

Surface Transportation Board



1996/1997 Annual Report

Surface Transportation Board
Washington, DC 20423

March 16, 1998

To the Congress of the United States:

It is my pleasure to submit the first Annual Report of the Surface Transportation Board (Board). This report covers the Board's activities from its inception on January 1, 1996, to the close of the fiscal year that ended September 30, 1997. Because this is the Board's first report, it also describes the Board's efforts to provide a smooth transition from its predecessor, the former Interstate Commerce Commission (ICC). Finally, to provide a base for comparison, the report includes ICC case statistics from fiscal year 1995 and the first quarter of fiscal year 1996, prior to the termination of the ICC on December 31, 1995. The statement of appropriations and aggregate expenditures for fiscal year 1997 appears in Appendix B.

By the time this document went to print, the Board had taken certain noteworthy actions not included in the period covered by this report. For example, the Board had reduced its motor carrier undercharge cases to well under 100 cases. Additionally, in fiscal year 1998, in response to rail service problems in the West, principally involving the Union Pacific/Southern Pacific (UP/SP) railroad system, the Board initiated a separate proceeding to examine those problems and issued several service orders to help alleviate them. With respect to the UP/SP merger, the Board completed its first annual oversight and held in abeyance, pending the outcome of negotiations between the parties, further Board action involving environmental problems in Reno, Nevada and Wichita, Kansas that resulted from the merger.

Also after the period covered by this report, the Board initiated a review of whether to continue antitrust immunity for motor carrier classification activities. Additionally, the Board has been notified of the intention of the Canadian National and the Illinois Central railroads to merge and has received two new requests for rail line constructions — one involving the Tongue River Railroad and the other involving the Dakota, Minnesota and Eastern Railroad. In addition, the Board will be timely resolving certain pending rail rate and service complaints and matters involving Amtrak. These and other activities will be covered in the Board's next annual report covering fiscal year 1998.

Linda J. Morgan
Chairman

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The Surface Transportation Board's Internet site (www.stb.dot.gov) provides access to the Board's decisions (served after November 1, 1996), news releases, transportation data, publications, and organizational information. The documents may be viewed, searched for key words, printed, or downloaded. The site also connects to the Department of Transportation's list of Internet sites.

Editorial Notes

Statistics. Statistics relating to fiscal year 1996 reflect the combined ICC and Board records: the ICC was terminated on December 31, 1995, and the STB was established on January 1, 1996.

Case Citations. The full citations for STB cases mentioned in the body of this report are contained in Appendix F, arranged by mode and type of action and in chronological order.

Acronyms. The following acronyms are used in this report:

CMP	constrained market pricing
DOT	Department of Transportation
EA	Environmental Assessment
EIS	Environmental Impact Statement
FHWA	Federal Highway Administration
FMC	Federal Maritime Commission
FRA	Federal Railroad Administration
FY	fiscal year
ICC	Interstate Commerce Commission
ICCTA	ICC Termination Act of 1995
NGCC	National Grain Car Council
NVOCC	nonvessel operating common carrier
OCE	Office of Compliance and Enforcement
OCPS	Office of Congressional and Public Services
OEEAA	Office of Economics, Environmental Analysis, and Administration
RSTAC	Railroad-Shipper Transportation Advisory Council
SAC	stand-alone cost
SE	Office of the Secretary
SEA	Section of Environmental Analysis
STB	Surface Transportation Board

SURFACE TRANSPORTATION BOARD

STB OVERVIEW

History

The Surface Transportation Board (STB or Board) is a bipartisan, decisionally independent, adjudicatory body, organizationally housed within the Department of Transportation (DOT), with jurisdiction over certain surface transportation economic regulatory matters. 49 U.S.C. 701-725. The Board was established pursuant to the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (1995) (ICCTA), to assume certain of the regulatory functions that had been administered by the Interstate Commerce Commission (ICC). Other ICC regulatory functions were either eliminated or transferred to the Federal Highway Administration (FHWA) or the Bureau of Transportation Statistics within DOT.

Functional Responsibilities

The Board has broad economic regulatory oversight of railroads, addressing such matters as rate reasonableness, car service and interchange, mergers and line acquisitions, line constructions, and line abandonments. 49 U.S.C. 10101-11908. The Board also has certain oversight of pipeline carriers (49 U.S.C. 15301-16106), intercity bus carriers, water carriers engaged in noncontiguous domestic trade, household goods carriers, and motor carriers involved in collective activities or undercharge claims (49 U.S.C. 13101-14914). The Board has discretion to reduce and tailor its regulatory activities, as it finds appropriate, to meet changing transportation environments or individual circumstances, using the broad exemption authority contained in 49 U.S.C. 10502, 13541, and 15302.

Performance and Policy Goals

The Board is charged with providing an efficient and effective forum for the resolution of disputes and other matters within its jurisdiction. Toward that end, the Board has pursued numerous substantive and procedural reforms. In this regard, the Board has continued to exempt commodities

and classes of transactions from regulatory requirements where appropriate. By the same token, when regulation is required, the Board is dedicated to vigilant oversight and to rendering fair decisions expeditiously.

In all of its decisions, the Board is committed to advancing the national transportation policy goals established by Congress (49 U.S.C. 10101, 13101). In adjudicating the various matters brought before it, the Board has promoted private-sector negotiations and resolutions where possible and appropriate, and facilitated market-based transactions that are in the public interest.

How the STB Operates

The Board is comprised of three members, who are appointed by the President and confirmed by the Senate for 5-year terms. The Board's Chairman is designated by the President from among the members. 49 U.S.C. 701.

The **Chairman**, as the executive head of the Board, coordinates and organizes the agency's work and acts as its representative in legislative matters and in relations with other government bodies. The Chairman generally is responsible for the following:

1. Overall Board management and operations;
2. Formulation of plans and policies designed to ensure the effective administration of the governing statutes and Board regulations;
3. Identification and resolution of major regulatory problems; and
4. Development and utilization of effective, expert staff support for the fulfillment of the Board's duties and functions.

The **Vice Chairman**, during the Chairman's absence, represents the Board and assumes the Chairman's duties. Additionally, the Board has delegated certain functions to the Vice Chairman, including matters involving the admission, discipline, and disbarment of nonattorney STB practitioners.

Assisting the Board in carrying out its responsibilities is a staff of approximately 135 experienced and dedicated lawyers, economists, transportation industry specialists, and administrative and support personnel employed in the six offices described below.

The **Office of Congressional and Public Services** (OCPS) informs members of Congress, the public, and the media of Board actions; responds to Congressional, public, and press inquiries; prepares testimony for hearings and comments on proposed legislation; and assists the public in matters involving transportation regulation.

The **Office of Compliance and Enforcement** (OCE) monitors the activities of STB-regulated companies and organizations to ensure compliance with the governing statutes and Board regulations; assists the public in the resolution of complaints against STB-regulated companies; and oversees matters of rate publication, filing, and interpretation.

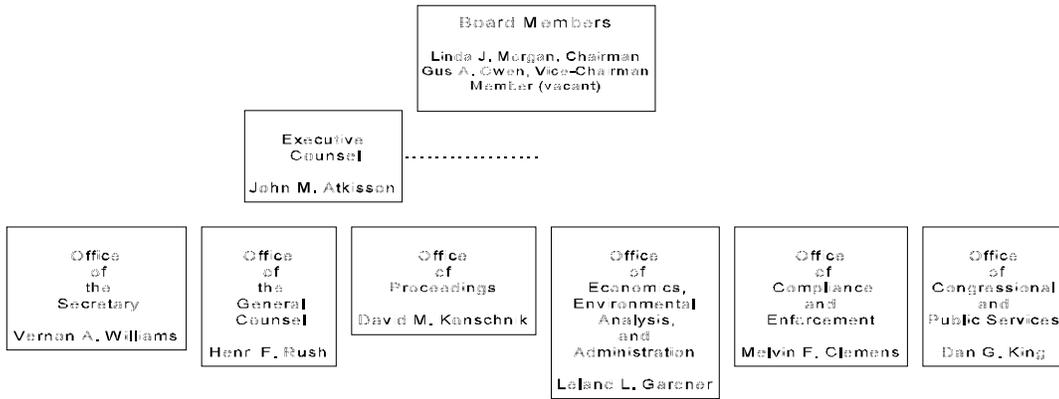
The **Office of Economics, Environmental Analysis, and Administration** (OEEAA) conducts economic and financial analyses of the railroad industry; compiles and publishes financial statistics and reports; performs engineering and cost studies; conducts audits of Class I railroads; and ensures that environmental concerns are adequately assessed in Board proceedings. This office also manages the Board's day-to-day operations, including budget, personnel, administrative services, and systems development.

