,239.22
58i	2,644.02	2,742.11	1,358.72	4,100.83	930.07	1,021.27	748.65	581.26	7,382.09
58ii	2,092.09	2,169.71	1,075.09	3,244.80	735.92	808.09	592.37	155.00	5,536.18
59	2,174.96	2,255.65	1,117.68	3,373.33	765.07	840.09	615.84	184.38	5,778.71
60	4,309.79	4,469.68	2,214.73	6,684.41	1,516.02	1,664.69	1,220.32	0.00	11,085.44
61i	2,101.08	2,179.03	1,079.71	3,258.74	739.08	811.56	594.92	0.00	5,404.30
61ii	119.87	124.32	61.60	185.92	42.17	46.30	33.94	0.00	308.32
62	3,328.69	3,452.18	1,710.56	5,162.74	1,170.91	1,285.73	942.52	0.00	8,561.90
63i	5,909.86	6,129.12	3,036.98	9,166.09	2,078.87	2,282.73	1,673.38	0.00	15,201.07
63ii	6,587.97	6,832.38	3,385.45	10,217.83	2,317.40	2,544.85	1,865.38	0.00	16,945.27
64	189.63	196.67	97.45	294.11	66.70	73.25	53.69	0.00	487.76
76	393.93	408.54	202.43	610.98	138.57	152.16	111.54	2.00	1,015.15
77	41.66	43.21	21.41	64.61	14.65	16.09	11.80	0.00	107.16
78	7.84	8.13	4.03	12.16	2.76	3.03	2.22	0.00	20.17
79i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.00
79ii	49.65	51.49	25.51	77.01	17.47	19.18	14.06	0.00	127.71

STB Ex Parte No. 542 (Sub-No. 12)

<b>FEE</b>	<b>2004 DIRECT LABOR</b>	<b>2005 DIRECT LABOR UPDATE</b>	<b>GOVT. FRINGES</b>	<b>TOTAL 2+3</b>	<b>(22.68%) OPERATIONS OVERHEAD</b>	<b>(20.30%) OFFICE G&amp;A</b>	<b>(12.37%) BOARD G&amp;A</b>	<b>PUBLICATION COST</b>	<b>TOTAL SUM(4-8)</b>
	1	2	3	4	5	6	7	8	9
80	194.32	201.53	99.86	301.39	68.35	75.06	55.02	0.00	499.82
81i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.00
81ii	49.65	51.49	25.51	77.01	17.47	19.18	14.06	0.00	127.71
82	78.90	81.83	40.55	122.37	27.75	30.48	22.34	0.00	202.94
83	13.04	13.52	6.70	20.22	4.59	5.04	3.69	0.00	33.54
84	84.51	87.65	43.43	131.07	29.73	32.64	23.93	0.00	217.37
85	363.29	376.77	186.69	563.46	127.79	140.32	102.87	0.00	934.44
86i	473.34	490.90	243.24	734.14	166.50	182.83	134.03	0.00	1,217.50
86ii	1,625.69	1,686.00	835.41	2,521.42	571.86	627.93	460.31	0.00	4,181.52
86iii	166.42	172.59	85.52	258.11	58.54	64.28	47.12	0.00	428.06
87i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
87ii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
87iii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
87iv	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00
87v	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	150.00
88	181.42	188.15	93.23	281.38	63.82	70.07	51.37	0.00	466.64
96	10.20	10.58	5.24	15.82	3.59	3.94	2.89	0.00	26.24
97	7.75	8.04	3.98	12.02	2.73	2.99	2.19	0.00	19.93
98ia	51.66	53.58	26.55	80.12	18.17	19.95	14.63	0.00	132.88
98ib	14.98	15.54	7.70	23.23	5.27	5.79	4.24	0.00	38.53
98iia	81.61	84.64	41.94	126.58	28.71	31.52	23.11	155.00	364.91
98iib	14.98	15.54	7.70	23.23	5.27	5.79	4.24	0.00	38.53

