

**BEFORE THE**  
**SURFACE TRANSPORTATION BOARD**

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Docket No. EP 665 (Sub-No. 2)  
**EXPANDING ACCESS TO RATE RELIEF**

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**Comments of the**  
**American Chemistry Council**

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Jeffrey O. Moreno  
Thompson Hine LLP  
1919 M Street N.W., Suite 700  
Washington, D.C. 20036  
(202) 331-8800

*Counsel for The American Chemistry Council*

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Pursuant to the Advance Notice of Proposed Rulemaking (“ANPR”) served by the Surface Transportation Board (“STB” or “Board”) in the above-captioned docket on August 31, 2016, the American Chemistry Council (“ACC”), hereby submits these opening comments on proposals for expanding access to rate relief. The ANPR solicits comment on procedures that could comprise a new rate reasonableness methodology for use in “very small” rate disputes. ACC members potentially could use this new methodology. While ACC commends the Board for seeking ways to expand access to rate relief, ACC is skeptical that the direction the Board proposes to take in this proceeding will accomplish that objective. ACC perceives little reason to adopt a separate rate case methodology. To improve accessibility, the STB instead should adopt certain elements of the Board’s proposals to improve the existing Three-Benchmark methodology. However, rather than seeking marginal improvements to existing procedures, ACC believes that STB should concentrate its efforts on developing a truly new alternative methodology to implement the Board’s revenue adequacy standard in both small and large rate cases.

## **I. Introduction and Summary.**

ACC has been a strong proponent of efforts to expand access to rate relief and, therefore, applauds the Board's objectives in this proceeding. Nevertheless, ACC believes the approach taken by the Board in this proceeding ignores the most significant problems and potentially adds costs and complexity.

The ANPR proposes a fourth rate case methodology that primarily is a revamp of the existing Three-Benchmark methodology, but without addressing that methodology's most fundamental problem – its rate reasonableness standard. The Three-Benchmark approach applies a standard that compares the challenged rate to the already high rates of other captive traffic that is subject to comparable rail market power. As a result, this methodology offers potential relief only for the most extreme outlier rates. The ANPR focuses primarily on costs and procedures, however, and does nothing to address this real concern. Furthermore, the ANPR overestimates the potential for the proposed methodology to reduce costs and simplify procedures.

Some of the ANPR's proposals simplify the existing Three-Benchmark methodology, others complicate it, and yet other proposals are just different. Overall, however, ACC does not believe these proposals will expand access to rate relief beyond current levels. In Exhibit 1 to these comments, ACC presents a side-by-side comparison of the Three-Benchmark procedures and the new procedures proposed in the ANPR to illustrate both the similarities and differences. While the process of determining the maximum reasonable rate is different, the substantive methodology essentially is the same. Exhibit 2 summarizes the key differences in six principal areas: (1) eligibility restrictions; (2) discovery; (3) comparison group selection; (4) presentation of evidence; (5) the rate reasonableness standard; and (6) rate relief limits. ACC has structured the balance of these comments to address those same categories.

The similarities between the proposed methodology and the Three-Benchmark approach cause ACC to wonder why the Board has proposed a completely new methodology instead of modifying the Three-Benchmark approach. Ultimately, however, ACC submits that the Board is misdirecting its resources. Instead of tweaking the Three-Benchmark methodology, as it proposes in this proceeding, or the stand-alone cost methodology, as it has proposed in EP 733, ACC urges the Board to concentrate its efforts on developing a truly new methodology built around revenue adequacy in Docket No. EP 722.

**II. Eligibility Restrictions.**

<b>Three-Benchmark</b>	<b>Proposed Method</b>
None	<ul style="list-style-type: none"> <li>• Issue movement distance &gt; 500 miles</li> <li>• Issue movement revenue per ton-mile in top 10% or 20% of initial comparison group, or one standard deviation above the mean revenue per ton mile.</li> <li>• Eligibility could be revisited in the final decision.</li> <li>• No prior cases against same RR using this method within X years.</li> </ul>

Whereas the Three-Benchmark methodology contains no eligibility restrictions, the ANPR proposal would restrict the traffic and shippers eligible to use the new methodology. Only movements longer than 500 miles and with revenue per ton-mile in the top 10-20% of the initial comparison group, or one standard deviation above the mean revenue per ton-mile, would be eligible. Furthermore, even a movement that satisfies these criteria could not use the proposed methodology if the complainant has invoked that methodology in another proceeding against the same defendant within a specified number of years. The STB has requested comment on the appropriate duration. ACC does not believe that any eligibility restriction is necessary or appropriate.