The **Office of the General Counsel** (GC) renders legal opinions to the Board and defends Board decisions challenged in court.

The **Office of Proceedings** (PD) provides legal research and prepares draft decisions for cases pending before the Board.

The **Office of the Secretary** (SE) serves as the Board's clerk and document center. It maintains the Board's official records and issues the Board's decisions and other legal documents. This office also records liens on railroad rolling stock and administers the examination program for nonattorney STB practitioners.

STB Organization Chart



RAILROAD RESTRUCTURING

Mergers and Common Control Arrangements

When two or more rail carriers seek to consolidate through a merger or common control arrangement, they must obtain the prior approval of the Board under 49 U.S.C. 11323-25. See 49 CFR 1180. By law, such Board authorization exempts such a transaction from all other laws (including antitrust laws) to the extent necessary for the carriers to consummate the approved transaction. 49 U.S.C. 11321.

Transactions with Industrywide Impact. In August 1996, the Board approved, with significant conditions, the acquisition of the Southern Pacific rail system by the Union Pacific rail system. This permitted the common control and eventual merger of the Union Pacific, Missouri Pacific, Southern Pacific, St. Louis Southwestern, and Denver and Rio Grande railroads. One of the conditions attached to the Board's approval was Board oversight for 5 years, to examine whether the competitive conditions imposed by the Board have been effective in addressing the expected competitive impacts of the merger or whether additional remedial conditions are required. In May 1997, the Board initiated the first annual oversight proceeding.

In July 1997, the Board accepted for consideration an application by the CSX, Norfolk Southern, and Conrail railroads for CSX and Norfolk Southern to acquire Conrail and divide its assets between them. The Board has also received related applications for ancillary construction projects and abandonments. The Board expects to issue a final decision on all of these applications by July 23, 1998.

Transactions with Regional Impact. In October 1996, the Board approved the acquisition of the Washington Central railroad by the Burlington Northern Santa Fe railroad, enabling the reopening of the Stampede Pass route in the State of Washington as a main line for through traffic. (In August 1995, the ICC approved, with conditions, the merger of the Burlington Northern and the Santa Fe railroads.) In November 1996, the Board approved the acquisition of the Indiana railroad by the CSX railroad. In May 1997, the Board approved the control of the Gateway Western and Gateway Eastern railroads by the Kansas City Southern railroad, an arrangement designed to

provide financial security for the Gateway companies and to improve the combined system's operating and financial performance.

Smaller Transactions. The Board has also authorized various other, smaller acquisitions and mergers. Those that involved only Class II or III railroads whose lines do not connect with each other need only follow a simple notification procedure under a class exemption at 49 CFR 1180.2(d)(2). (Class III railroads are those with annual operating revenues below \$20 million, in 1991 dollars; Class II railroads have annual operating revenues of at least \$20 million, but less than \$250 million, in 1991 dollars).

Merger and Control Arrangements Under 49 U.S.C. 11323				
Fiscal Year		1995	1996	1997
Applications	Filed	4	14	12
	Granted	14	2	15
	Denied	0	0	0
	Dismissed	4	2	0
	Closed Administratively	0	2	0
Petitions for Exemption	Filed	56	50	30
	Granted	42	60	24
	Denied	0	0	0
	Dismissed	0	4	0
	Closed Administratively	2	2	0
Notices of Exemption	Filed	50	80	82
	Granted	54	76	79
	Denied	0	0	0
	Dismissed	4	0	6
	Closed Administratively	0	4	0

Line Acquisitions by Shortline and Regional Railroads

To acquire or operate an existing rail line, a noncarrier (which will thereby become a carrier) must obtain the prior approval of the Board under 49 U.S.C. 10901. A Class II or III railroad must obtain Board approval for such a transaction under the streamlined provisions of 49 U.S.C. 10902. See 49 CFR 1150. (The acquisition of an existing line by a Class I railroad, i.e., a carrier with annual operating revenues of at least \$250 million in 1991 dollars, is treated as a form of carrier consolidation under 49 U.S.C. 11323.) For nonconnecting lines, Class II and III railroads may elect to use the class exemption at 49 CFR 1180.2(d)(2), discussed above.

New Exemption for Class III Carriers. In a rulemaking under 49 U.S.C. 10902 served in June 1996, the Board adopted a class exemption allowing Class III railroads to acquire and operate additional rail lines through a simple notification process. 49 CFR 1150.41. By removing regulatory burdens on Class III rail carrier line acquisitions, this exemption should facilitate the growth of these small carriers and the preservation of rail service and rail employment on lines that might otherwise be abandoned. (See *Labor Matters* for a discussion of notice and standards and procedures relative to employees affected by these transactions.)

Exemption for Noncarriers. Noncarriers may acquire rail lines under the class exemption at 49 CFR 1150.31. A notification process, together with the Board's ability to revoke the class exemption as it applies to a particular transaction, prevents misuse of this exemption for the sale of lines for uses other than continued rail operations. The Board has rejected attempts to purchase rail lines under the class exemption when it found that the purchaser intended to scrap the line or to convert the line into a recreational trail. When used properly, however, this exemption has been helpful in preserving rail service. For example, in the I&M Rail Link case served in April 1997, the Board affirmed the use of this exemption by a new carrier to purchase approximately 1,100 miles of rail lines for continued rail operations.

RAILROAD RESTRUCTURING

— Line Acquisitions —						
By Noncarriers Under 49 U.S.C. 10901						
	FY 1995		FY 1996		FY 1997	
	Number	Miles	Number	Miles	Number	Miles
Notices of Exemption						
Filed	43	2,870	83	4,147	72	5,413
Granted	41	2,693	73	3,694	70	5,938
Denied	0	0	0	0	2	48
Dismissed	5	461	5	308	1	14
Dismissed Because of Sale	0	0	0	0	0	0
By Class II or III Railroads Under 49 U.S.C. 10902						
Notices of Exemption						
Filed	0	0	20	611	38	1,490
Granted	0	0	13	361	40	1,311
Denied	0	0	0	0	0	0
Dismissed	0	0	1	113	0	0
Dismissed Because of Sale	0	0	0	0	0	0

NOTE: No applications or petitions for exemption from 49 U.S.C. 10901 or 10902 were filed, pending, or considered during this 3-year period.

Trackage Rights

Trackage rights arrangements allow one carrier to perform local, overhead, or bridge operations over the tracks of another carrier that may or may not continue to provide service over the same line. Bridge trackage rights improve operating efficiency for a carrier by providing alternative, shorter, and/or faster routes. Local trackage rights may introduce a new competitor, giving shippers service options. Board approval of trackage rights arrangements is required under either 49 U.S.C. 11323 (if a Class I carrier), 10902 (if a Class II or III carrier), or 10901 (if a noncarrier). See 49 CFR 1180 (proposals under section 11323); 49 CFR 1150 (proposals under section 10901 or 10902).

The Board maintains a class exemption, at 49 CFR 1180.2(d)(7), providing a simple notification procedure for the acquisition or renewal of trackage rights by carriers through mutual agreement that are not in response to a rail consolidation proposal. All of the 159 trackage rights arrangements authorized by the Board in FY 1997 were processed under the class exemption.

Trackage Rights				
Fiscal Year		1995	1996	1997
Applications	Filed	12	18	0
	Granted	0	6	0
	Denied	10	8	0
	Dismissed	0	0	0
	Closed Administratively	0	2	0
Petitions for Exemption	Filed	0	2	0
	Granted	0	4	0
	Denied	0	0	0
	Dismissed	0	0	0
	Closed Administratively	0	0	0
Notices of Exemption	Filed	88	102	185
	Granted	102	96	159
	Denied	0	0	0
	Dismissed	2	4	3
	Closed Administratively	2	0	0

Leases

Leases and contracts to operate rail lines by a Class I railroad require Board approval under 49 U.S.C. 11323. See 49 CFR 1180. (Leases by a noncarrier or by a Class II or III railroad are handled as a line acquisition under 49 U.S.C. 10901 or 10902, respectively.) Lines are sometimes leased by a nonoperating carrier to another carrier willing to assume the common carrier obligation of providing service on demand.