STB Ex Parte No. 542 (Sub-No. 12)

<b>FEE</b>	<b>2004 DIRECT LABOR</b>	<b>2005 DIRECT LABOR UPDATE</b>	<b>GOVT. FRINGES</b>	<b>TOTAL 2+3</b>	<b>(22.68%) OPERATIONS OVERHEAD</b>	<b>(20.30%) OFFICE G&amp;A</b>	<b>(12.37%) BOARD G&amp;A</b>	<b>PUBLICATION COST</b>	<b>TOTAL SUM(4-8)</b>
	1	2	3	4	5	6	7	8	9
99i	60.64	62.89	31.16	94.05	21.33	23.42	17.17	0.00	155.98
99ii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	25.00
100i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.00
100ii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	25.00
100iii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00
101i	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	250.00
101ii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	500.00
101iii	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	50.00
101iv	58.22	60.38	29.92	90.30	20.48	22.49	16.48	0.00	450.00
102	5.40	5.60	2.77	8.38	1.90	2.09	1.53	0.00	13.89
103	33.46	34.70	17.19	51.90	11.77	12.92	9.47	0.00	86.06
104	23.15	24.01	11.90	35.91	8.14	8.94	6.55	0.00	59.55
105	0.75	0.78	0.39	1.16	0.26	0.29	0.21	0.00	1.93
106	58.22	60.38	29.92	90.30	20.48	22.49	16.48	0.00	149.75

**APPENDIX B**

For the reasons set forth in the preamble, title 49, chapter X, part 1002, of the Code of Federal Regulations is amended as follows:

Part 1002 - FEES

1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701 and 49 U.S.C. 721(a). 2. Section 1002.1 is amended by revising paragraphs (b), (c), and (f)(1); and the table in paragraph (g)(6) to read as follows:

§1002.1 Fees for record search, review, copying, certification, and related services.

\* \* \* \* \*

(b) Service involved in examination of tariffs or schedules for preparation of certified copies of tariffs or schedules or extracts therefrom at the rate of \$34.00 per hour.

(c) Service involved in checking records to be certified to determine authenticity, including clerical work, etc., incidental thereto, at the rate of \$24.00 per hour.

\* \* \* \* \*

(f) \* \* \*

(1) A fee of \$60.00 per hour for professional staff time will be charged when it is required to fulfill a request for ADP data.

\* \* \* \* \*

(g) \* \* \*

(6) \* \* \*

Grade	Rate	Grade	Rate
GS-1	\$10.08	GS-9	\$23.55
GS-2	10.98	GS-10	25.93
GS-3	12.37	GS-11	28.49
GS-4	13.89	GS-12	34.15
GS-5	15.54	GS-13	40.61
GS-6	17.32	GS-14	47.99
GS-7	19.25	GS-15 and	56.45
GS-8	21.32	over	

\* \* \* \* \*

2. In §1002.2, paragraph (f) is revised as follows:

§ 1002.2 Filing fees.

(a) \*\*\*

(f) Schedule of filing fees.

Type of Proceeding	Fee
<b>PART I: Non-Rail Applications or Proceedings to Enter Upon a Particular Financial Transaction or Joint Arrangement:</b>	
(1) An application for the pooling or division of traffic . . .	\$3,600.
(2) (i) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor carrier of passengers under 49 U.S.C. 14303 . . . . .	\$1,700.
(ii) A petition for exemption under 49 U.S.C. 13541 (other than a rulemaking) filed by a non-rail carrier not otherwise covered . . . . .	\$2,600.
(iii) A petition to revoke an exemption filed under 49 U.S.C. 13541(d) . . . . .	\$2,200.
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703. . . . .	\$22,500.
(4) An application for approval of an amendment to a non-rail rate association agreement:	
(i) Significant amendment . . . . .	\$3,700.

