SURFACE TRANSPORTATION BOARD
OPEN VOTING CONFERENCE
MARCH 21, 2003

***Calculation of Variable Costs in Rate Complaint Proceedings Involving Non-Class I Railroads*, STB Ex Parte No. 589**

STATEMENT OF RACHEL D. CAMPBELL, TRIAL ATTORNEY, OFFICE OF THE GENERAL COUNSEL

Good morning Chairman Nober and Commissioner Morgan:

This proceeding concerns how best to determine the variable costs of a small, that is, non-Class I, railroad when one of its rates is challenged. Variable costs, which are those railroad expenses that vary with the level of service provided by the carrier, are key components in the analysis of a rate reasonableness case because they establish the threshold for regulatory review and, if a shipper is successful in its rate case, they serve as a floor for the rate the Board can prescribe. Large railroads are required to keep their books in accordance with the Board's Uniform System of Accounts and to file annual reports containing extensive cost and operational data. This standardized information permits the Board to apply its Uniform Railroad Costing System, a cost accounting program, to determine the variable costs of providing service, on a system-wide basis, for each Class I railroad.

Smaller carriers, however, are not required to collect and maintain these standardized records. Therefore, when a rate of a non-Class I railroad is challenged, which is not often, the cost and operational information needed to develop that carrier's variable costs are not available. The last time that a smaller railroad had a rate challenged, the Board put the case in abeyance for one year and directed the carrier, during that year, to keep its records in accordance with the Uniform System of Accounts and to collect and file the financial and operating information usually required only from Class I railroads. The carrier complained that this would be unduly burdensome and prohibitively expensive in comparison to the amount in dispute. The American Short Line and Regional Railroad Association intervened and also asked the Board to find a less burdensome and more cost efficient solution. The Board suspended its record-keeping requirement until it could consider the matter further. The parties ended up settling that case before the Board resolved the issue.

Nevertheless, after reflecting on the experience, the Board tentatively concluded that it would be impractical and too costly to require smaller carriers to develop and maintain records solely for the purpose of resolving rate cases, and that the substantial delay that would result would be contrary to shippers' interest in obtaining a prompt resolution of rate cases. Therefore, the Board instituted this proceeding and proposed that in such cases it would instead estimate non-Class I carriers' variable costs using the regional average costs of large railroads, as had been the agency's prior practice. The Board annually publishes those regional averages for Class I railroads operating in the eastern and western United States.

The majority of those submitting comments supported this approach. The draft decision would adopt a policy for future cases that the Board would rely upon regional average costs. This information is readily available both to small railroads and to shippers and requiring small carriers to develop information they do not have would be expensive and would unreasonably delay a rate case. However, in a rate case, the parties may propose adjustments to these regional average costs, where appropriate, to better reflect the operations of the particular railroad and particular movements involved in a case. For example, these costs could be adjusted to reflect the labor costs of the carrier involved.

We would be happy to answer any questions you may have.