

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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**PETITION FOR RULEMAKING TO
ADOPT REVISED COMPETITIVE SWITCHING RULES**

**COMMENTS OF
ROANOKE CEMENT COMPANY**

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March 1, 2013

My name is David F. Brinkley, Director of Distribution and Customer Resources for Roanoke Cement Company (Roanoke Cement).

Roanoke Cement is part of the Titan Cement Group (Titan). In 1902, Titan established the first cement plant in Southeastern Europe and the Eastern Mediterranean in Elefsina, Greece, a small coastal town about an hour west of Athens. Today, with an annual production capacity of 11 million tons, 6,000 employees worldwide and operations on three continents and in nine countries, Titan has become the leading cement producer in Greece.

Titan expanded its cement manufacturing activities outside of Greece in 1992 with the acquisition of a controlling stake in Roanoke Cement Company in Roanoke, VA. The acquisition of Tarmac America and the remaining stake in Roanoke Cement in the fall of 2000 made Titan a bigger player on the East Coast of the United States.

Roanoke Cement plant is located in southwestern Virginia, approximately 15 miles north of the city of Roanoke. It is the only cement plant in Virginia, and it produces a variety of Portland and masonry cements. The cement is distributed in bulk and in package varieties to construction industries in Virginia, North Carolina, West Virginia, Maryland, Tennessee, Kentucky, South Carolina and the District of Columbia.

To ensure prompt delivery to customers, Roanoke Cement uses a series of distribution terminals located in Norfolk, Richmond, Front Royal and Bristol, Virginia and in Winston-Salem, Selma and Castle Hayne, North Carolina. Packaged products

are also sold through a series of distributors in the areas served. Roanoke Cement ships more than 3,700 carloads annually from our plant at Roanoke, VA.

Roanoke Cement appreciates the opportunity to participate in this landmark proceeding. Rail transportation is critical to our operation, so we believe it is important to confirm the fact that there is a need to improve competition in the rail industry, and to present the views of a rail customer so potential changes in competitive switching rules are practical and access to competitive switching will be an affordable and practical option for Roanoke Cement and other small to mid-sized rail shippers.

BACKGROUND

The NITL proposal provides that competitive switching by a Class I railroad would be mandatory if four conditions are met:

- (1) A shipper or group of shippers is served by a single railroad.
- (2) There is no effective intermodal or intramodal competition (the railroad handles 75% or more of freight volumes) and the RVC on the rail traffic is 240% or higher.
- (3) There is or can be a working interchange within a reasonable distance (30 miles) of the shipper's facility.
- (4) Switching is safe and feasible with no adverse effect on existing service.

In the Board's decision to initiate this proceeding, they posed some broad questions regarding the impact this will have on industry. The purpose of this document is to answer some of those questions as they relate to Roanoke Cement's

business, and to offer some suggestions to establish procedures that will be simple so competitive switching is an option for small *and* large shippers.

This statement will focus on the following questions posed by the Board:

- What the impact will be on rates and service for shippers that would qualify under the competitive switching proposal?
- How will this impact on the railroad industry, including its financial condition and network efficiencies or inefficiencies, including the potential for increased traffic?
- What access pricing methodology should be adopted by the Board?
- What would happen if the STB modified NITL's proposal, such as:
 - Changing the 30-mile limit;
 - Changing the benchmark from a conclusive presumption in favor of competitive access relief to an alternative approach.

ROANOKE CEMENT'S RAIL SHIPMENTS

Roanoke Cement's production facility at Roanoke (Lone Star), VA is served by Norfolk Southern Railroad (NS). We also have eight distribution terminals that are strategically located to serve our customers; all are rail served:

1. Norfolk, VA, local on NS.
2. Richmond, VA, served by NS, open to reciprocal switching to CSX Transportation (CSXT).
3. Front Royal, VA, local on NS.
4. Bristol, VA, single served by NS.

5. Winston-Salem, NC, served by NS, open to reciprocal switching to CSXT.
6. Selma, NC, local on NS.
7. Castle Hayne, NC, served by CSXT.