RAILROAD RESTRUCTURING

Authorizations. No new leases were submitted for Board approval in FY 1997. Although the Board maintains a class exemption for the renewal of previously approved leases, 49 CFR 1180.2(d)(7), no such renewals were presented to the Board in FY 1997 either.

Dispute Resolution. In May 1997, the Board instituted a proceeding to resolve a dispute over the appropriate level of compensation for the lease of 317 miles of track in North Carolina. The dispute arose when two leases expired under their own terms and a newly negotiated lease agreement was not approved by the owning railroad's shareholders. The Board asserted its jurisdiction to resolve the dispute, established an interim compensation level, and held the proceeding in abeyance pending an attempt to reach a settlement with the objecting shareholders.

Leases				
Fiscal Year		1995	1996	1997
Applications	Filed	0	0	0
	Granted	0	0	0
	Denied	0	0	0
	Dismissed	0	0	0
	Closed Admin.	0	0	0
Petitions for Exemption	Filed	16	18	0
	Granted	10	26	0
	Denied	0	0	0
	Dismissed	2	0	0
	Closed Admin.	0	0	0
Notices of Exemption	Filed	0	2	0
	Granted	0	2	0
	Denied	0	0	0
	Dismissed	0	0	0
	Closed Admin.	0	0	0

Railroad Constructions

Authorization to construct a new rail line must be obtained from the Board under 49 U.S.C. 10901. See 49 CFR 1150. In connection with authorizing the construction of a new line, the Board can compel other carriers to permit the new line to cross their tracks, and prescribe the appropriate compensation for the line crossing, if necessary. 49 U.S.C. 10901(d).

New Lines. Two new construction projects received final authorization in FY 1997, subject to various environmental mitigation conditions. One of these new lines, to be built by the Tongue River Railroad, is intended to serve coal fields in the Powder River Basin of Montana. The other (the Hastings Industrial Link railroad) will allow rail service to be extended to a new industrial park in Hastings, Nebraska. One other construction project involving the Southern River Railroad was tentatively approved in FY 1997, subject to environmental review. It would allow for additional, competitive rail service to be provided to a coal burning electric generating plant northwest of Birmingham, Alabama.

In May 1997, the Alameda Corridor Transportation Authority began construction of a 20-mile rail corridor connecting central Los Angeles with the Ports of Los Angeles and Long Beach, California, pursuant to authority granted by the Board in June 1996. The \$1.8 billion project will provide improved access to the ports, which are experiencing significantly increased rail traffic, while reducing air and noise pollution as well as highway traffic congestion. FHWA and the Federal Railroad Administration recommended the final route of the project that the Board approved.

Of the 12 new construction projects proposed in FY 1997, 7 are related to the proposed consolidation of Conrail into the CSX and Norfolk Southern railroads.

New Exemption Procedures for Connecting Lines. In June 1996, the Board adopted a class exemption for the construction and operation of connecting railroad track on land already owned by railroads, to make it easier for carriers to rationalize their physical plants and thereby provide improved service. 49 CFR 1150.36. Because of the sometimes substantial environmental concerns that arise in rail construction projects, carriers must provide advance notice to state agencies of their

proposed use of the class exemption. Carriers also must comply with all applicable environmental regulations.

Even though the seven construction projects related to the proposed Conrail-CSX-Norfolk Southern consolidation are for connecting track, only one qualified for processing under the new exemption. The rest require the purchase of additional land for new rights-of-way.

Preemptive Effect. In September 1996, in deciding the Stampede Pass case that was brought before it, the Board issued a declaratory order addressing the extent of the preemption of state and local laws for railroad activities related to the reactivation and operation of railroad lines. Generally, state and local preclearance of Board-authorized construction projects is preempted, because a prior state or local permitting process implies the power to deny the authorization and thus could frustrate or defeat the activity that is subject to federal control. Similarly, state and local laws that could prevent maintenance and upgrading projects on existing lines, such as enlarging tunnels, installing communication towers, or upgrading track, are preempted.

Railroad Constructions						
	FY 1995		FY 1996		FY 1997	
	Number	Miles	Number	Miles	Number	Miles
Applications						
Filed	0	0	1	20	0	0
Granted	0	0	2	50	0	0
Denied	0	0	0	0	0	0
Dismissed	0	0	0	0	0	0
Dismissed Because of Sale	0	0	0	0	0	0
Petitions for Exemption						
Filed	9	41	1	1	14	5
Granted	5	33	2	7	1	1
Denied	1	75	0	0	0	0
Dismissed	0	0	0	0	0	0
Dismissed Because of Sale	0	0	0	0	0	0
Notices of Exemption						
Filed	7	70	3	230	1	6
Granted	2	70	3	230	0	0
Denied	0	0	0	0	0	0
Dismissed	0	0	0	0	0	0
Dismissed Because of Sale	0	0	0	0	0	0

Line Abandonments

Railroads require Board approval under 49 U.S.C. 10903 to abandon a rail line or to discontinue all rail service over a line that will be kept in reserve. See 49 CFR 1152.

Revised Procedures. In December 1996, the Board modified its abandonment regulations, at 49 CFR 1152, to streamline the regulatory procedures, shorten the time needed to process such requests, and implement changes in the underlying law made by the ICCTA.

Decline in Abandonments. Railroad abandonments are on the decline by every measure. Requests to abandon track or discontinue service fell from 142 in FY 1996 to 105 in FY 1997 (a decline of more than 25%). The miles of track sought to be abandoned or to lose service also dropped, from 2,311 miles in FY 1996 to 1,365 miles in FY 1997 (a reduction of over 40%). Similarly, the number of miles authorized for abandonment or loss of service was reduced by almost 1,000 miles — from 2,245 miles in FY 1996 to 1,253 miles in FY 1997. Use of the class exemption for lines that have been out of service at least 2 years has declined dramatically as well.

This decline reflects an increased rationalization of the nation's railroad system through line sales rather than abandonments, and the growth of the shortline industry. (The Board authorized the sale or acquisition of 7,249 miles of railroad lines to shortline and regional carriers in 110 transactions in FY 1997, compared with the sale of 4,055 miles in 86 transactions in FY 1996. See *Line Acquisitions* table at page 8.) As shown in the chart that follows, the Board has denied certain abandonment requests.

Abandonments						
	FY 1995		FY 1996		FY 1997	
	Number	Miles	Number	Miles	Number	Miles
Applications						
Filed	12	518	15	688	5	306
Granted	13	605	16	677	5	264
Denied	1	123	2	3	0	0
Dismissed	3	13	1	201	1	72
Dismissed Because of Sale	2	2	1	42	2	23
Petitions for Exemption						
Filed	48	923	38	732	51	692
Granted	41	757	36	783	45	676
Denied	0	0	2	4	5	56
Dismissed	6	172	0	0	2	25
Dismissed Because of Sale	0	0	3	6	0	0
Notices of Exemption						
Filed	94	662	89	891	49	367
Granted	87	632	83	785	41	313
Denied	0	0	0	0	0	0
Dismissed	5	59	4	34	5	58
Dismissed Because of Sale	5	38	2	10	1	18

Preservation of Lines

The Board administers the following three programs designed either to preserve rail service or to preserve railroad rights-of-way.

Offers of Financial Assistance. Under 49 U.S.C. 10904, if the Board finds that an abandonment proposal should be authorized, and receives an offer by another party to pay for continued rail service, the Board may require the line to be sold (or operated under subsidy for a year) pursuant to the Board's offer of financial assistance procedures. See 49 CFR 1152.27. In FY 1997, three lines (totaling 41 miles) were sold under this program. See *Abandonments* Table.

Feeder Line Development Program. Under 49 U.S.C. 10907, the Board can compel a railroad to sell a line to an interested party when a line has been placed in category 1 of a carrier's system diagram map (showing that the line is a candidate for abandonment), or when there has been a substantial decline in service on that line. See 49 CFR 1151. In FY 1997, the Board had two feeder line applications pending before it.

Trail Use/Rail Banking Program. The Board has a ministerial role in administering the rail banking program under the National Trails System Act Amendments of 1983, 16 U.S.C. 1247(d). See 49 CFR 1152.29. This law allows railroad rights-of-way that have been approved for abandonment to be preserved for future restoration of rail service and, in the interim, to be converted into recreational trails. During interim trail use, the right-of-way remains under the jurisdiction of the Board and reversionary property interests in the right-of-way cannot vest, thereby preserving the right-of-way for future reactivation of rail service. The Board can deny a trail use request only if the carrier refuses to participate in the rail banking program or if the putative trail user does not undertake or is unable to pay taxes on and assume liability for the right-of-way. In FY 1997, the Board granted 36 requests for rail banking with interim trail use, and denied 18 requests.