Ironically, the Board proposes to restrict access to its proposed methodology to only outlier traffic that meets the foregoing criteria, although that outlier traffic is the only traffic that

potentially can benefit from the existing Three-Benchmark methodology. Therefore, it is unclear why shippers would choose to bring a case under this new methodology instead of the Three-Benchmark methodology given the greater restrictions proposed for the new methodology. In view of this fact, it would appear to make more sense for the Board to modify the existing Three-Benchmark methodology rather than spawn an alternate comparison-based approach that is only a slight variation upon the original.

The only explanation offered by the Board for proposing threshold eligibility criteria is “the abbreviated evidentiary presentation in a simplified, lower-cost process....” ANPR at 15. ACC submits that the Board has identified nothing sufficiently abbreviated, lower cost, or less robust about the proposed methodology compared to the Three-Benchmark approach to justify any eligibility restriction at all. While the Board proposes a different process for selecting the comparison group, there is no basis to conclude that one process is superior to the other, and the method for determining whether the challenged rate is reasonable essentially is the same. Furthermore, as discussed in Part IV below, ACC does not perceive any significant cost savings in the modified procedures for selecting the comparison group; indeed, some of the proposals could increase costs if adopted. In Three-Benchmark cases, the Board relied upon the rate relief limits to encourage self-selection of the appropriate rate case methodology. The ANPR, however, proposes eligibility restrictions and relief caps that would be even lower than the Three-Benchmark caps. Both are not necessary in combination.

Conceivably, the proposed eligibility limits might be warranted if the Board applied the proposed criteria as a form of streamlined market dominance determination. The Board has hinted at this by suggesting that “[s]uch a criterion could allow the Board to consider making market dominance determinations on an abbreviated evidentiary presentation.” ANPR at 16.

The Board, however, does not suggest what form an abbreviated presentation would take. ACC submits that these criteria collectively constitute such a presentation because trucks are not typically price-competitive at distances above 500 miles and effective competition is even far less likely when the challenged rate also is in the top 10-20% of the initial comparison group. If the Board were to treat the proposed eligibility criteria as the market dominance test, that could be the most meaningful step in its entire proposal toward making this procedure more accessible.

The most troubling aspect of the Board's eligibility determination is the proposal to revisit eligibility in the final decision based upon modifications to the initial comparison group. This means that the parties could incur the time and expense of litigating the entire case only to have the Board, at the very end, say "never mind." Such a result would be anathema to the stated objectives of the ANPR.

Finally, the Board should abandon its proposal to restrict eligibility based upon prior litigation against the same defendant, using the same methodology, within a set number of years. The rationale for this restriction is "to prevent attempts to divide a large dispute into multiple smaller disputes." ANPR at 16. This is the same rationale the Board invoked nearly a decade ago in Ex Parte No. 646 (Sub-No. 1), *Simplified Standards for Rail Rate Cases*, slip op. at 34 (served July 28, 2006), with respect to Three-Benchmark cases. This concern is as out of proportion today as it was then, if not more so. Nothing of the sort has occurred in Three-Benchmark cases. In fact, Complainants who have had large numbers of small volume lanes have done precisely what the Board encouraged them to do, which was to aggregate their lanes into SAC cases.<sup>1</sup>

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<sup>1</sup> *E.I. du Pont de Nemours and Company v. Norfolk Southern Ry. Co.*, Docket No. NOR 42125; *Total Petrochemicals & Refining USA, Inc. v. CSX Transp., Inc.*, Docket No. NOR 42121; *M&G Polymers USA, LLC v. CSX Transp., Inc.*, Docket No. NOR 42123.

Furthermore, the Board ultimately rejected strict limits on the number of Three-Benchmark cases for reasons that are just as valid today for the proposed new methodology: “The Board has ample discretion to protect the integrity of its processes from abuse, and we should be able to readily detect and remedy improper attempts by a shipper to disaggregate a large claim into a number of smaller claims, as the shipper must bring these numerous smaller cases to the Board.” *Id.* slip op. at 32 (served Sept. 5, 2007). The Board should employ the same case-by-case approach as it has for Three-Benchmark cases, if it adopts this new methodology.

