

COVINGTON & BURLING LLP

1201 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004-2401
TEL 202 662.6000
FAX 202 662.6291
WWW.COV.COM

BEIJING
BRUSSELS
LONDON
NEW YORK
SAN DIEGO
SAN FRANCISCO
SILICON VALLEY
WASHINGTON

MICHAEL L. ROSENTHAL
TEL 202 662.5448
FAX 202.778 5448
MROSENTHAL@COV.COM



April 23, 2009

The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

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Office of Proceedings
APR 23 2009
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Public Record

Re: *Ex Parte No. 431 (Sub-No. 3) – Review of the Surface Transportation Board's General Costing System*

Dear Ms. Quinlan:

Union Pacific Railroad Company hereby notifies the Board that it intends to participate in the April 30, 2009 hearing in the above-referenced matter. Union Pacific requests five minutes to present its testimony. Union Pacific's testimony will be presented by Louise A. Rinn, Esq., Union Pacific's Associate General Counsel. An original and ten copies of Union Pacific's written testimony are enclosed for filing.

Thank you for your assistance.

Sincerely,

Michael L. Rosenthal
Counsel for Union Pacific
Railroad Company

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Ex Parte No. 431 (Sub-No. 3)

REVIEW OF THE SURFACE TRANSPORTATION BOARD'S
GENERAL COSTING SYSTEM

WRITTEN TESTIMONY OF
UNION PACIFIC RAILROAD COMPANY

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J. MICHAEL HEMMER
LOUISE A. RINN
Union Pacific Railroad Company
1400 Douglas Street
Omaha, Nebraska 68179
Phone: (402) 544-6677

LINDA J. MORGAN
MICHAEL L. ROSENTHAL
Covington & Burling LLP
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Phone: (202) 662-6000

Attorneys for Union Pacific Railroad Company

Date of Submission: April 23, 2009
Date of Public Hearing: April 30, 2009

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Ex Parte No. 431 (Sub-No. 3)

REVIEW OF THE SURFACE TRANSPORTATION BOARD'S
GENERAL COSTING SYSTEM

WRITTEN TESTIMONY OF
UNION PACIFIC RAILROAD COMPANY

Union Pacific Railroad Company ("Union Pacific") respectfully submits the following written testimony in response to the Surface Transportation Board's Notice of Public Hearing, served April 6, 2009 ("Notice"). In the Notice, the Board sought public comment on how best to revise its Uniform Railroad Costing System ("URCS"). Union Pacific agrees that it is time for the Board to undertake a comprehensive review of URCS, and we welcome the opportunity to assist in this endeavor.

Union Pacific believes there is a compelling need to update and improve URCS. The existing URCS model is based on statistical relationships and historical studies that do not reflect the operations of railroads today. Yet, even as URCS's underpinnings have grown further removed from the realities of current rail operations, the Board has expanded the role that URCS plays in regulating the market behavior of railroads. Unless URCS reflects the current business and operating practices, there is a strong possibility that regulation will have the unintended consequence of distorting commercial decision-making, to the detriment of railroads, shippers, and the general public.

Union Pacific believes there are many opportunities to update and improve URCS. In light of the complexities of URCS and the limited time we had to prepare this testimony, Union

Pacific cannot yet address in detail the Board's questions about whether and how to make certain specific changes to URCS. We hope the Board will allow us and other interested parties additional opportunities to participate in the planning stages of this undertaking. The Board is proposing to embark on a time-consuming and resource-intensive effort that could prove expensive to all involved. We believe the expenditure of significant time and money is justified, but we urge the Board to take advantage of existing sources of expertise before committing itself to any particular course of action.

Union Pacific intends to participate actively in these and other proceedings involving the Board's review of URCS.¹ At this time, however, we can offer only a few specific comments and suggestions with regard to the issues raised by the Notice:

First, Union Pacific endorses the Board's various proposals to use more recent and more precise information in URCS.² We also support the Board's broader proposal to "[u]pdate the various statistical relationships used in URCS, including the variability estimates." Notice at 3. In fact, we believe those issues are interrelated: the Board should revisit the URCS regressions to determine whether they can be improved by using data that reflect current rail operations.