Rail Banking and Interim Trail Use						
Fiscal Year	Requests		Grants		Denials	
	Number	Miles	Number	Miles	Number	Miles
1995	34	597	30	569	3	23
1996	49	1,118	39	788	6	309
1997	60	919	36	430	18	239

RAILROAD RATE REGULATION

Rate Requirements

While railroads have a common carrier obligation to provide rail service upon request (49 U.S.C. 11101(a)), they can provide that service under rates and service terms agreed to in a confidential transportation contract with the shipper (49 U.S.C. 10709) or under openly available common carriage rates and service terms (49 U.S.C. 11101). Rates and service terms established by contract are not subject to Board regulation, except for limited protections against discrimination with respect to contracts for the transportation of agricultural products. 49 U.S.C. 10709. A railroad's common carriage rates and service terms must be disclosed upon request (and published for agricultural products and fertilizer), and advance notice must be given for increases in these rates or changes in the service terms. In accordance with the ICCTA, the Board has issued regulations to govern the disclosure, publication, and notification requirements for common carriage rates (49 CFR 1300), and regulations for administering the agricultural contract rate provisions (49 CFR 1313).

Rate Reasonableness Complaints

Market Dominance Limitation. The Board has jurisdiction to adjudicate complaints challenging the reasonableness of a railroad's common carriage rates only if the railroad has market dominance over the traffic involved. 49 U.S.C. 10701(c)-(d), 10704, 10707. Market dominance refers to "an absence of effective competition from other rail carriers or modes of transportation for the transportation to which a rate applies." 49 U.S.C. 10707(a). Under 49 U.S.C. 10707(d)(1)(A), the Board cannot find that a carrier has market dominance over a movement if the rate charged results in a revenue-to-variable cost percentage that is less than 180%. Thus, in considering any rate reasonableness challenge, the first finding that the Board makes is whether the defendant carrier has market dominance over the traffic involved.

Standard Guidelines for Assessing Reasonableness. To assess whether rates are reasonable, the Board uses a concept known as "constrained market pricing" (CMP) whenever possible. See *Coal Rate Guidelines, Nationwide*, 1 I.C.C.2d 520 (1985), *aff'd sub nom. Consolidated Rail*

Corp. v. United States, 812 F.2d 1444 (3d Cir. 1987). CMP principles limit a carrier's rates to levels necessary for an efficient carrier to make a reasonable profit. CMP principles recognize that, in order to earn adequate revenues, railroads need the flexibility to price their services differentially by charging higher mark-ups on captive traffic, but the CMP guidelines impose constraints on a railroad's ability to price differentially.

The most commonly used CMP constraint is the "stand-alone cost" (SAC) test. Under the SAC test, a railroad may not charge a shipper more than it would cost to build and operate efficiently a hypothetical new railroad, tailored to serve a selected traffic group that includes the complainant's traffic. This test was used to resolve one rate complaint during FY 1996 and two rate complaints in FY 1997 and is being used to evaluate the reasonableness of rates in several ongoing cases.

Specifically, in the 1996 West Texas case, the Board, using the SAC test, found that the rail rates charged by the Burlington Northern for carrying coal between Gillette, Wyoming, and a power plant in Vernon, Texas, were unreasonably high. The Board ordered the railroad to reduce the rate by 30% and to pay \$11 million in reparations.

In the Arizona Public Service Commission case served in July 1997, the Board, using the SAC test, found that the rail rates charged by the Santa Fe for carrying coal from a mine near Gallup, New Mexico, to the Cholla electrical generating plant at Joseph City, Arizona, were unreasonably high. The Board ordered the railroad to reduce the rate by approximately 40% and to pay reparations of more than \$25 million to the complaining shippers.

In August 1997, in the McCarty Farms case, the Board evaluated rail rates charged by Burlington Northern for transporting export wheat and barley from Montana to ports in the Pacific Northwest. Based on the SAC test, the Board concluded that the rates had not been shown to be unreasonable and dismissed the complaint.

New Simplified Guidelines for Assessing Reasonableness. Although the CMP guidelines provide the most economically authoritative procedures for evaluating the reasonableness of rail rates, a rate challenge using CMP (particularly SAC) can be quite complex, detailed, and expensive to litigate. Thus, CMP can be impractical to use where the amount of money at issue is not great

enough to justify the expense of such an evidentiary presentation. In the ICCTA, Congress directed the Board to develop a simplified, alternative procedure to CMP. 49 U.S.C. 10704(d). Accordingly, in December 1996, the Board adopted simplified guidelines that employ three revenue-to-variable cost benchmarks as starting points for a case-by-case reasonableness analysis.

Also in December 1996, in the South-West Car Parts case, the Board used these simplified guidelines to tentatively resolve a rate complaint that had been held in abeyance pending the adoption of the new procedures. The available revenue-to-variable cost benchmarks indicated that the rates charged were consistent with the carrier's revenue requirements and were not disproportionately high compared to other traffic of its type. Thus, the Board preliminarily concluded that the rates were not unreasonably high, although it gave the shipper the opportunity to present further evidence and argument.

Bottleneck Cases

In decisions served in December 1996 and April 1997, the Board established principles to govern the class of rail rate and service complaint cases known as "bottleneck" cases. Bottleneck cases arise where more than one railroad may be involved in providing service from one or more origins to a destination, but only one—the bottleneck carrier—can provide service for a particular portion of the movement.

In its decisions, the Board recognized that railroads have the initial discretion under the law as to how to rate and route their traffic. Nevertheless, the Board found that shippers can obtain substantial relief in three different ways. First, in light of the common carrier obligation of 49 U.S.C. 11101, a bottleneck carrier may not refuse to provide service to a shipper from a new origin that it does not serve; instead, under 49 U.S.C. 10742, it must accept traffic from the origin carrier at a reasonable interchange and provide a route and whatever rate is necessary to complete the transportation.

Second, under the "competitive access" provisions of 49 U.S.C. 10705, a shipper can obtain the prescription of a new through route from an origin that is served by a bottleneck carrier, if it shows that the carrier has used its market power in an inappropriate way, or that the service

proposed by the shipper would in some way be more efficient, or “better,” than the existing service. See 49 CFR 1144.

Finally, the Board found that, notwithstanding prior precedent generally restricting rate reasonableness challenges to origin-to-destination rates, when the nonbottleneck segment of an established through route is covered by a rail/shipper contract over which the Board has no jurisdiction, the rate covering the bottleneck segment is challengeable separately. At the close of the fiscal year, one such case separately challenging a bottleneck-segment rate, the FMC Corp. case, was pending before the Board.

Expedited and Alternative Procedures

In October 1996, the Board adopted new rules and procedures to speed the processing of rail rate complaints, including bottleneck cases. In part, the new regulations are designed to ensure that SAC cases, which often had taken years to resolve, will be completed within 16 months following the filing of a complaint. In September 1997, the Board proposed new rules designed to expedite the determination of whether CMP or the simplified procedures should be applied in any particular case.

Also in September 1997, the Board adopted rules that provide a means for the binding, voluntary arbitration of certain rail disputes within its jurisdiction. The arbitration procedures were recommended by the Railroad-Shipper Transportation Advisory Council (discussed later in this report) to reduce formal litigation burdens on parties and to facilitate the resolution of rail rate and service disputes.

LABOR MATTERS

Railroad employees who are adversely affected by certain Board-authorized rail restructurings are entitled to statutorily-prescribed protective conditions, under 49 U.S.C. 11326(a) (consolidations of Class I or II carriers), 11326(b) (consolidations between Class II and III carriers), 10902(d) (line acquisitions by Class II carriers), or 10903(b)(2) (line abandonments). These standard conditions relate to both wage or salary protection and changes in work conditions. They provide for resolving disputes regarding implementation through arbitration, and arbitration awards are appealable to the Board under certain criteria.

Procedural Protections for Employees of Class II Carriers. In April 1997, the Board resolved issues regarding procedural protections available to employees to be affected by a Class II carrier line acquisition.

Advance Notice Requirement. In a rulemaking decision served in September 1997, the Board amended its procedures for processing proposed rail line purchases by Class II carriers, and by noncarriers and Class III carriers where the carrier will have revenues in excess of \$5 million once the transaction is completed, to require 60 days' notice. This additional notice requirement is intended to benefit both affected communities and employees who work on lines proposed to be transferred to a new owner or operator. The buyer must inform employees on the line to be sold of the types and number of jobs expected to be available after the transaction is consummated, the terms of employment, and the principles to be used for employee selection. This notice requirement is expected to ensure the smooth implementation of these transactions.