(ii) Minor amendment . . . . .	\$80.
(5) An application for temporary authority to operate a motor carrier of passengers. 49 U.S.C. 14303(i) . . . . .	\$400.
(6) A notice of exemption for transaction within a motor passenger corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family . . . . .	\$1,400.
(7)-(10) [Reserved]	

<b>PART II: Rail Licensing Proceedings other than Abandonment or Discontinuance Proceedings:</b>	
(11) (i) An application for a certificate authorizing the extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901 . . . . .	\$5,900.
(ii) Notice of exemption under 49 CFR 1150.31-1150.35 . . . . .	\$1,500.
(iii) Petition for exemption under 49 U.S.C. 10502 . . . . .	\$10,200.
(12) (i) An application involving the construction of a rail line . . . . .	\$60,800.
(ii) A notice of exemption involving construction of a rail line under 49 CFR 1150.36 . . . . .	\$1,500.
(iii) A petition for exemption under 49 U.S.C. 10502 involving construction of a rail line . . . . .	\$60,800.
(iv) A request for determination of a dispute involving a rail construction that crosses the line of another carrier under 49 U.S.C. 10902(d) . . . . .	\$200.
(13) A Feeder Line Development Program application filed under 49 U.S.C. 10907(b)(1)(A)(I) or 10907(b)(1)(A)(ii) . . . . .	\$2,600.
(14) (i) An application of a class II or class III carrier to acquire an extended or additional rail line under 49 U.S.C. 10902. . . . .	\$5,100.

(ii) Notice of exemption under 49 CFR 1150.41 - 1150.45 . . . . .	\$1,500.
(iii) Petition for exemption under 49 U.S.C. 10502 relating to an exemption from the provisions of 49 U.S.C. 10902 . . . . .	\$5,400.
(15) A notice of a modified certificate of public convenience and necessity under 49 CFR 1150.21-1150.24 . . . . .	\$1,400.
(16)-(20) [Reserved]	

<b>PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings:</b>	
(21) (i) An application for authority to abandon all or a portion of a line of railroad or discontinue operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the Northeast Rail Service Act [Subtitle E of Title XI of Pub. L. 97-35], bankrupt railroads, or exempt abandonments) . . . . .	\$18,100.
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50 . . . . .	\$3,000.
(iii) A petition for exemption under 49 U.S.C. 10502 . . . . .	\$5,200.
(22) An application for authority to abandon all or a portion of a line of a railroad or operation thereof filed by Consolidated Rail Corporation pursuant to Northeast Rail Service Act. . . . .	\$350.
(23) Abandonments filed by bankrupt railroads . . . . .	\$1,500.
(24) A request for waiver of filing requirements for abandonment application proceedings . . . . .	\$1,400.
(25) An offer of financial assistance under 49 U.S.C. 10904 relating to the purchase of or subsidy for a rail line proposed for abandonment . . . . .	\$1,200.
(26) A request to set terms and conditions for the sale of or subsidy for a rail line proposed to be abandoned . . . . .	\$18,400.
(27) (i) Request for a trail use condition in an abandonment proceeding under 16 U.S.C.1247(d) . . . . .	\$200.

(ii) A request to extend the period to negotiate a trail use agreement . . . . .	\$350.
(28)-(35) [Reserved]	

<b>PART IV: Rail Applications to Enter Upon a Particular Financial Transaction or Joint Arrangement:</b>	
(36) An application for use of terminal facilities or other applications under 49 U.S.C. 11102 . . . . .	\$15,400.
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322 . . . . .	\$8,300.
(38) An application for two or more carriers to consolidate or merge their properties or franchises (or a part thereof) into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11324:	
(i) Major transaction . . . . .	\$1,216,900.
(ii) Significant transaction . . . . .	\$243,400.
(iii) Minor transaction . . . . .	\$6,300.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d) . . . . .	\$1,400.
(v) Responsive application . . . . .	\$6,300.
(vi) Petition for exemption under 49 U.S.C. 10502 . . .	\$7,600.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a) . . . . .	\$4,500.
(39) An application of a non-carrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction . . . . .	\$1,216,900.
(ii) Significant transaction . . . . .	\$243,400.
(iii) Minor transaction . . . . .	\$6,300.
(iv) A notice of an exempt transaction under 49 CFR 1180.2(d) . . . . .	\$1,100.