### III. Discovery

<b>Three-Benchmark</b>	<b>Proposed Method</b>
<ol style="list-style-type: none"> <li>1. Initial disclosures</li> <li>2. Restricted to 10 interrogatories, 10 document requests, and 1 deposition.</li> </ol>	<ol style="list-style-type: none"> <li>1. Initial disclosures</li> <li>2. STB seeks comment on further restrictions to, or even elimination of, discovery.</li> <li>3. Potential discovery of non-defendant RRs if STB permits non-defendant traffic in comparison group.</li> </ol>

The Board is considering discovery limits to reduce litigation costs under the proposed methodology. ANPR at 17. ACC believes the discovery proposals are reasonable overall and should apply to a revised Three-Benchmark methodology. Indeed, the concept of initial disclosures has been proposed by both shippers and carriers even for stand-alone cost rate cases in Docket No. EP 733. Furthermore, the Board also already has limits upon the number of discovery requests in Three-Benchmark cases. It is not clear what additional limits the Board contemplates in this proceeding apart from eliminating party-initiated discovery altogether. *Id.* at 18. That proposition, however, is only plausible if the Board substitutes the eligibility criteria for market dominance, eliminates “other relevant factor” evidence, and continues to exclude non-defendant traffic from the comparison group.

#### IV. Comparison Group Selection and Presentation of Evidence.

	<b>Three-Benchmark</b>	<b>Proposed Method</b>
Comparison Group Selection	<ol style="list-style-type: none"> <li>1. Parties propose own traffic groups from waybill sample.</li> <li>2. Only defendant's traffic allowed.</li> <li>3. Contract traffic allowed, but preference given to tariff traffic.</li> <li>4. STB uses Final Offer Arbitration ("FOA") procedures to choose one party's group without modification.</li> </ol>	<ol style="list-style-type: none"> <li>1. STB identifies initial group from waybill sample based upon following criteria:               <ol style="list-style-type: none"> <li>a. R/VC &gt;180%;</li> <li>b. within +/-15% of issue move distance;</li> <li>c. same shipment type; and</li> <li>d. same 5-digit STCC.</li> </ol>               Parties may comment on whether additional moves should be added or subtracted to initial group.             </li> <li>2. STB seeks comment on whether to permit non-defendant traffic.</li> <li>3. Contract traffic allowed, but STB seeks comment on whether R/VC adjustments should be made.</li> <li>4. STB determines final group, which can be a mix of the parties' different evidence.</li> </ol>
Presentation of Evidence	<ol style="list-style-type: none"> <li>1. Complaint &amp; Answer</li> <li>2. 3 rounds of simultaneous evidence by both parties.</li> </ol>	<ol style="list-style-type: none"> <li>1. Complaint &amp; Answer</li> <li>2. 2 rounds of sequential evidence with complainant filing opening evidence and RR filing reply evidence.</li> <li>3. Rebuttal evidence hearing before STB staff.</li> </ol>

The most significant changes to the Three-Benchmark approach in the ANPR are the process for selecting the comparison group and the presentation of evidence. The Board has proposed changes to both the procedures and the standards in an effort to reduce the time and cost associated with Three-Benchmark cases. Because these two subjects are closely intertwined, ACC addresses them in a consolidated fashion in this section. ACC believes that the Board's proposals accomplish neither objective and some of them would be counter-productive.

Under the existing Three-Benchmark approach, the parties simultaneously file three rounds of evidence. Each proposes its own comparison group from the waybill sample in opening evidence. On reply, each party critiques the other's comparison group and modifies

their own groups (subject to certain restrictions), which become their final comparison groups. In rebuttal, each party has one final opportunity to critique the other's final comparison group. The Board then must select between the party's final comparison groups in their entirety, in a final offer arbitration type of format.

The ANPR attempts to streamline the foregoing process by eliminating the parties' discretion in determining their initial comparison groups. Instead, the Board itself would select a single initial comparison group from the waybill sample based upon four criteria: (1) R/VC > 180%; (2) distances within +/-15% of the issue movement distance; (3) the same shipment type; and (4) commodities with the same 5-digit STCC. ANPR at 13. Only the complainant then would submit opening evidence with proposed adjustments to the initial comparison group. *Id.* at 19. The defendant then would submit reply evidence in response to complainant's adjustments to the initial comparison group and propose its own adjustments. *Id.* In lieu of written rebuttal evidence, the Board proposes to hold an evidentiary hearing on the record at which the complainant could respond to defendant's reply evidence and both parties would respond to staff questions. *Id.* at 20.