Appeals of Arbitrator Decisions. In June 1997, the Board reversed part of one arbitration decision, arising from the merger of the Union Pacific and Southern Pacific railroads, that required employees to change their health benefit provider. Because health benefits relate to vested and accrued fringe benefits, the Board found that these medical care programs were preconsolidation rights, privileges, and benefits that could not be modified as part of the standard (*New York Dock*) implementing agreement process. The Board declined to review the remaining portions of the arbitration decision. In FY 1997, the Board also declined to disturb six other arbitration decisions, giving substantial deference to the labor arbitrators.

ENVIRONMENTAL REVIEW

Under the National Environmental Policy Act of 1969, 42 U.S.C. 4331-4335, the Board is required to examine the environmental impacts—direct, indirect, and cumulative—of actions requiring Board authorization. The Board must complete this environmental review before making a final decision on a proposed action. The Section of Environmental Analysis (SEA) assists the Board in meeting this responsibility by conducting an independent environmental review of cases filed with the Board, preparing any necessary Environmental Impact Statement (EIS) or Environmental Assessment (EA), and providing technical advice to the Board on environmental matters.

Review Process. Environmental reviews are conducted most frequently for railroad mergers, rail line constructions, and rail line abandonments. In its environmental analyses, SEA considers the requirements of a number of related statutes, including the Endangered Species Act (16 U.S.C. 1531-1544), the Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*), the Clean Air and Water Acts (42 U.S.C. 7401-7642 and 33 U.S.C. 1344), the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), and pertinent hazardous substance laws (42 U.S.C. 6901-6933 and 9601-9675). SEA conducts its review in accordance with the Board's environmental rules (49 CFR 1105), the President's Council on Environmental Quality regulations (40 CFR 1500 *et seq.*), and other applicable Federal environmental requirements.

The public (including Federal, state, and local agencies) plays an important role in the environmental review process. SEA first presents to the public the preliminary results of its analysis of potential environmental impacts, in either a draft EIS or an EA. This analysis is based on information available to date from the applicant and the public, SEA's independent analysis, and in some cases, site visits. After a public comment period, SEA considers all comments received and performs additional analysis, as needed, before preparing an EIS or Post EA setting forth SEA's ultimate recommendations to the Board.

SEA may recommend that the Board impose conditions to mitigate the potential effects that a proposed action may have on the environment. Such conditions must be reasonable and must address environmental impacts that would result directly from the transaction being considered by

the Board. The Board has the ultimate authority to determine what mitigation is appropriate. Based on SEA recommendations, the Board imposed numerous environmental mitigation conditions in FY 1997 to address public safety, land use, air quality, wetlands and water quality, hazardous waste and materials, noise, and protection of historic resources.

Railroad Mergers. In analyzing railroad mergers, SEA typically examines the potential environmental impacts related to changes in rail traffic patterns on existing lines. Generally these proposals are addressed in an EA and do not require an EIS to be prepared. The Board may impose measures designed to mitigate potential system-wide and corridor-specific environmental impacts. Such measures may address safety, hazardous materials/emergency response, air quality, and noise.

In FY 1997, SEA began evaluating the potential environmental impacts that may result from the proposed acquisition of Conrail by CSX and Norfolk Southern. SEA determined that, unlike prior merger proposals, this proposal warranted preparation of an EIS. SEA's initial work related to the potential impacts of the proposed transaction on safety, transportation systems, land use, energy, air quality, noise, biological resources, water resources, socioeconomic effects directly related to physical changes in the environment, environmental justice, and historic/cultural resources.

Also in FY 1997, SEA conducted environmental mitigation studies to develop additional, tailored measures to address local conditions unique to Reno, Nevada, and Wichita, Kansas, that have resulted from the merger of the Union Pacific and Southern Pacific railroads. SEA served Preliminary Mitigation Plans at the end of FY 1997. After considering all public comments received, SEA will issue Final Mitigation Plans for the Board's consideration in FY 1998. The Board will then decide the proper mitigation measures that need to be implemented in these two areas of the country.

Rail Line Constructions. Rail construction proposals vary in purpose, size, and the complexity of potential environmental impacts. These projects are located throughout the country and may involve unusually complicated and sensitive environmental issues. Construction proposals analyzed by SEA in FY 1997 included projects in Alabama, Louisiana, Nebraska, and South Dakota.

Rail Line Abandonments. SEA's review of rail line abandonments includes an analysis of the potential environmental impacts of track removal and diversion of traffic from the line proposed for abandonment. Mitigation conditions imposed in rail line abandonments often involve the protection of critical habitats for threatened and endangered species, historic and cultural resources, and wetlands. SEA prepared approximately 125 EAs for rail abandonment proposals in FY 1997.

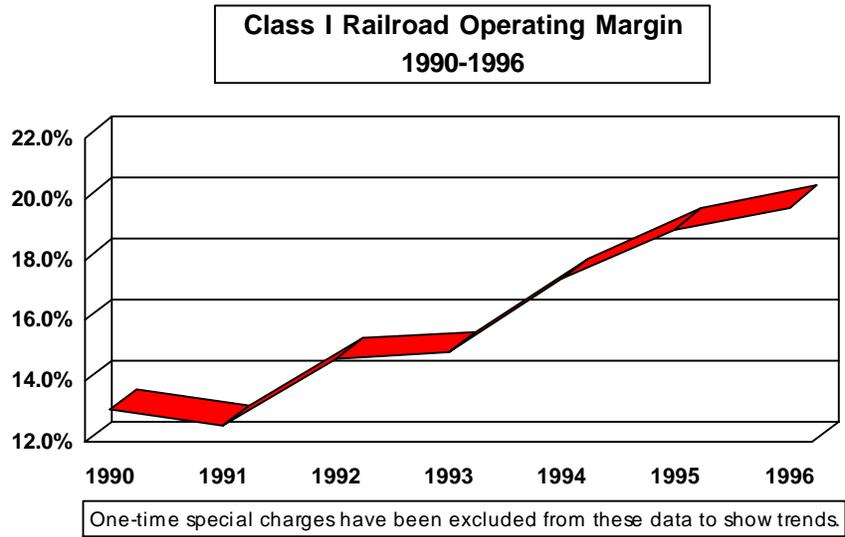
FINANCIAL CONDITION OF CLASS I RAILROADS

As shown in the following graphs, the gross profit margin and return on net investment for the nation's major railroads have grown substantially since 1990. Return on investment has increased from slightly over 7% to more than 9% during this time period (almost a 30% gain). Gross profits have increased even more, moving from 13% to almost 20% (a 50% gain). Overall, the railroad industry's financial health has notably improved.

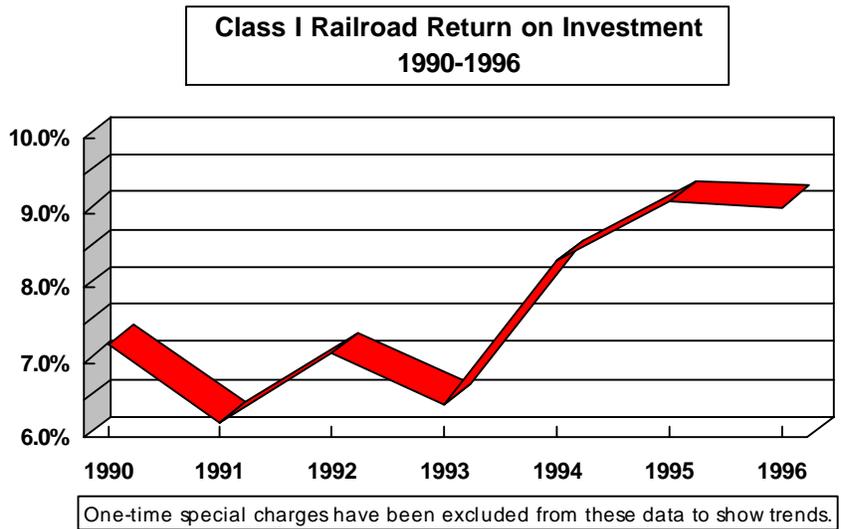
In terms of after-tax return on equity, however, railroads continue to lag behind most other industries. For example, the 7.9% return posted by railroads in 1995 ranked near the bottom among all industry groups, well behind the 27% return enjoyed by the drug industry. In fact, over half of the industry groups had returns on equity double that of the railroad industry.