(v) Responsive application . . . . .	\$6,300.
(vi) Petition for exemption under 49 U.S.C. 10502 . . .	\$7,600.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a) . . . . .	\$4,500.
(40) An application to acquire trackage rights over, joint ownership in, or joint use of any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11324:	
(i) Major transaction . . . . .	\$1,216,900.
(ii) Significant transaction . . . . .	\$243,400.
(iii) Minor transaction . . . . .	\$6,300.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d) . . . . .	\$1,000.
(v) Responsive application . . . . .	\$6,300.
(vi) Petition for exemption under 49 U.S.C. 10502 . . .	\$7,600.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a) . . . . .	\$4,500.
(41) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction . . . . .	\$1,216,900.
(ii) Significant transaction . . . . .	\$243,400.
(iii) Minor transaction . . . . .	\$6,300.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d) . . . . .	\$1,100.
(v) Responsive application . . . . .	\$6,300.
(vi) Petition for exemption under 49 U.S.C. 10502 . . .	\$5,400.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a) . . . . .	\$4,500.

(42)	Notice of a joint project involving relocation of a rail line under 49 CFR 1180.2(d)(5) .....	\$2,000.
(43)	An application for approval of a rail rate association agreement. 49 U.S.C. 10706 .....	\$56,900.
(44)	An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
	(i) Significant amendment .....	\$10,500.
	(ii) Minor amendment .....	\$80.
(45)	An application for authority to hold a position as officer or director under 49 U.S.C. 11328 .....	\$600.
(46)	A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered .....	\$6,500.
(47)	National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562 .....	\$200.
(48)	National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act .....	\$200.
(49)-(55) [Reserved]		

<b>PART V: Formal Proceedings:</b>		
(56)	A formal complaint alleging unlawful rates or practices of carriers:	
	(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1) .....	\$102,000.
	(ii) A formal complaint involving rail maximum rates filed under the small rate case procedures .....	\$150.
	(iii) All other formal complaints (except competitive access complaints) .....	\$10,100.
	(iv) Competitive access complaints .....	\$150.
	(v) A request for an order compelling a rail carrier to establish a common carrier rate .....	\$200.

(57)	A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates or charges. 49 U.S.C. 10705 . . . . .	\$7,200.
(58)	A petition for declaratory order:	
	(i) A petition for declaratory order involving a dispute over an existing rate or practice which is comparable to a complaint proceeding . . . . .	\$1,000.
	(ii) All other petitions for declaratory order . . . . .	\$1,400.
(59)	An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A) . . . . .	\$5,700.
(60)	Labor arbitration proceedings . . . . .	\$200.
(61)	(i) An appeal of a Surface Transportation Board decision on the merits or petition to revoke an exemption pursuant to 49 U.S.C. 10502(d) . . . . .	\$200.
	(ii) An appeal of a Surface Transportation Board decision on procedural matters except discovery rulings	\$300.
(62)	Motor carrier undercharge proceedings . . . . .	\$200.
(63)	(i) Expedited relief for service inadequacies: A request for expedited relief under 49 U.S.C. 11123 and 49 CFR part 1146 for service emergency . . . . .	\$200.
	(ii) Expedited relief for service inadequacies: A request for temporary relief under 49 U.S.C. 10705 and 11102, and 49 CFR part 1147 for service inadequacy . . . . .	\$200.
(64)	A request for waiver or clarification of regulations except one filed in an abandonment or discontinuance proceeding, or in a major financial proceeding as defined at 49 CFR 1180.2(a) . . . . .	\$450.
(65)-(75) [Reserved]		

<b>PART VI: Informal Proceedings:</b>		
(76)	An application for authority to establish released value rates or ratings for motor carriers and freight forwarders of household goods under 49 U.S.C. 14706 . . . . .	\$1,000.
(77)	An application for special permission for short notice or the waiver of other tariff publishing requirements . . . . .	\$100.