In particular, Union Pacific urges the Board to revisit the URCS calculation of variable costs associated with asset ownership. We believe that these costs should be calculated using

¹ This includes participation in the Board's ongoing review of whether and how the Board should update its accounting and financial reporting for Class I rail carriers and URCS to better capture the operating costs of transporting hazardous materials in STB Ex Parte No. 681. The Board should not lose sight of that important effort as it moves forward with a more general review of URCS.

² Union Pacific recognizes that there may be situations in which the benefits of using more recent and more precise data would not outweigh the costs of collecting those data or implementing related adjustments to URCS. If we had more time, we might be able to help identify some of these situations. We also expect that the Board will be able to revisit any cost/benefit decisions and refine the scope of its efforts as it proceeds with its review of URCS.

measures that reflect the current cost of replacing railroad assets, rather than measures that reflect historic book values and depreciation. In addition, we believe that focusing on railroads' current spending for infrastructure may allow the Board to develop a more accurate, more current measure of road property variability, as opposed to the 50% default value that was developed in the 1930s.

Second, although almost all of the Board's proposals appear to be focused on using more recent or more precise information, there is one exception: the Board's proposal to revise its long-standing approach used in individual proceedings to index URCS in order to use RCAF indexes published by the Board. Notice at 3. The Board's current approach uses regional cost data and weights the cost components using railroad-specific data. By contrast, RCAF uses industry-wide costs and industry-wide weightings. Moreover, RCAF indexes include both forecasts and forecasts error adjustments so that the RCAF index values for a particular period may not precisely correspond to the period for which URCS costs are being calculated. In short, using RCAF would likely produce less precise results than the current approach.

Union Pacific believes the Board is justified in revisiting issues involving indexing, but we respectfully suggest that the Board consider a different approach. As we have noted in an ongoing proceeding, indexing prior-period URCS does not account for changes in traffic volume and operations – changes that can affect URCS as much as, or even more than, changes in costs. This proceeding provides an opportunity for the Board to consider ways to speed up the production of URCS, so indexing becomes less important and regulatory decisions can be based on costs and operational conditions that accurately match the period at issue.³

³ Union Pacific has also suggested that the Board should require parties in rate cases to perform "true-up" calculations when actual URCS data become available to ensure that rates and (continued...)

Finally, in response to the Board’s invitation to suggest additional aspects or features of URCS that the Board should revisit, we suggest that the Board revisit the assignment of car hire payments for private cars. URCS currently assigns all shipments in private cars a pro rata share of the car hire payments for all shipments of a specific car type. However, in our experience, car hire is actually paid on a small fraction of shipments in particular car types. As a result, car hire costs are significantly understated for those shipments, and most traffic is assigned a small share of car hire costs that they do not actually incur. This issue could have a significant impact – for example, in a Three Benchmark case in which the railroad makes car hire payments for the issue traffic but not for much of the other traffic in the comparison group. Even stand-alone cases rely on URCS variable costs for revenue allocation and rate prescription purposes. We have not had an opportunity to investigate the issue thoroughly, but it should be possible to obtain more accurate results by subdividing private cars into categories based on whether car hire is paid for the cars and capturing this information in the waybill sample and Annual Report R-1.⁴

We suspect that other parties will identify other issues that the Board may want to revisit, and we look forward to reviewing those suggestions.

CONCLUSION

Union Pacific appreciates the opportunity to participate in this proceeding. We support the Board’s proposal to revise and improve URCS. We hope to have additional opportunities to

reparations reflect actual URCS costs. However, we are not suggesting that the Board address that proposal in this proceeding. In fact, the Board’s proposal to address indexing in individual proceedings is somewhat at odds with the other issues identified by the Board, which involve revisions and improvements to URCS itself.

⁴ We also suggest that the Board use this proceeding as an opportunity to correct any known technical flaws in URCS. For example, URCS’s “batch mode” does not always produce results that are consistent with costs calculated for individual shipments using the movement costing program.

participate in the planning stages of this undertaking to help ensure that the resources devoted to this process are directed to where they are likely to do the most good.

Respectfully submitted,



J. MICHAEL HEMMER
LOUISE A. RINN
Union Pacific Railroad Company
1400 Douglas Street
Omaha, Nebraska 68179
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