

SERVICE DATE – MAY 12, 2009

SURFACE TRANSPORTATION BOARD

NOTICE

STB Ex Parte No. 689

SIMPLIFIED STANDARDS FOR RAIL RATE CASES –
2007 RSAM and R/VC_{>180} CALCULATIONS

Decided: May 12, 2009

Under 49 U.S.C. 10709(d)(3), the Board is directed to “establish a simplified and expedited method for determining the reasonableness of challenged rail rates in those cases in which a full stand-alone cost presentation is too costly, given the value of the case.” In Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No.1) (Sept. 5, 2007), the Board modified and clarified its guidelines for such cases by establishing a Simplified Stand-Alone Cost test for medium-sized cases, clarifying its Three Benchmark approach for the smallest disputes, and establishing eligibility thresholds for each type of case.¹

The Three Benchmark approach compares a challenged rate to three measures of the defendant’s revenues and variable costs. The Revenue Shortfall Allocation Method (RSAM) measures the average markup that the railroad would need to charge all of its “potentially captive” traffic in order for the railroad to earn adequate revenues as measured by the Board under 49 U.S.C. 10704(a)(2). Potentially captive traffic is defined as all traffic priced above the 180% R/VC level – which is the statutory floor for regulatory rail rate intervention.²

In Simplified Standards for Rail Rate Cases—Taxes in Revenue Shortfall Allocation Method, STB Ex Parte No. 646 (Sub-No. 2) (Jan. 30, 2009), the Board found a material error in its RSAM formula.³ The revenue shortfall (overage) used in the RSAM formula was stated on an after-tax basis, whereas the other elements of the RSAM formula were stated on a pre-tax basis. The Board concluded that use of the statutory federal tax rate, combined with a railroad-specific state tax rate, should be used to convert the shortfall (overage) to a pre-tax basis because

¹ This Board’s original small rate case guidelines contained in Rate Guidelines – Non-Coal Proceedings, Ex Parte 347 (Sub-No. 2) established an earlier version of the Three Benchmark approach. The RSAM and R/VC_{>180} calculations were previously published under that docket. Future publications of the RSAM and R/VC_{>180} calculations will be served in sub-dockets of this STB Ex Parte No. 689 proceeding.

² See 49 U.S.C. 10707(d); Burlington N. R.R. v. STB, 114 F.3d 206, 210 (D.C. Cir. 1997); West Texas Util. v. Burlington N. R.R., 1 S.T.B. 638, 677-78 (1996).

³ See Simplified Standards for Rail Rate Cases – Taxes in Revenue Shortfall Allocation Method, STB Ex Parte No. 646 (Sub-No. 2), (STB served Nov. 21, 2008).

it best approximates the marginal taxes the carrier would pay on incremental revenue. In Simplified Standards for Rail Rate Cases – Taxes in Revenue Shortfall Allocation Method, STB Ex Parte No. 646 (Sub-No. 2), (STB served May 11, 2008), the Board adopted railroad-specific average state tax rates for each Class I railroad for use in the RSAM calculation.

The second benchmark is called $R/VC_{>180}$. This benchmark measures the average markup actually applied by the defendant railroad on its potentially captive traffic. Both RSAM and $R/VC_{>180}$ are measured as 4-year rolling averages. The ratio of RSAM to $R/VC_{>180}$ reflects how far a particular carrier is over or under its revenue adequacy target.

The third benchmark is called R/VC_{COMP} . This benchmark is used to compare the markup being paid by the challenged traffic to the average markup assessed on other potentially captive traffic involving the same or a similar commodity moving similar distances.

The Board publishes tables each year showing the most recent RSAM and $R/VC_{>180}$ ratios for each Class I railroad, as well as their 4-year averages. The R/VC_{COMP} ratio for appropriate comparison traffic is to be computed after a shipper files a rate complaint, using traffic data from the rail industry Waybill Sample,⁴ and applying URCS costing.

The attached tables contain the most recent RSAM and $R/VC_{>180}$ ratios. Tables I and II represent percentages for the most recent 4-year period 2004 to 2007 for all Class I carriers.

In addition, because three small rate cases⁵ were filed using the Board's previous RSAM calculations that were based on a formula found to contain material error, we also provide Tables III and IV which represent revised RSAM and $R/VC_{>180}$ percentages for the period 2002 to 2005. We will not publish tables representing the 2003 to 2006 time period because no small rate cases were filed for that period.

The Board's workpapers supporting these calculations are available by contacting Paul Aguiar at aguiarp@stb.dot.gov. The commodity revenue stratification reports for 2006 and 2007 will be available on the Board's website.

By the Board, Leland L. Gardner, Director, Office of Economics, Environmental Analysis, and Administration.

Anne K. Quinlan
Acting Secretary

⁴ The Waybill Sample is a statistical sampling of railroad waybills that is collected and maintained for use by the Board and by the public (with appropriate restrictions to protect the confidentiality of individual traffic data). See 49 CFR 1244.

⁵ E.I. DuPont de Nemours and Co. v. CSX Transportation, Inc., STB Docket Nos. 42099, 42100, and 42101.

Table I
RSAM Mark-up Percentages 2004 - 2007

Railroad	4-Year Average	2007	2006	2005	2004
BNSF	275%	254%	220%	284%	340%
CSXT	311%	304%	269%	341%	331%
GTC	350%	285%	273%	382%	460%
KCS	342%	308%	277%	462%	321%
NS	222%	226%	207%	235%	219%
SOO	249%	171%	193%	291%	342%
UP	326%	278%	268%	379%	378%

Table II
R/VC>180 Percentages 2004-2007

Railroad	4-Year Average	2007	2006	2005	2004
BNSF	235%	232%	238%	238%	234%
CSXT	239%	245%	244%	236%	231%
GTC	255%	260%	264%	249%	248%
KCS	256%	255%	263%	241%	263%
NS	252%	255%	259%	249%	243%
SOO	230%	232%	221%	234%	231%
UP	231%	230%	233%	229%	232%

Table III
RSAM Mark-up Percentages 2002 - 2005

Railroad	4-Year Average	2005	2004	2003	2002
BNSF	322%	284%	340%	315%	351%
CSXT	328%	341%	331%	326%	316%
GTC	427%	382%	460%	429%	440%
KCS	404%	462%	321%	460%	371%
NS	242%	235%	219%	250%	265%
SOO	329%	291%	342%	401%	281%
UP	330%	379%	378%	289%	273%

Table IV
R/VC>180 Percentages 2002-2005

Railroad	4-Year Average	2005	2004	2003	2002
BNSF	235%	238%	234%	233%	234%
CSXT	236%	236%	231%	239%	238%
GTC	252%	249%	248%	245%	264%
KCS	258%	241%	263%	266%	263%
NS	248%	249%	243%	246%	254%
SOO	227%	234%	231%	222%	221%
UP	238%	229%	232%	243%	248%