With the exception of Castle Hayne which is 117 miles from the closest interchange with NS, all of Roanoke Cement's facilities that are served by a single railroad could access another carrier with an interchange within 42.1 miles, and five could access another carrier with interchanges within the proposed 30-mile limit:

- o Roanoke, VA – CSXT has a potential interchange at Natural Bridge, VA, 42.1 miles from our plant.
- o Norfolk, VA – NS could interchange with CSXT at Suffolk, VA, 24 miles from the distribution terminal.
- o Front Royal, VA – NS could interchange the cars to CSXT at Strasburg Jct., VA, 13.8 miles from the distribution facility.
- o Bristol, VA – NS could interchange the cars to CSXT at Johnson City, TN, 25 miles from the distribution terminal.
- o Selma, NC – NS could interchange the cars to CSXT at Selma.

All of our rail lanes are captive lanes. The shipments originate at Lone Star which is single served by NS, the preponderance to destinations that are served by a single railroad. In addition to our distribution terminals, all of our customers that are rail served are local on NS.

RVC's for shipments in cars furnished by the railroad range from 158% to 198%; the weighted average RVC in railroad cars is 166%. RVC's for shipments in

Roanoke Cement's private cars range from 154% to 232%; the weighted average RVC in private cars is 197%.

Rates per ton-mile for shipments in cars furnished by the railroad range from \$0.1075 to \$0.3399; the weighted average rate per ton-mile for shipments in railroad cars is \$0.1008. Rates per ton-mile for shipments in Roanoke Cement's private cars range from \$0.0903 to \$0.1874; the weighted average rate per ton-mile in private cars is \$0.0984.

In 2011, Roanoke Cement contracted a rail benchmarking study to determine rates that are needed to be market competitive. The consultants confirmed the rates that apply for shipments in cars furnished by the railroad were competitive; however, rates that apply for shipments in our private cars were above market levels, and the rates did not reflect volumes and costs absorbed by Roanoke Cement to furnish cars for the high volume lanes. The above data supports those findings; RVC's for rates that apply in private cars are higher and the average rate per ton-mile for private car shipments is only \$0.0024 less than the average rate per ton-mile for shipments in cars furnished by the railroad.

We initiated discussions with NS; and they appear to be working with us in good faith. However, it is a challenging process and the problem with the pricing of shipments in private cars has not been corrected.

Roanoke Cements values the relationship we have with Norfolk Southern. However, we also recognize that organizations and policies change. For example, just this week Norfolk Southern announced they are closing the classification yard at Roanoke. As a result, our cars will move to Linwood, NC where the trains will be

made up for the various destinations. This will increase mileage on the loaded and empty moves, and will impact on the productivity and associated costs of our private car fleet, as car days will increase and we will be required to add cars to our private car fleet. Certainly, NS has the right to make changes to rationalize and improve their operations, but in this case, that decision exacerbates the fact that our costs for shipments in private cars are out of line.

This an example of real world issues that we will continue to address with the rail carriers. Rail is important to our operation, but we need to control our costs if we are to maintain business. Some of our competitors are larger than Roanoke Cement and have a broader geographic reach, so we could potentially lose business if we are not cost competitive and a competitor decides to target customers in our service territory.

For these reasons, we support the need for changes in competitive switching rules so Roanoke Cement will have access to competitive switching should we need it in the future.

Potential Impact on the Rail Industry

We confirmed that inter-switching did not have a negative impact on rail operations and service in Canada¹. In fact, productivity has continued to increase, operating ratios have declined, and the railroads have continued to invest capital for equipment and infrastructure, to manage growth.

¹ Note Dearden/Highroad statement into this proceeding pp.7

Capital expenditure programs announced by the railroads for the most recent five years are shown below:

<u>Year</u>	<u>CN</u>	<u>CP</u>
2013	\$1.9 billion	\$1.1 billion
2012	\$1.75 billion	\$1.2 billion
2011	\$1.7 billion	\$1.04 billion
2010	\$1.72 billion	\$726 million
2009	\$1.48 billion	\$703 million

There is no reason to believe that railroads in the United States will not perform at the same level as the Canadian railroads, and that increased access to reciprocal switching will have a negative impact on rail operations and service in the United States.

The Board's Questions re Potential Changes to the NITL Proposal

Impact if the 30-mile limit is changed – The preponderance of Roanoke Cement's facilities are within the proposed 30-mile limit to access a second carrier via competitive switching. However, our production plant at Lone Star, VA is 42.1 miles from a potential interchange. If we do not have potential access to a second carrier at origin, then our rail shipments will continue to be captive. We request that the Board consider changing the limit to 45 miles.

