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SURFACE TRANSPORTATION BOARD
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REVIEW OF THE SURFACE TRANSPORTATION BOARD'S GENERAL COSTING SYSTEM	)))))	STB Ex Parte No. 431 (Sub-No. 4)

REPLY COMMENTS OF HIGHROAD CONSULTING. LTD. REVIEW OF THE SURFACE TRANSPORTATION BOARD'S GENERAL COSTING SYSTEM

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Dated: November 7, 2016

Highroad Consulting, Ltd. (Highroad) hereby files these Reply Comments in this Supplemental Notice of Proposed Rulemaking ("NPRM") proceeding issued by the Surface Transportation Board ("Board" or "STB") in which the Board is revising its proposal to eliminate the “make-whole adjustment” that is currently applied as part of the general purpose costing system, the Uniform Railroad Costing System (URCS). The Board is also proposing certain other related changes to URCS, including proposals for locomotive unit-miles (LUM) and train miles allocations. As explained herein, we submit changes to URCS should not be made without a comprehensive review of the URCS costing system.

We commend the Board for dedicating time and resources to perform the analysis behind the revised rules, and for the attempt to focus on continuous improvement. Our concern, however, is adoption of any revised rules will result in one more delay of facing the fact that URCS is fatally flawed and, therefore, URCS costs should not be the basis for decisions in STB proceedings.

We respectfully submit that the Board should decide not to make piece-meal changes without empirical evidence that would support those changes. If the Board has made a decision to repair URCS, then the Board should open a comprehensive review of URCS.

Parties that have filed comments into this proceeding have presented various concerns and some recommended changes to the Board’s proposal. However, all of the commenters agree with one common theme, i.e., that any changes to URCS should be empirical and reflect actual experience or evidence.

As submitted in our initial comments, our primary concern is the Board seems to be ignoring the fact that URCS typically produces over-stated costs. We have proved this time and again when performing cost analyses for our clients, and the Western Coal Traffic League, in their opening comments into this proceeding, expressed concern that The Board's proposal harms unit train shippers by arbitrarily increasing the Board's calculation of variable costs on unit train coal movements in railroad-owned cars. [1]

The use of overstated costs calculated by URCS is very serious as the regulators treat arbitrary results as valid. Some shippers are precluded from seeking rate relief because their rate(s) do not exceed the 180 percent regulatory threshold based on URCS costs, so by regulatory standards they cannot prove market dominance. Others that have filed rate complaints after confirming their rates exceed the 180 percent threshold, and some have even received favorable rulings, but the prescribed rates and prescribed reparations may still be unfair to shippers as those decisions are based on over-stated costs.

In the Transportation Research Board (TRB) report to Congress, TRB's experts submitted that "URCS suffers from all of the methodological problems….. it is a cost allocation scheme that has no economic foundation, as amply illustrated by the "make-whole" contrivance to redistribute unallocated costs." [2] It is an accepted fact that URCS is fatally flawed. Therefore, the Board should not exacerbate the current problems with URCS with piece meal changes that lack foundation.

AAR has recommended numerous changes to the Board's proposal based on actual operations. It is likely that some of the changes proposed by AAR are valid while others require scrutiny. If it is the Board's objective, going forward, to confirm a model

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[1] WCTL Comments, October 11, 2016, p 13.

[2] Transportation Research Board Special Report 318, Modernizing Freight Rail Regulation, copyright 2015, Fundamental Flaws of URCS, pp 110-111.

that reflects accurate system average costs, the Board should proceed cautiously so that the data behind URCS does not become so detailed and complex with the various aspects of actual railroad operations (which on a single railroad can vary depending on location) that the result is a loss of transparency.

We do agree with the carriers that any update of the I & I Switching Mileage figure, without an in-depth study, appears to be adverse to the Board's objectives. If we accept that URCS is a flawed cost model, then changes should not be based on cursory analysis or guess work.

In our opening comments, we submitted that it is not possible to decide on a single factor for I & I Switching Mileage that would be appropriate for all railroads, For example, contemporary rail operations are totally different for the western carriers versus the eastern carriers, so it is likely that the I & I Switching Mileage should be regional or carrier specific. A simple fix would be to add a line item for each Class I railroad to submit in the annual R-1 reports. However, if the Board is to focus on a single number, a more in-depth analysis should be performed before making any change to I & I Switching Mileage. Otherwise the risk is, an arbitrary and inappropriate change could do further damage to the URCS model, and will not result in a model that will meet the law's requirement for economic accuracy.

There are other train/lane specific operating characteristics that impact on costs, but we do not believe it would not be practical to attempt to address all of the potential *What If?* scenarios in a general costing system.

In summary, we strongly encourage the Board to reconsider its proposal. The Board should confirm its objective for the URCS costing system – is it to adopt a model that produces system-average costs that are carrier specific? If so, then numerous and complex changes based on “actual” operations could result in a cost system that is so complex that it no longer reflects system average results.

The Board should not exacerbate the current problems with URCS with piece meal changes that lack foundation. Instead, if changes are to be made, they should be based on empirical evidence that would include an update of the special studies behind URCS which were performed more than 50 years ago.

Again, we commend the Board for its initiative to improve the accuracy of the URCS model, but in the interest of continuous quality improvement, it is important that any revisions to URCS be done right the first time. Therefore if URCS is to be repaired, the Board should initiate a comprehensive review of the URCS costing system. There is no empirical evidence to support the Board’s changes and we are concerned that adoption of any piece-meal revisions will result in the regulators taking comfort in the fact that the URCS model has been improved, creating further delay of what really needs to be done.

Respectfully, Submitted,

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