

ORIGINAL

Before the  
SURFACE TRANSPORTATION BOARD



Ex Parte No. 665 (Sub-No. 1)

RAIL TRANSPORTATION OF GRAIN, RATE REGULATION REVIEW

236512

REPLY COMMENTS

ENTERED  
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Preliminary Statement

Jay L. Schollmeyer, for and on behalf of SMART-TD General Committee of Adjustment (GO-386),<sup>1/</sup> in accordance with the Board's notice served December 12, 2013, 78 Fed. Reg. 76098-99 (Dec. 16, 2013), submits these reply comments in response to the initial comments filed by the numerous participants in this reopened proceeding.

The initial phase of Ex Parte No. 665 began October 11, 2006, with the announcement by the Board's then Chairman, during a meeting held that day at Great Falls, MT, that the STB would

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<sup>1/</sup> General Chairman for SMART-TD, with offices at 400 E. Evergreen Blvd., Vancouver WA. He is the successor to John D. Fitzgerald in this position, who participated in the Ex Parte No. 665 earlier phase.

institute a proceeding to gather information about grain transportation markets. GO-386 responded to the formal proceeding instituted the following day, October 12, 2006, by filing a notice of intent on October 23, 2006, and submitting a 10-page statement October 30, 2006. GO-386 appeared by counsel at the November 2, 2006 hearing in Washington DC, submitted post-hearing supplemental comments January 12, 2007, and additional procedural filings later in September 2007. The initial Ex Parte No. 665 terminated in January 2008 without further action.

GO-386 has an important concern for grain movement. The preponderance of its members are employed by BNSF Railway, particularly in operations over the former Great Northern Railway (GN) "Northern" lines between the North Pacific Ports and the Twin Cities.<sup>2/</sup> GO-386 urges that additional information concerning the grain rate structure is necessary prior to STB consideration in this proceeding of any new rules for determining the reasonableness of rail rates. GO-386 seeks to avoid disruption of grain transportation, and dislocation of employment opportunities which stand to occur by unjustified emphasis of novel cost application concepts to grain transportation.

#### ARGUMENT

The initial comments filed by the major shipper parties fail to adequately develop the present rail rate structure governing grain transportation markets; rather, these principal shipper

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<sup>2/</sup> Great Falls, MT is major BNSF(former GN) terminal.

parties are seemingly most concerned with procedures for estimating various point-to-point cost concepts to utilize in rate contests or complaints against carriers. However, the Board and the public must first understand the rate structures before the Board can undertake the reasonableness of individual or group rates. Such knowledge is particularly important as markets for grain and grain products are concededly interrelated. Traditionally, the various grain shipper interests are mainly concerned with rate comparisons against competing movements, rather than the level of the rate itself.

1. Inadequate Record. The primary objective of this proceeding, and its antecedent phase, is information about grain transportation markets--for which the grain rate structure is of obvious critical importance. See: STB, Decision, 12/12/13, at 2, lines 1-3.

There have been two major inquiries into the grain rate structure, the first stemming from the Hoch-Smith Resolution of 1925. See: Docket No. 17000, Part 7, Grain and Grain Products, 205 I.C.C. 301 (1934), and citations therein. See also: Wagner, Warren H, The Hoch-Smith Resolution (1929). The second major inquiry was instituted December 11, 1970 in Ex Parte 270, resulting in Ex Parte No. 270 (Sub-No. 1A), Investigation of Railroad Frt. Rate Structure-Export-Import Rates and Charges-Pacific Coast, 345 I.C.C. 423 (1975); and Ex Parte No. 270 (Sub-No. 9), Investigation of Railroad Freight Rate Structure-Grain and Grain Products, 345 I.C.C. 2977 (1979).

There has not been a general grain rate inquiry subsequent to Staggers (1980), nor many significant post 4-R Act (1976) developments reflected in the I.C.C.'s 1979 report, 345 I.C.C. 2977. The instant record is conflicting and not very helpful. For example, Alliance for Rail Competition (ARC) asserts there are very few group or zone rates, as the carriers tend to price from origins to destinations, and finding comparative grouping of rates in a region or into specific markets is not possible. (Whiteside, pp. 11-12). On the other hand, Union Pacific Railroad Company (UP) states UP grain rates are generally structured from defined geographic groups--all locations within group, regardless of whether served only by UP or with access to other railroads, normally take the same rates to any given destination. The carrier states it is rare for UP to differentiate rates between individual origins or origin facilities in a group for any reason. (UP at 10-12).

It is clear that the Board lacks the necessary grain market rate information which can reflect reality subsequent to 1979-a 35-year time period. An example of Board special interest might be ARC's complaint concerning the "inverse rate structure" (Whiteside, pp. 12-13), in light of the former I.C.C.'s discussion of this market-equalizing technique. Investigation of Railroad Frt. Rate Structure-Grain, supra, 345 I.C.C. at 2998-99.

2. Current Service Issues. GO-386 suspects that much of the shipper interest in this grain rate proceeding may be due to current service issues stemming from the extraordinary weather

conditions which the railroad industry experienced this past winter season. These adverse conditions were particularly severe in BNSF territory. BNSF employees have labored under extremely difficult situations--particularly for BNSF personnel operating on the BNSF "Northern Lines," most of whom are represented by GO-386.

However, GO-386 is not convinced the STB has the operating expertise to evaluate whether new or revised rail rate regulation procedures can provide any meaningful solutions to operating problems of this sort. Railroad operating issues--such as crude oil tank car movements--ordinarily are the primary concern of the Federal Railroad Administration or the Department of Transportation, rather than the Surface Transportation Board.

Respectfully submitted,



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August 25, 2014

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Certificate of Service

I hereby certify I have served a copy of the foregoing upon all parties of record by first class mail postage-prepaid.

Washington DC



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