Additionally, the Board has found that railroad rates have continued the decline that began with passage of the Staggers Rail Act of 1980, the major regulatory reform legislation affecting railroads. The average inflation-adjusted railroad rate declined by 46.4% from 1982 through 1996, and fell in each year during that period. Even with no adjustment for inflation, the (nominal) rail rate declined by 15.6%. (Additional selected financial data for the years 1994 through 1996 are contained in Appendix D.)

Class I Railroad Operating Margin



Class I Railroad Return on Investment



AMTRAK MATTERS

The Board does not have regulatory authority over the National Railroad Passenger Corporation (Amtrak) in most matters. See 49 U.S.C. 24301(c). The Board does have limited authority, however, to ensure that Amtrak can operate over the track of the nation's freight railroads. The Board is required to adjudicate disputes between Amtrak and individual freight railroads concerning shared use of tracks and other facilities and the terms and conditions of such use, if the carriers cannot reach a voluntary agreement. 49 U.S.C. 24308(a), 24904(c). The Board also issues emergency orders that enable Amtrak to reroute passenger trains when its normal routes are temporarily unavailable. 49 U.S.C. 24308(b).

Compensation Dispute. After applying for a Board order to settle the terms for Amtrak's use of the facilities of the Burlington Northern and the Santa Fe railroad system, Amtrak reached a voluntary agreement with the carrier, and its application was dismissed in October 1996. In addition, during FY 1997, the Board worked to resolve a compensation dispute between Amtrak and the Springfield Terminal (ST) railroad system regarding the use by Amtrak of a new route over an ST line in New England.

Express Traffic. In September 1997, the Board instituted a proceeding to determine the nature and extent of the duty of the Union Pacific and Southern Pacific railroad system to allow Amtrak to use its tracks and facilities for the carriage of express traffic. Amtrak contends that it is authorized to transport any commodities as express traffic so long as it is providing expedited service at premium rates. The freight carriers object to the expansion of Amtrak's express business, arguing that much of this traffic constitutes general freight and, thus, under the law is not appropriate for carriage by Amtrak. The Board required the carrier to allow Amtrak to operate up to nine express cars per train while the Board proceeding is pending.

Rerouting Orders. In FY 1997 freight train derailments on tracks used by Amtrak necessitated five emergency rerouting orders to permit uninterrupted passenger service.

CONSUMER AND COMPLIANCE ISSUES

Embargoed Rail Lines

In March 1997, in the Caddo Antoine case, the Board considered a complaint alleging that a railroad had violated its common carrier obligation under 49 U.S.C. 11101(a) by embargoing track on a branch line in Arkansas. Embargoes are justified, as a temporary measure, when a carrier is unable to serve specific shipper locations. The Board considered the duration of the out-of-service period, the intent of the carrier, the cost of required repairs, the amount of traffic on the line, the shippers' transportation needs, and the financial ability of the carrier to make repairs, and on balance concluded that the carrier had acted reasonably in imposing the embargo. Accordingly, the request for damages was denied and the case dismissed.

Railroad Service Orders

The Board can issue temporary service orders to address rail service emergencies, and can also direct a carrier to operate the lines of a carrier that has ceased operations, for up to 270 days. 49 U.S.C. 11123. This authority allows the Board to prevent the loss of needed rail services. (Compensation to a carrier providing directed service comes entirely from the revenues generated by that service.) The Board found no need to issue any railroad service orders in FY 1997.

Tariff Compliance

Noncontiguous Domestic Trade. The ICCTA consolidated in the Board jurisdiction over both intermodal and port-to-port transportation in the noncontiguous domestic trade, which includes transportation to and from Alaska and Hawaii, as well as American Samoa, the Northern Mariana Islands, Guam, the Virgin Islands, and Puerto Rico. 49 U.S.C. 13702(a), (b). Prior to the ICCTA, the ICC had exercised jurisdiction over the intermodal transportation, and the Federal Maritime Commission (FMC) had exercised jurisdiction over the port-to-port water carrier transportation. To facilitate the transfer of jurisdiction, the Board negotiated an interagency agreement with the FMC, which allowed carriers to continue to file their tariffs electronically, using the FMC's Automated Tariff Filing and Information system, to fulfill their tariff filing requirements with the Board. This

arrangement permitted the electronic tariffs formerly filed with the FMC to be automatically transferred to the Board.

The FMC's regulations had permitted only electronic filings for port-to-port tariffs, and the ICC's regulations had permitted only printed filings for intermodal tariffs. In October 1996, the Board served a special tariff authority allowing carriers to file both intermodal and port-to-port tariffs in either printed or electronic form. The Board also revised its filing regulations for printed tariffs, in April 1997, to eliminate many of the detailed format specifications formerly prescribed. The new regulations, at 49 CFR 1312, reduce printed tariff filing burdens and give carriers additional flexibility to devise publications that will better meet their needs and the needs of their customers.

New Exemption for Freight Forwarders. In February 1997, the Board exempted freight forwarders operating in the noncontiguous domestic trade — formerly classified as nonvessel operating common carriers (NVOCCs) under FMC regulations — from the requirement to file tariffs. 49 CFR 1319.1. NVOCCs consolidate shipments and perform other carrier-associated duties, but do not operate the vessels that provide the underlying line-haul transportation, which they purchase from vessel operating water carriers. Noting that the NVOCC market is highly competitive, that transportation services are also available directly from the underlying water carriers, and that land freight forwarders have been statutorily exempted from the requirement to file tariffs since 1986, the Board concluded that tariff filing by NVOCCs was not necessary. By removing an unneeded regulatory burden, the exemption should result in lower rates and additional competition.

Household Goods Moves. The ICCTA eliminated the requirement that household goods carriers file tariffs, but continued to require that their tariffs be published and made available to homeowners whose shipments are subject to the tariffs. 49 U.S.C. 13702(a), (c). In February 1997, the Board adopted regulations governing household goods carriers' tariffs, at 49 CFR 1310. The regulations require that household goods carrier tariffs include an accurate description of the services offered and the applicable rates, charges, and service terms for household goods moves. Moreover, shippers must be explicitly informed whenever the provisions of a tariff are incorporated into the bill of lading or other document embodying the contract of carriage, and these provisions must be made available for inspection by the shippers. The regulations require additional public

notice and explanation when incorporated tariff provisions include terms related to claim restrictions, limits on the carrier's liability for loss, damage or delay of goods, or provisions for the carrier to impose monetary penalties or to increase the price of the transportation.

Rail Agricultural Contract Summaries. The ICCTA limited the requirement that railroads file transportation contract summaries to those contracts that involve agricultural products. 49 U.S.C. 10709(d). In December 1996, the Board revised its contract filing regulations, at 49 CFR 1313, to reflect this change. Approximately 3,200 contract summaries for the transportation of agricultural products were filed with the Board and made available for public inspection in FY 1997.

Tariff and Railroad Contract Summary Filings FY 1997	
Railroad Contract Summaries	
Number of Filings	1,148
Number of Summaries Filed	3,187
Noncontiguous Domestic Trade Tariffs	
Printed Tariffs	
Number of Filings	2,888
Number of Pages Filed	57,904
Electronic Tariffs	
Number of Filings	908
Number of Objects (e.g., tariff rates, rules) Filed	74,302

Motor Carrier Undercharge and Tariff Applicability Issues

The elimination of the tariff filing requirement for motor carriers (except for intermodal movements in noncontiguous domestic trade) precludes undercharge claims based on the filed rate doctrine from arising from transportation occurring now. However, there remain a substantial number of outstanding undercharge claims based on transportation that occurred before the tariff filing requirement was eliminated. The regulatory responsibility for resolving issues of tariff applicability, rate reasonableness, the reasonableness of rate collection practices, and similar matters was transferred to the Board by the ICCTA. 49 U.S.C. 13708-13711.

The Board began FY 1997 with 400 pending motor carrier undercharge cases. During the year, 24 new cases were submitted for the Board's consideration. The Board resolved 194 undercharge cases in FY 1997, reducing its pending undercharge docket to 230 cases at the end of the fiscal year. From its inception (on January 1, 1996) to the end of FY 1997, the Board closed a total of 299 undercharge cases. These are in addition to the 547 cases disposed of by the ICC since December 3, 1993, when the ICC first started tracking its undercharge docket separately. Thus, a total of 846 undercharge cases have been resolved since specific records of these cases have been maintained. All of the undercharge claims that were considered by the Board in FY 1997 were found not to be collectable.