The proposed RVC of 240% for conclusive presumption or using some other method such as the average RSAM benchmark – If the Board elects to include in the new rules and procedures calculation of a regulatory benchmark, the benchmark should be fair to all parties. It is known that URCS needs to be updated

or replaced as the model produces costs that are not accurate and the costs are over-stated²; however, it is our understanding that RSAM could produce even higher benchmarks. Therefore, if those are the only two options, we would be in favor of a RVC benchmark, but the regulatory threshold should be consistent with that in place for other STB proceedings, i.e., 180%.

The Canadian Model

For numerous reasons, we request that the Board consider regulated inter-switching in Canada as a model for similar rules and procedures to be established in the United States. The Canadian model has been successful, shippers have benefitted from increased competition, it has not impacted on rail service, and the Canadian railroads have continued to improve the efficiency of operations which is reflected in lower operating ratios. Why should we feel compelled to conceive totally new rules and procedures when a working model is already developed and it has passed the test of time?

We commend the Board for initiating proceedings to investigate rail competition and to explore potential ways to address the basic problem, that the business landscape of the U.S. rail system has changed dramatically since the Staggers Rail Act was passed by Congress, and we have realized a dramatic loss of rail-to-rail competition. This proceeding presents an opportunity to open dialogue between the railroads and the rail customers, and to respond to the Board's basic question, i.e., how should we adjust and what is needed to improve competition?

² Dearden testimony, STB Finance Docket 36063, *Michigan Central Railway, LLC - Acquisition and Operation Exemption - Lines of Norfolk Southern Railway Company*

The Canadian model simply sets a standard to allow competitive access to establish competition and a pricing schedule for switching rates (the location is within 30 kilometers of a second carrier). The Canadian model includes prescribed inter-switching rates based on four Inter-Switching Distance Zones, for blocks of less than 60 cars, and for blocks of 60 or more cars. It is straight forward and easy to understand and implement. Rail customers are not required to absorb high litigation costs; procedures do not require proof of market dominance or proof that the rates exceed a designated RVC level.

If the Board's objective is simply to improve competition, shippers should not be required to prove market dominance or prove that rates exceed a regulatory benchmark.

Any changes in the competitive switching rules and procedures developed by the STB should be simple and they should address the need to improve competition in the rail industry. From a shipper's perspective, if the process is simple and straight forward like the Canadian model, access to competition will be available and affordable for rail customers of all sizes.

While it is likely a table of rates for competitive switching in the U.S. should be different than the table of rates used in Canada, the basic concept is good and a similar table could be developed for competitive switching in the U.S.

Summary

There is a need to address competition in the rail industry. Roanoke Cement's plant at Lone Star, VA is served by a single railroad, and 100% of our rail

lanes are captive. While we value the relationship we have with our serving carrier, we need access to competitive switching to manage changes that could develop in the future.

The experience with regulated inter-switching in Canada indicates that competitive switching is a practical solution to inadequate competition in the United States. Inter-switching in Canada has not had a negative impact on rail operations and service in Canada. In fact, productivity has continued to increase, operating ratios have declined, and the railroads have continued to invest capital for equipment and infrastructure, to manage growth.

Assuming the objective is to address the lack of competition in the rail industry and simply to establish competition, we request that the Board consider regulated inter-switching in Canada as a model for similar rules and procedures to be established in the United States. Rail customers should not be required to prove market dominance or prove rates exceed some regulatory benchmark based on designated RVC's, RSAM, or other calculation. The objective should be to establish a streamlined process that does not unnecessarily inflate costs of consultants and attorneys, so competitive switching will be a practical option for large *and* small shippers.

If the Board elects to include in the new rules and procedures, calculation of a regulatory benchmark, the benchmark should be fair to all parties. It is accepted that URCS needs to be updated or replaced as it produces costs that are not accurate and the costs are over-stated. However, RSAM calculations may produce even higher benchmarks. Therefore, if those are the only two options, we would be

in favor of a RVC benchmark, but the regulatory threshold should be consistent with that in place for other STB proceedings, i.e., 180%.

Respectfully submitted,



2/28/2013

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