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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

REVIEW OF COMMODITY,)	
BOXCAR, AND TOFC/COFC)	
EXEMPTIONS)	Ex Parte No. 704 (Sub-No. 1)
)	

**REPLY COMMENTS OF
AK STEEL CORPORATION**

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Dated: August 26, 2016

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AK Steel Corporation (“AK Steel”) supports the Surface Transportation Board’s (“STB” or “Board”) proposal to revoke the class exemptions on Coke (STCC No. 29-914), Steel (STCC No. 33-12) and Scrap (STCC No. 40-211) for the reasons set forth in its Comments submitted to the Board in this proceeding on July 26, 2016:

- AK Steel ships substantial volumes of Coke, Steel and Scrap by rail and, on many of these moves, it is subject to market dominant rail pricing.
- The Interstate Commerce Commission (“ICC”) granted class exemptions on Coke, Steel, and Scrap to eliminate the regulatory burdens associated with tariff filing. However, those burdens no longer exist since Congress abolished the tariff filing requirement in 1995.
- The railroad industry exerts substantial market power over the shipments of Coke, Steel and Scrap. For example, the Board calculated, using 2013 Uniform Railroad Costing System (“URCS”) variable costs, that the average revenue-to-variable cost (“R/VC”) ratio on potentially captive Coke traffic is 248%, on potentially captive Steel traffic is 237% and on potentially captive scrap traffic is 230%.
- Major railroads are now extraordinarily profitable, whereas in many instances the industries that they serve, and that pay them to transport exempt commodities, are struggling.

- Partial shipper-specific revocation actions are not the answer. Very few shippers have the resources to pursue both a partial revocation order case and a second merits case, and few have even attempted to do so.

In their comments, the Association of American Railroads, and the other major rail carriers (collectively “Railroads”) oppose the Board’s proposals to revoke the class exemptions on Coke, Steel and Scrap. While the Railroads’ comments are voluminous, the Railroads do not offer any real response to the simple points made by AK Steel demonstrating that the class exemptions on Coke, Steel and Scrap should be revoked.

Instead, the Railroads devote their presentations to collateral attacks on the validity of URCS, and other diversionary tactics designed to confuse and obfuscate the fact that the Board should adopt its proposal to revoke the class exemptions on Coke, Steel and Scrap. The Steel Manufacturers Association (“SMA”) and the American Iron and Steel Institute (“AISI”) respond to these round-about Railroad contentions in detail in their reply comments. AK Steel generally joins and supports SMA/AISI’s reply comments.

Moreover, if the Railroads are correct in their basic thesis – lifting the class exemptions is unnecessary because there is extensive competition for the transportation of Coke, Steel and Scrap – what harm do they face if the exemptions are lifted? The STB only exerts regulatory pricing authority on market dominant rail traffic (*see* 49 U.S.C. § 10701(d)(1)). If the Railroads are right, no shippers of Coke, Steel and Scrap would be able to seek rate relief because none faces market dominant rail pricing.

Of course, the Railroads' real motivation here is obvious – the Railroads know that many shippers of Coke, Steel and Scrap do face market dominant rail pricing and they want to continue to make it as hard as possible for shippers of these commodities to enjoy the regulatory protections afforded shippers of non-exempt commodities.

The Railroads' comments include some passing anecdotal references to AK Steel's transportation facts and circumstances, including some snippets designated as "highly confidential" under the Board's protective order. The apparent purpose of these references is to demonstrate that AK Steel enjoys effective transportation options on all of its rail moves. The reality is that AK Steel, like other large industrial shippers, enjoys effective competition on some moves, but not on many others, with these many others including movements of Coke, Steel and Scrap.

AK Steel appreciates the opportunity to present its views to the Board and urges the Board to expeditiously revoke the current class exemptions on Coke, Steel and Scrap.

Respectfully submitted,

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