The Board believes that its proposed process will be more cost-effective by reducing three rounds of written evidence from both parties to one round apiece and an evidentiary hearing. It is not clear that the new process would be any faster than the Three-Benchmark approach because there still are three rounds of evidence. The savings, if any, comes from the fact that each party now would participate in only two of the three rounds, instead of all three. Although there may be some cost savings, it is unclear how much or to what advantage.

First, the Board should not assume that an evidentiary hearing is less costly than written evidence. The same amount of research and analysis is required for both, and even some sort of

structured writings must be developed in preparation for a hearing. Indeed, a hearing likely will require more preparation than a written rebuttal because uncertainty over the questions that may arise will require preparation on a broader array of issues.

Second, the Board's selection of an initial comparison group as the baseline for beginning the process doesn't actually reduce the scope of work. Two of the four default criteria (Items 1 & 3) are standard in Three-Benchmark cases already. Most of the disagreements have centered on precisely which distance parameters to use and to what extent deviation from the 5-digit STCC is both necessary and appropriate, both of which are represented by the other two default criteria (Items 2 & 4). Indeed, the ANPR itself recognizes the difficulty of standardizing the comparison group at the 5-digit STCC for all commodities. *Id.* at 13-14. Those disagreements will continue under the proposed new methodology as the parties debate appropriate adjustments to the initial comparison group. This will require the parties to engage in the same sort of analyses as they do in Three-Benchmark cases with little or no savings.

Third, the number of disputes under the new methodology may actually increase compared with Three-Benchmark cases. Because the Board uses a final offer process to determine the comparison group in Three-Benchmark cases, both parties have incentives to keep their evidence within reasonable parameters, and not to push the envelope. That same incentive is missing from the ANPR proposal because both parties know their default baseline is the initial comparison group and that they therefore can "swing for the fences" with their proposed modifications. In addition, when one party does this, the other party will feel pressured also to do so to offset the effect on the final result if the Board should accept that modification, since the Board may decide the final comparison group based on a combination of the party's evidence.

Thus, although the proposed methodology may reduce the number of pleadings, it may increase the issues presented.

Finally, the ANPR contains two proposals that would increase the complexity of the new methodology compared with Three-Benchmark cases. First, the Board is considering a common carrier adjustment to contract traffic in the comparison group similar to the adjustment applied in *U.S. Magnesium, LLC v. Union Pac. R.R.*, NOR 42114, slip op. at 18-19 (served Jan. 28, 2010). ANPR at 14. ACC objects to that proposal. The Board applied a common carrier adjustment in the *U.S. Magnesium* case in response to the defendant's presentation of "other relevant factors."

In doing so, the Board stressed that:

To be clear, we find that this adjustment is appropriate in this case because of the scarcity of comparable tariff movements in the Waybill Sample. \* \* \* Thus, in future cases, we will remain reluctant to adjust for contract traffic, or any other factor that could be accounted for in the comparison group selection, unless the data available severely constrains the selection of movements exhibiting that factor, as it does here.

*U.S. Magnesium*, slip op. at 19. The Board reasonably and rationally explained both its reason for employing a contract adjustment in that case and why such adjustments should be an exception. The Board has not offered any reason to retreat from that rationale for the proposed methodology in the ANPR. Rather, it should address this subject as appropriate under the "other reasonable factors" analysis.

Second, the Board has indicated that it will consider permitting non-defendant traffic in the comparison group. This would provide a larger sample size from which to select the comparison group, thereby resolving a concern about sample size for commodities with fewer actual movements. But if it does so, the Board also has asserted that it would need to consider whether cost structure differences between carriers make certain movements inappropriate for the comparison group. ANPR at 14-15. The Board notes that this would require discovery of

non-defendant carriers. It therefore is clear that the inclusion of non-defendant traffic would impose additional costs. If the Board elects to adopt its proposal with the inclusion of non-defendant traffic, ACC believes that the Board also should do so for the Three-Benchmark methodology.

In summary, there is little basis for the Board to conclude that its proposed comparison methodology offers much, if any, savings over the Three-Benchmark methodology. Indeed, some elements of the new methodology could increase costs. These facts suggest that the Board should consider implementing some of its proposals as modifications to the Three-Benchmark approach instead of developing an alternative rate comparison approach. They also belie the notion that access to the proposed methodology should be more restrictive than access to the Three-Benchmark option.

