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May 03, 2013

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Public Record



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May 3, 2013

Director William Huneke  
Office of Economics  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423

By Messenger

Re: Request for 2011 Waybill Sample Data for use in Ex Parte No. 431 (Sub-No. 4)

Dear Dr. Huneke:

I'm writing to request access for outside attorneys and consultants for Alliance for Rail Competition, as well as Montana Wheat & Barley Committee and similar organizations for Colorado, Idaho, Washington, North Dakota, South Dakota, Nebraska, Oklahoma and Texas, to the 2011 Waybill Sample materials that are to be made available to parties preparing comments in Ex Parte No. 431 (Sub-No. 4), Review of the General Purpose Costing System. See the Board decision served April 25, 2013.

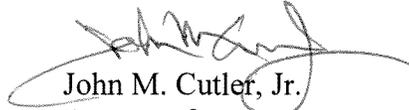
In your letter dated April 25, 2013, you denied my earlier request for Waybill Sample data but set forth Waybill Sample and ancillary data that will be available, upon request, under the Board's decision in Ex Parte No. 431 (Sub-No. 4) issued that same day. Preliminary analysis of the Board's proposal indicates that shippers of less than 80 cars, including many members of ARC and the other organizations we represent, may be adversely affected, despite the Board's proposal to eliminate the make-whole adjustment. Access to the data requested in this letter is necessary to assess the implications of the Board's proposals and prepare comments on behalf of our clients, many of which are captive shippers of a range of commodities.

I hereby request that data described in your letter and the Board's decision be provided to the following:

John M. Cutler, Jr., McCarthy, Sweeney & Harkaway, P.C.  
G. W. Fauth, III, G. W. Fauth & Associates, Inc.  
Terry Whiteside, Whiteside & Associates

We agree to be bound by, and will sign, the usual protective orders. If you have any questions concerning this request, please contact me or Mr. Fauth (tel: 703-549-6161, email gwfauth@comcast.net).

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Cutler, Jr.", with a large, sweeping flourish underneath.

John M. Cutler, Jr.  
Attorney for  
Alliance for Rail Competition, et al.