

224917

STEPTOE & JOHNSON LLP

ATTORNEYS AT LAW

Samuel M. Sipe Jr.  
202.429.6486  
ssipe@steptoe.com

1330 Connecticut Avenue, NW  
Washington, DC 20036-1795  
Tel 202.429.3000  
Fax 202 429 3902  
steptoe.com

April 23, 2009

**Via ELECTRONIC FILING**

Hon. Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423-0001

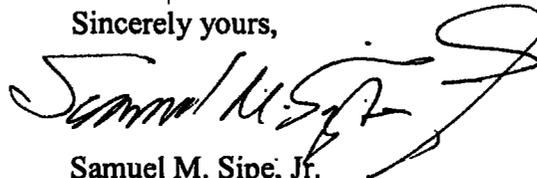
**Re: STB Ex Parte No. 431 (Sub-No. 3) – Review of the Surface Transportation Board’s General Costing System**

**NOTICE OF INTENT TO PARTICIPATE**

Dear Secretary Quinlan:

Pursuant to the Notice served by the Board on April 6, 2009 in the above-referenced proceeding, this is to inform the Board that Richard E. Weicher, Vice President & General Counsel – Regulatory, for BNSF Railway Company intends to participate in the public hearing scheduled by the Board for April 30, 2009 in Washington, DC. Mr. Weicher plans to address issues related to the Board’s proposed review of the Uniform Railroad Costing System, as indicated in the attached outline. Mr. Weicher requests that he be allotted 10 minutes to address the Board.

Sincerely yours,



Samuel M. Sipe, Jr.  
Counsel for BNSF Railway Company

cc: Richard E. Weicher, Esq.

**STB EX PARTE NO. 431 (SUB-NO.3)  
REVIEW OF THE SURFACE TRANSPORTATION BOARD'S  
GENERAL COSTING SYSTEM (URCS)**

**OUTLINE OF TESTIMONY OF RICHARD E. WEICHER,  
BNSF RAILWAY COMPANY**

**I. BNSF Agrees That It Would Be Timely And Important To Review And Update URCS.**

- URCS variable costs are becoming an increasingly important element in the Board's rate reasonableness proceedings.
- With the Board's increasing reliance on URCS costs for regulatory purposes, it is important that the Board ensure that the URCS cost assumptions are accurate and up to date.

**II. The Board Should Carefully Consider How A New URCS Review Process Should Be Organized.**

- The Board should not underestimate the cost and complexity of an URCS review and should adopt a realistic schedule.
- In considering the specific issues to review, the Board should establish priorities, taking into account the importance of particular issues in the overall URCS scheme and the effort and resources that would be required to address the issue effectively.

**III. The Following Issues Should be Included in Those Given Priority in Any STB Review of the URCS System:**

- The timeliness and accuracy of the URCS allocations developed from special studies from 1930s through 1970s, including with respect to multiple versus single carload shipments.
- The appropriateness of using system average costs under current conditions.
- The accuracy of the variability assumptions and formulas historically embedded in URCS.
- The value of normalization and current costs.
- The proper costing of intermodal traffic.
- The consistency and accuracy of treatment of revenue deductions and third-party payments.