**V. Rate Reasonableness Standard.**

<b>Three-Benchmark</b>	<b>Proposed Method</b>
Compute the maximum R/VC ratio by: (1) applying a revenue need adjustment to the comparison group R/VC ratio, (2) calculating the mean standard deviation of the group, (3) determining if the challenged rate exceeds a reasonable confidence interval around the estimate of the mean, and (4) if so, prescribing a rate at the upper boundary level.	Same, except STB seeks comment on whether to modify the revenue need adjustment factor on a commodity-specific basis, and if so, how to effectively disaggregate the RSAM by commodity.

Most of the modifications that the Board has proposed to the Three-Benchmark methodology are in the comparison group selection process discussed in the preceding section. The Board would continue to apply the same rate reasonableness standard based upon the comparison group that it applies in Three-Benchmark cases. The Board, however, has solicited comment on whether to change the revenue need adjustment factor to make it commodity-

specific and, if so, how it can effectively disaggregate the existing RSAM on an commodity-by-commodity basis. ANPR at 22.

ACC generally supports the concept of a commodity-specific revenue need adjustment factor because it would ensure that, when rate relief is available, it will go primarily to the most demand inelastic traffic that has been paying the highest rates towards achieving revenue adequacy. ACC, however, has no suggestions as to how the Board might disaggregate the existing RSAM on a commodity basis.

In applying essentially the same standard of rate reasonableness as a Three-Benchmark case, the Board has not addressed shippers' fundamental complaint with the Three-Benchmark approach. Shippers do not find the Three-Benchmark approach to be very accessible primarily because the rate reasonableness standard is based upon comparisons to the rates of other captive traffic that also are high due to the exercise of market power. Under that standard, only the most extreme outliers are likely to obtain any relief, and even that relief is significantly tempered by the relief caps. The greatest irony in the ANPR is that the Board proposes to restrict access to the new methodology to the very traffic that does not need a new methodology because it already can obtain relief under the existing Three-Benchmark approach. ACC is skeptical that whatever procedural advantages the ANPR proposals may offer, if any, would offset the lower relief limits the Board also would impose upon the new methodology.

**VI. Rate Relief Limits.**

<b>Three-Benchmark</b>	<b>Proposed Method</b>
5 years and ~\$4 million	STB seeks comment on how much lower the limit should be.

As with the Three-Benchmark methodology, the Board proposes to limit the amount of relief available to complainants under the proposed new methodology. Moreover, because “the ideas presented in the ANPR describe a process that would be significantly more streamlined

than the process required to bring a Three-Benchmark case,” the Board contends that “the relief available under this method would likewise need to be significantly less than the relief available under the Three-Benchmark approach.” ANPR at 23. ACC contests both the assumptions and the logic underlying this conclusion.

As discussed in Part IV above, the Board has presented a different means of identifying the comparison group and a process that requires fewer written submissions. But nothing about either of those points indicates why relief should be “significantly less” than is available under the Three-Benchmark methodology. Furthermore, the ideas in the ANPR are not much more streamlined than the Three-Benchmark methodology and some of the ideas actually would increase complexity.

In adopting relief caps for Three-Benchmark cases, the Board was concerned that “an overly simplified approach...not be applied to a case when the amount in dispute justifies the use of a more robust and precise approach.” Ex Parte No. 646 (Sub-No. 1), slip op. at 28 (served Sept. 5, 2007). The reason for limiting relief thus was to “encourage shippers with larger disputes to pursue relief under the more appropriate methodology....” *Id.* at 28. The ANPR does not claim, much less attempt to explain how, the proposed methodology is less robust and precise than the Three-Benchmark methodology to warrant “significantly less” relief. Simply claiming that the procedures are more streamlined—regardless of whether that claim is accurate—does not lead to an inevitable conclusion that the proposed methodology is less robust or accurate. Absent any such explanation, there is no support for the Board’s conclusion that relief caps for the proposed methodology should be “significantly less” than for Three-Benchmark cases.

VII. **Conclusion.**

Rather than adopt a fourth methodology for rate cases that is so similar to the existing Three-Benchmark methodology, ACC believes the Board should consider making appropriate modifications to the Three-Benchmark methodology itself. Ultimately, however, ACC would prefer that the Board focus its limited resources upon developing a revenue adequacy alternative to SAC cases.