(78)	The filing of tariffs, including supplements, or contract summaries . . . . .	\$1 per page. (\$20 minimum charge.)
(79)	Special docket applications from rail and water carriers:	
	(i) Applications involving \$25,000 or less . . . . .	\$50.
	(ii) Applications involving over \$25,000 . . . . .	\$100.
(80)	Informal complaint about rail rate applications . . . . .	\$450.
(81)	Tariff reconciliation petitions from motor common carriers:	
	(i) Petitions involving \$25,000 or less . . . . .	\$50.
	(ii) Petitions involving over \$25,000 . . . . .	\$100.
(82)	Request for a determination of the applicability or reasonableness of motor carrier rates under 49 U.S.C. 13710(a)(2) and (3) . . . . .	\$200.
(83)	Filing of documents for recordation. 49 U.S.C. 11301 and 49 CFR 1177.3(c). . . . .	\$33 per document.
(84)	Informal opinions about rate applications (all modes) .	\$200.
(85)	A railroad accounting interpretation . . . . .	\$900.
(86)	(i) A request for an informal opinion not otherwise covered . . . . .	\$1,200.
	(ii) A proposal to use on a voting trust agreement pursuant to 49 CFR 1013 and 49 CFR 1180.4(b)(4)(iv) in connection with a major control proceeding as defined at 49 CFR 1180.2(a) . . . . .	\$4,100.
	(iii) A request for an informal opinion on a voting trust agreement pursuant to 49 CFR 1013.3(a) not otherwise covered . . . . .	\$400.
(87)	Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108:	
	(i) Complaint . . . . .	\$75.
	(ii) Answer (per defendant), Unless Declining to Submit to Any Arbitration . . . . .	\$75.

(iii) Third Party Complaint .....	\$75.
(iv) Third Party Answer (per defendant), Unless Declining to Submit to Any Arbitration .....	\$75.
(v) Appeals of Arbitration Decisions or Petitions to Modify or Vacate an Arbitration Award .....	\$150.
(88) Basic fee for STB adjudicatory services not otherwise covered .....	\$200.
(89)-(95) [Reserved]	

<b>PART VII: Services:</b>	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent .....	\$26 per delivery.
(97) Request for service or pleading list for proceedings ...	\$19 per list.
(98) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Board or State proceeding that:	
(i) Does not require a Federal Register notice:	
(a) Set cost portion .....	\$100.
(b) Sliding cost portion .....	\$38 per party.
(ii) Does require a Federal Register notice:	
(a) Set cost portion .....	\$350.
(b) Sliding cost portion .....	\$38 per party.
(99) (i) Application fee for the Surface Transportation Board's Practitioners' Exam .....	\$150.
(ii) Practitioners' Exam Information Package .....	\$25.
(100) Uniform Railroad Costing System (URCS) software and information:	
(i) Initial PC version URCS Phase III software program and manual .....	\$50.
(ii) Updated URCS PC version Phase III cost file—per year .....	\$25 per year.

(iii) Public requests for <u>Source Codes</u> to PC version URCS Phase III .....	\$100.
(101) Carload Waybill Sample data on recordable compact disk (R-CD):	
(i) Requests for Public Use File on R-CD -per year ...	\$250 per year.
(ii) Waybill - Surface Transportation Board or State proceedings on R-CD - per year .....	\$500 per year.
(iii) User Guide for latest available Carload Waybill Sample .....	\$50.
(iv) Specialized programming for Waybill requests to the Board .....	\$90 per hour.

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