Other Compliance Matters

Informal Complaint Process. The Office of Compliance and Enforcement (OCE) handled over 500 informal complaints involving disputes over rate application and rail service during FY 1997. Informal rate complaints typically involve requests under 49 U.S.C. 13710 (a)(3)(B) for a determination of applicable charges, and informal rail service complaints typically involve complaints from shippers and receivers concerning rail car congestion and poor service. OCE was able to resolve most of the rate application disputes presented to it, as well as many rail service problems. This informal settlement process, used by both large companies and individual consumers, disseminates information regarding applicable law, transportation rates, and the rights of parties, and helps to prevent future occurrences of similar disputes and problems.

Correspondence. In addition to the informal complaints, OCE in FY 1997 processed 790 pieces of correspondence from shippers, carriers, government officials, and Congress requesting information or advice.

Outreach. In FY 1997, OCE contacted over 250 household goods carriers and forwarders to ensure that they were aware of and in compliance with the tariff publication and dissemination requirements of the statute and the Board's regulations. As a result of this effort, carriers and forwarders not in compliance took appropriate action to satisfy the requirements.

OTHER TRANSPORTATION ISSUES

Trucking Rate Bureaus

Under 49 U.S.C. 13703, the Board may authorize and monitor agreements between motor carriers for establishing through routes and joint rates, rates for the transportation of household goods, classifications and mileage guides, and certain other activities. See 49 CFR 1331. Board approval confers immunity from the antitrust laws for these collective activities. 49 U.S.C. 13703(a)(6). The Board may review the reasonableness of rates and practices established collectively under 49 U.S.C. 13701.

General Review of Rate Bureaus. In May 1997, the Board sought public comments addressing the appropriate role of rate bureaus and whether there is a continuing need for antitrust immunity in light of the elimination of tariff filing requirements for motor carriers (except for joint rates with water carriers in the noncontiguous domestic trade). The Board sought specific comments on whether to renew the rate bureaus' antitrust immunity, which is set to expire by law at the end of 1998 under 49 U.S.C. 13703(d), (e).

Suspension of Tariff Change. In October 1996, the Board suspended a tariff schedule filed by the National Motor Freight Traffic Association that would have changed the definition of the term "tariff" and related terms in carriers' bills of lading. The suspension was based on concerns that shippers might be subjected unknowingly to provisions not made available to them, such as limitations of liability for cargo. The investigation into the suspended tariff schedule was pending at the close of FY 1997.

Intercity Bus Industry

Intercity bus carriers require Board approval for mergers and similar consolidations, 49 U.S.C. 14303, and for pooling arrangements between carriers, 49 U.S.C. 14302. See 49 CFR 1182 and 1184, respectively. In addition, the Board can require bus carriers to provide through routes with other carriers, under 49 U.S.C. 13705.

Revision of Regulations. In July 1997, the Board proposed to revise and streamline its procedures for handling applications for the merger or acquisition of bus companies. Under 49 U.S.C. 14303, the Board's regulatory requirements apply only to consolidations of carriers with combined gross operating revenues of at least \$2 million. The Board has proposed to include all revenues (including those in intrastate commerce and those earned outside the United States) in determining this threshold limitation. Under the proposed rules, the Board would issue tentative grants of authority concurrently with publication of notice of the application, which would become effective automatically if the application is unopposed.

Consolidations Within the Industry. The Board authorized Coach USA to acquire numerous other bus companies, creating the nation's second largest interstate bus holding company. The Board also approved the acquisition by Laidlaw Transit of four other bus companies. The Board approved a partial market swap between Northwestern Stage Lines and Greyhound Lines and also authorized Greyhound to pool certain regional operations with other bus companies.

Noncontiguous Domestic Trade

Confidentiality Dispute. In March 1997, the Board dismissed a complaint alleging that a vessel operating common carrier and a cargo inspection service providing transportation between the mainland and Puerto Rico were disclosing shipment and routing information in violation of the shipper confidentiality provisions of 49 U.S.C. 14908(a). The Board found that confidential information was not being disclosed and that no fraud or other basis for relief had been shown.

Pipeline Rate Regulation

The Board regulates the rates charged for interstate pipeline transportation of commodities other than water, gas, and oil. 49 U.S.C. 15301, 15501, 15503, 15701.

Rate Disclosure. Pursuant to 49 U.S.C. 15701, the Board maintains regulations, at 49 CFR 1305, requiring pipeline carriers promptly to disclose their rates and service terms upon request. This information may be provided in either written or electronic form. Additionally, pipeline carriers must provide at least 20-days' notice before a rate increase or change in service terms may become effective.

Rate Complaints. Acting on a complaint filed against Chevron Pipe Line Company, the Board in October 1996 found that, at certain volume levels, the tariff rates filed by Chevron for the transportation of phosphate slurry from Vernal, Utah, to Rock Springs, Wyoming, were unreasonably high and had to be reduced. In response to a complaint filed against Koch Pipeline Company, the Board in May 1997 instituted an ongoing investigation into rates charged for pipeline movements of anhydrous ammonia from production facilities in southern Louisiana to several Midwestern States.

COURT ACTIONS

Judicial review of most Board decisions is available in the United States Courts of Appeals. 28 U.S.C. 2321, 2342(5). Review is available from federal district courts for Board orders that are solely for the payment of money and for certain matters referred to the Board by district courts. 28 U.S.C. 1336, 2321.

The Board defends its own decisions against challenges in court and may appear in any civil action involving matters within its jurisdiction. 49 U.S.C. 703(d). In addition, the Board is responsible for defending decisions made by its predecessor, the ICC, that involve regulatory functions transferred to the Board under the law in effect at the time those decisions were rendered. ICCTA, Sec. 204(c)(2).

The court actions arising out of Board (or ICC) proceedings reflect the diversity of the Board's functions. Below is a summary of the more significant court decisions rendered in FY 1997.

Railroad Rate Regulation. An application of the Board's market dominance standards and SAC test of rate reasonableness was affirmed in *Burlington N. R.R. v. STB et al.*, 114 F.3d 206 (D.C. Cir. 1997). In that case, the Board found a Burlington Northern rate (charged to transport coal for West Texas Utilities Company) to be unreasonably high, limited the rate that can be charged for that transportation in the future, and required payment of reparations for past shipments. Significantly, the court affirmed the Board's treatment of several issues that are central to the theory that underlies a SAC case, including barrier-to-entry costs that should be excluded from the SAC computation and the Board's limiting the time horizon for projections into the future.

BN-SF Merger. The Board's authorization of the merger of the Burlington Northern and Santa Fe railroad systems was upheld in two companion cases. In *Western Resources, Inc. et al. v. STB et al.*, 109 F.3d 782 (D.C. Cir. 1997), the court rejected (as had the Board) the horizontal and vertical integration arguments of various coal shippers and agreed with the Board that application of the so-called "one-lump theory" is an appropriate way to analyze potential effects of increased market power. In *Grainbelt Corp. et al. v. STB et al.*, 109 F.3d 794 (D.C. Cir. 1997), the court

rejected the argument of two shortline carriers that the Board was required to improve their competitive positions even though they were essentially unaffected by the merger authorization, as conditioned by the Board.

Labor Disputes. Several other decisions involved disputes regarding the implementation of previous railroad consolidations approved by the ICC as they have affected employees of the railroads. In a case involving agency review of arbitral awards, *American Train Dispatchers, et al. v. Boston & Maine Corp. et al.*, No. 96-1633 (1st Cir. Sept. 26, 1996), the court summarily affirmed a district court determination involving two matters of first impression. The first was that the ICC (and now the Board) has authority to add interest to an award to compensate employees for the delay in payment pending appeal. The second was that the 1-year period for enforcing an award runs from the date of disposition of the appeal of an award, not from the date the award was first entered.

In *United Transp. Union, et al. v. STB et al.*, 108 F.3d 1425 (D.C. Cir. 1997), the court upheld the ICC's distinction between those "rights, privileges and benefits" that are absolutely immune from modification and other collective bargaining terms that may be modified when necessary to implement an approved rail consolidation. The court found that, under the ICC's interpretation of these terms, "the public interest in effectuating approved consolidations is ensured without any undue sacrifice of employee interests. In our view, this is exactly what was intended by Congress." 108 F.3d at 1430.