Respectfully submitted,



Jeffrey O. Moreno  
Thompson Hine LLP  
1919 M Street, N.W.  
Suite 700  
Washington, DC 20036  
202-331-8800  
*Attorney for The American Chemistry  
Council*

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## Exhibit 1

### PROCEDURAL COMPARISON WITH THREE BENCHMARK METHOD

Three-Benchmark	Proposed EP 665 (Sub 4) Method
Complaint/ Initial Disclosures	Complaint/Initial Disclosures
Answer/ Initial Disclosures	Answer/Initial Disclosures
	Preliminary STB Decision re: <ul style="list-style-type: none"> <li>• URCS disputes</li> <li>• Initial (STB-determined) comparison traffic group</li> <li>• Eligibility based on preliminary screen applying objective factors.</li> <li>• Quantitative market dominance (i.e., is challenged rate above 180%)</li> </ul>
Discovery	Discovery (limited or eliminated)
Simultaneous Opening Evidence <ul style="list-style-type: none"> <li>• Complainant's evidence of comparable traffic, market dominance, and other relevant factors.</li> <li>• Defendant's evidence of comparable traffic and other relevant factors</li> </ul>	Complainant's Opening evidence re: <ul style="list-style-type: none"> <li>• adjustments to initial comparison group</li> <li>• other relevant factors (if permitted)</li> <li>• qualitative market dominance</li> </ul>
Simultaneous Reply Evidence <ul style="list-style-type: none"> <li>• Complainant's reply to Defendant's comparable traffic group and other relevant factors, and selection of final comparable traffic group.</li> <li>• Defendant's reply to Complainant's comparable traffic group, other relevant evidence, and market dominance, and selection of final traffic group.</li> </ul>	Defendant's Reply evidence re: <ul style="list-style-type: none"> <li>• adjustments to initial comparison group</li> <li>• other relevant factors (if permitted)</li> <li>• Complainant's adjustments to initial comparison group and other relevant factors</li> <li>• Complainant's qualitative market dominance evidence</li> </ul>
Simultaneous Rebuttal Evidence <ul style="list-style-type: none"> <li>• Complainant's reply to Defendant's final traffic group, other relevant factors, and market dominance evidence.</li> <li>• Defendants reply to Complainant's final traffic group and other relevant factor evidence.</li> </ul>	Evidence Hearing with STB staff (may be via teleconference) <ul style="list-style-type: none"> <li>• Replaces written rebuttal evidence.</li> <li>• Complainant may respond to Defendant's reply evidence.</li> <li>• Both parties may respond to staff questions.</li> </ul>
Final STB Decision <ul style="list-style-type: none"> <li>• Market Dominance</li> <li>• Rate Reasonableness based upon FOA selection of one party's traffic group.</li> </ul>	Final STB Decision <ul style="list-style-type: none"> <li>• Qualitative market dominance</li> <li>• Appropriate adjustments to comparison traffic group</li> <li>• Reevaluate eligibility based on final traffic group.</li> <li>• Rate reasonableness based upon final traffic group.</li> </ul>

## Exhibit 2

### SUMMARY OF KEY DIFFERENCES FROM THREE BENCHMARK METHOD

	<b>Three-Benchmark</b>	<b>Proposed EP 665 (Sub 4) Method</b>
Eligibility Restrictions	None	<ul style="list-style-type: none"> <li>• Issue movement distance &gt; 500 miles</li> <li>• Issue movement revenue per ton-mile in top 10% or 20% of initial comparison group, or one standard deviation above the mean revenue per ton mile.</li> <li>• Eligibility could be revisited in the final decision.</li> <li>• No prior cases against same RR using this method within X years.</li> </ul>
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Presentation of Evidence	<ol style="list-style-type: none"> <li>1. Complaint &amp; Answer</li> <li>2. 3 rounds of simultaneous evidence by both parties.</li> </ol>	<ol style="list-style-type: none"> <li>1. Complaint &amp; Answer</li> <li>2. 2 rounds of sequential evidence with complainant filing opening evidence and RR filing reply evidence.</li> <li>3. Rebuttal evidence hearing before STB staff.</li> </ol>
Rate Reasonableness Standard	Compute the maximum R/VC ratio by: (1) applying a revenue need adjustment to the comparison group R/VC ratio, (2) calculating the mean standard deviation of the group, (3)	Same, except STB seeks comment on whether to modify the revenue need adjustment factor on a commodity-specific basis, and if so, how to effectively disaggregate the RSAM by commodity.

## Exhibit 2

	determining if the challenged rate exceeds a reasonable confidence interval around the estimate of the mean, and (4) if so, prescribing a rate at the upper boundary level.	
Rate Relief Limits	5 years and ~\$4 million	STB seeks comment on how much lower the limit should be.