

**ORIGINAL**

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Before the  
SURFACE TRANSPORTATION BOARD



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Ex Parte No. 431 (Sub-No. 4)  
REVIEW OF THE GENERAL PURPOSE COSTING SYSTEM

\_\_\_\_\_  
COMMENTS  
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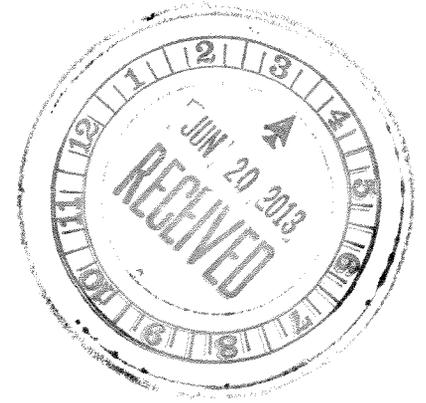
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JUN 20 2013  
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June 20, 2013

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Preliminary Statement

Samuel J. Nasca,<sup>1/</sup> for and on behalf of United Transportation Union-New York State Legislative Board (UTU-NY),<sup>2/</sup> submits these comments in response to Notice of Proposed Rulemaking (NPR), dated January 25, 2013 (served February 4, 2013), 78 Fed. Reg. 7718-37 (Feb. 4, 2013), as clarified by decision dated April 24, 2013 (served April 25, 2013).

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1/ New York State Legislative Director for United Transportation Union, with offices at 35 Fuller Road, Albany, NY 12205.

2/ UTU, effective January 1, 2012, merged with Sheet Metal Workers' International Association (SMWIA) to form International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART). UTU is now Transportation Division of SMART (UTU/SMART-TD).

Railroad employees have a substantial interest in revisions to the Uniform Railroad Costing System (URCS), as well as the various reports proposed to be revised as part of the NRP, such as Form STB 54,<sup>3/</sup> and Form QCS,<sup>4/</sup> revisions claimed to be needed to calculate "switch engine minute" costs on a per-shipment basis.

URCS is used to make determinations in railroad rate, and line abandonment proceedings, among other functions (NPR, 2), in which railroad employees frequently participate as parties of record.

These comments are of an initial and preliminary nature. UTU-NY is not privy to the undisclosed STB materials in this public proceeding, placed under seal-governed by protective conditions.<sup>5/</sup>

1. Lack of Transparency. UTU-NY is concerned, and disturbed, that this proceeding to a considerable extent is being conducted under seal, yet the outcome is proposed to have wide application throughout the railroad industry and among its customers, employees, and other regulatory bodies, including state agencies, as well as the public generally. Apart from two rail counsel, only four practitioners, on behalf of some six organizations, sought materials

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<sup>3/</sup> To be changed from Annual Report of Cars Loaded and Cars Terminated, to "Annual Report of Cars and Shipments Originated and Terminated."

<sup>4/</sup> "Quarterly Report of Freight Commodity Statistics." A primary change in STB-54 and QCS would be adding a requirement to report "shipments," defined in Form QCS as a block of one or more cars moving under the same waybill from origin to destination.

<sup>5/</sup>See: ID Nos. 234137, 234147, 234155, 234164, 234166, 234252.

underlying the STB's NPR proposed changes to URCS and the related forms. Moreover, this information drew protective requirements from the STB's Office of Economics.

UTU-NY is not convinced that the Office of Economics, and from discussion in the NPR, that the STB, itself, has an adequate understanding of railroad operations, particularly for switching-yet switching appears the core basis underlying the NPR.

2. Smaller Entities. In general, the NPR would appear to allocate increased costs for smaller customers, and somewhat lighten the allocation upon larger rail customers. This is of concern to rail employees as a harbinger of rail abandonments and service reductions, with an adverse impact upon rail employees. Moreover, a reduction in railroad capacity commonly has an adverse impact upon future business and plant locations. When the former Interstate Commerce Commission discarded the long-maintained 50 percent formula for abandonment costing, in favor of detailed cost allocation for off-branch movements, the result was a inordinate increase in line abandonments and line-sale spin-offs. Chicago & North Western Transp. Co. v. U.S., 582 F.2d 1043, 1059-61 (7th Cir. 1978); Cherington, Charles R., The Regulation of Railroad Abandonments, 164-65 (Harvard, 1948); Conant, Michael, Railroad Mergers and Abandonments 121-22 (U.Calif., 1964). Thus, revision in the allocation of common costs, although itself changing nothing in the real world, can have a devastating effect upon regulatory actions affecting commerce.

Respectfully submitted,



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