

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**WASHINGTON, D.C.**

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**Docket No. EP 715  
Rate Regulation Reforms**

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**COMMENTS OF  
THE AMERICAN SHORT LINE AND REGIONAL  
RAILROAD ASSOCIATION**

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The American Short Line and Regional Railroad Association (“ASLRRA”) respectfully submits its Comments in response to the July 25, 2012 Decision by the Board soliciting public comment on its proposed Rate Regulation Reforms rule changes. ASLRRA represents 464 Class II and Class III railroads in the United States, Canada and Mexico as well as numerous suppliers and contractors to the short line and regional railroad industry. On behalf of its members, ASLRRA thanks the Board for the opportunity to comment in this important topic.

While small railroads are rarely defendants in major rate litigation before the Board, they are not immune to the consequences of adverse decisions against large railroads. When a large railroad rate is struck down, participating handling line carriers face strong downward pressure on their revenues as the large railroads look to them to recoup some of the loss. Small railroads participating in through-

rates are equally exposed when the through-rate is challenged. Therefore, ASLRRRA has a direct interest in the methodologies the Board employs in even the most complex large rate cases as well as the methodologies intended for smaller disputes. With regard to the particulars of each of those methodologies ASLRRRA believes that the Comments of the Association of American Railroads (AAR) present a particularly thoughtful, well documented and comprehensive critique of the rate regulation changes proposed by the Board, and ASLRRRA supports and joins the AAR Comments in full.

One issue remains which is unique to Class II and Class III carriers. All the methodologies employed by the Board in simplified as well as complex rate cases rely on evidentiary inputs derived from the Uniform Railroad Costing System (URCS). That system is based solely on Class I industry average cost data. As early as 2007 ASLRRRA observed in its Comments regarding Simplified Standards for Rail Rate Cases<sup>1</sup> that URCS does not accurately reflect true costs of short line operations because small railroads' operating profiles are very different from those of Class I railroads.

More recently the Board's Railroad-Shipper Transportation Advisory Council (RSTAC) prepared a Position Paper on the shortcomings of URCS in its application to small railroads which is available on the Board's public website.<sup>2</sup> As the RSTAC paper noted "the problem as it relates to Class II and III carriers is that URCS contains no assumptions and generalizations about small railroads' operations. Without those assumptions, URCS is not useful as it relates to small

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<sup>1</sup> See *Comment of the American Short Line and Regional Railroad Association, STB Ex Parte No. 646 (Sub-No. 1), February 26, 2007*

<sup>2</sup> See *Position Paper on the Uniform Rail Costing System, Railroad-Shipper Transportation Advisory Council, November 22, 2011.*

railroads.”<sup>3</sup> Simply put and as both ASLRRRA and RSTAC have previously noted, on high density Class I operations fixed costs can be spread over thousands of different long distance movements, but a much greater portion of small railroad costs are related to switching, interchange and pickup and delivery related activities. Further, their line haul costs, based on vastly shorter distances, are underestimated by URCS because small railroads typically operate at much slower speeds than Class I carriers. As a result small railroads experience much higher actual costs per mile for most individual movements than the Class I derived unadjusted URCS would predict.

Similar distortions occur when applying URCS class I – based capital cost assumptions to small railroad capital costs: the small railroad costs are greatly underestimated since small railroad participation in lower cost major public capital markets is generally extremely limited, especially in comparison with the unfettered access to those markets blue-chip Class I railroad companies enjoy. Therefore, using URCS to impute small railroad operating costs in rate cases brought under any of the Board’s methodologies is not only inaccurate, it is fundamentally unfair to small railroads.

The Board’s proposal to eliminate the limits on damages in Simplified Stand Alone Cost cases and double the limit of damages obtainable in cases brought under the Three Benchmark methodology is harmful to small railroads. It will doubtless encourage and enable shippers to bring more rate cases against vulnerable small carriers who must defend themselves using URCS derived cost benchmarks which are inflated and inaccurate fabrications of their true costs. It also sets up David versus Goliath proceedings where small railroads are always small, but the shippers – if not the controversies - are often very large and deep

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<sup>3</sup> Id at 3.

pocketed. It is all too easy in those situations to coerce concessions from small railroads that cannot bear the costs of even the Three Benchmark cases. For these reasons and the reasons set forth in the Comments of the AAR, ASRRA opposes the Board's rate regulation reform proposals and urges the Board to maintain its current rules.

Respectfully submitted,

American Short Line and Regional Railroad Association

A handwritten signature in cursive script that reads "Keith T. Borman".

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By: Keith T. Borman  
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