In *United Transp. Union v. STB et al.*, 114 F.3d 1190 (6th Cir. 1997), the court upheld both (1) the right of the Board to interpret labor protective conditions that had been negotiated by parties (and adopted by the ICC) that were broader than the standard conditions ordinarily imposed, and (2) the Board's interpretation in that case. Finally, in *United Transp. Union v. STB et al.*, 114 F.3d 1242 (D.C. Cir. 1997), the court affirmed the Board's reversal of an arbitral decision to reconcile conflicting arbitration decisions interpreting nearly identical contract language. The court agreed that, under the Board's standard for reviewing arbitral awards (which is limited to correction of egregious error), "the arbitrators' error is egregious not necessarily because of the quality of their reasoning but because of the impact of their decision on the STB's administration of the Act." 114 F.3d at 1246.

Labor Protection. Several Board decisions involving use of track for switching operations were challenged in *Brotherhood of Locomotive Engineers v. United States et al.*, 101 F.3d 718 (D.C. Cir. 1996). In two of the cases, the court agreed with the ICC that joint use of track for switching operations did not give rise to the imposition of labor protective conditions. In the third case, the court found that, because labor interests were not injured, they could not challenge the ICC's decision.

Reversals of Two ICC Decisions. In *Caddo A.&L.M. R.R. et al. v. United States et al.*, 95 F.3d 740 (8th Cir. 1996), the court reversed an ICC decision that had permitted the Caddo Antoine and Little Missouri Railroad to purchase, under the feeder line program, only the previously embargoed (49.2-mile) portion of a larger (52.9-mile) line. The court found that the line should not have been bifurcated. In *CSX Transp., Inc. v. STB et al.*, 96 F.3d 1528 (D.C. Cir. 1996), the court reversed an ICC decision that had denied a request to abandon a 93-mile rail line in West Virginia. Anticipated new traffic had failed to materialize, and the court concluded that abandonment authority should not have been withheld. Subsequently, the State of West Virginia reached an agreement with CSX to acquire the entire line for continued rail service.

Rail Right-of-Way Issues. Several court decisions dealt with the status of rights-of-way over which rail operations were not currently being conducted. In *Phillips Co. v. Denver & R.G.W.R.R.*, 97 F.3d 1375 (10th Cir. 1996) — a quiet title land action involving the interplay between the Board's governing statute and another federal statute governing reversion of federally granted rights-of-way — the court affirmed that a court cannot find that an abandonment has occurred if the Board (or ICC) has not authorized the abandonment. Two other cases dealt with the ICC's imposition of a trail use condition, allowing rights-of-way that would otherwise be abandoned to be retained for possible future reactivation of rail service and interim use as a trail. In those cases, the issue was whether the trail use condition effected a taking of property for which reversionary interest holders should be compensated. In *Preseault et al. v. United States et al.*, 100 F.3d 1525 (Fed. Cir. 1996), the court found that a compensable taking had occurred, based on the nature of the property interests under Vermont law and the fact that the line would have been considered abandoned under Vermont law absent the preemptive federal regulation. In *Chevy Chase Land Co. of Montgomery County, Md. et al. v. United States et al.*, 37 Fed. Cl. 545 (1997), the court found no taking had occurred with respect to another line that had been converted to trail use because the railroad had full title to the property involved.

User Fees. In another action involving the trail use program, the court upheld the Board's decision to charge a user fee for processing requests for trail use conditions, in *Nebraska Trails Council, et al. v. STB et al.*, No. 96-3656 (8th Cir. July 31, 1997).

Undercharge Claims. There were three significant court decisions regarding motor carrier undercharge claims in FY 1997. One was *Hunt v. Gantrade Corp.*, No. H-89-2379 (S.D. Tex. Mar. 31, 1997), the first in which a court reviewed an ICC decision finding that collecting undercharges would be an unreasonable practice under section 2(e) of the Negotiated Rates Act of 1993 (now codified at 49 U.S.C. 13711). The court upheld that finding, agreeing that section 2(e) applied even in the absence of an election by the shipper to assert the unreasonable practice defense and that noncontemporaneous documents were sufficient to satisfy the written evidence requirements of section 2(e).

Another significant court undercharge decision was *AVR Inc. et al. v. Churchill Truck Lines, Inc. et al.*, No. 4-95-401 (D. Minn. Oct. 22, 1996), in which the court permanently enjoined the estate and auditors of bankrupt Churchill Truck Lines from pursuing undercharge claims against Churchill's former customers and ordered refunds of a portion of the funds previously collected, based upon findings by the ICC. (Following the entry of that order, the Churchill estate withdrew its petition for review of the underlying ICC decision in *Churchill Truck Lines, Inc. et al. v. STB et al.*, No. 96-1013 (D.C. Cir. dismissed Dec. 6, 1996).)

Finally, in *Fidelcor Business Credit Corp. v. Dillard Dep't. Stores, Inc.*, No. 91-953-Civ-J-99(S) (M.D. Fla. Sept. 18, 1997), the court upheld and applied an ICC determination that violations of the credit rules precluded collection by the successor-in-interest to bankrupt P*I*E Nationwide of late-payment penalties on a class of shipments. As to another class of shipments, the court applied the ICC's finding that the tariff rate sought to be enforced was unreasonably high, and that its collection was alternatively precluded as an unreasonable practice.

NATIONAL GRAIN CAR COUNCIL

The ICCTA reauthorized the National Grain Car Council (NGCC) as a means for assisting the Board in addressing problems arising in the transportation of grain by rail. The Board has general oversight of the national railroad industry and is responsible for ensuring that rail carriers furnish safe and adequate car service and apply reasonable rules and practices in the provision of car service. 49 U.S.C. 11121. One way that the Board meets that responsibility is through the NGCC, and Board members serve as ex officio members of the NGCC.

The concept for a grain car council arose from a 1993 proceeding instituted by the ICC in response to persistent and pervasive problems confronted by shippers, railroads, and grain car suppliers in the transportation of grain. A council was viewed as the best vehicle for continuing and improving broad-based communications among large railroads, smaller railroads, shippers, rail car manufacturers, and federal and state governments.

The NGCC was recommended by former ICC Commissioner J. J. Simmons III, as a private-sector vehicle for reaching market-based solutions to grain transportation problems and as a means to advise the ICC as to when regulatory intervention might be needed. The NGCC's Charter, established under the Federal Advisory Committee Act, requires it to be comprised of no fewer than 30 members, consisting of 10 representatives from Class I railroads, 5 representatives from Class II and Class III railroads, 10 representatives of grain shippers and receivers, and 5 representatives of private rail car owners and manufacturers. At the close of FY 1997, the council was comprised of 34 nongovernment members.

The NGCC held its first meeting in September 1995. It met again in April 1996 to review and discuss reports and recommendations proposed by two task forces regarding improving communications, rail grain car pooling, reducing empty rail car transportation, and equipment sharing.

In October 1996, the NGCC met to discuss issues recommended for consideration by NGCC subcommittees. At that meeting, the NGCC advanced a proposal to provide additional information to grain shippers to aid them in projecting railroad grain car availability; addressed the issue of

growing vandalism against rail grain cars and the problem of damage occurring to covered rail hopper cars' bottom gates at ports and other unloading facilities; discussed ways to improve notification to grain elevator operators of the timing of grain car arrival at their facilities; and discussed future demand for grain cars and service needs.

The NGCC met in April 1997 to discuss recent market conditions, the grain transportation outlook for the balance of the year, and several task force reports. Task force reports addressed the problem of vandalism to cars in Mexico; car loading measurement issues; and voluntary programs for arbitration of disputes. Finally, the NGCC voted to recommend to Congress that the current 40% limitation on committing rail cars by contract be retained. See 49 U.S.C. 10709(h)(1)(3).

RAILROAD-SHIPPER TRANSPORTATION ADVISORY COUNCIL

The Railroad-Shipper Transportation Advisory Council (RSTAC) was created by the ICCTA to advise the Board, the Secretary of Transportation, and Congressional oversight committees on rail transportation policy issues of particular importance to small shippers and small railroads, such as rail car supply, rates, and competitive issues. 49 U.S.C. 726.

The RSTAC is comprised of 15 private-sector senior executive officers involved with the railroad or shipping industry, the Secretary of Transportation, and the three Board members. In April 1996, Board Chairman Morgan appointed the initial private-sector members, after receiving candidate recommendations from the public.

Arbitration Program. In February 1997, the RSTAC recommended that the Board adopt rules providing for informal dispute resolution through arbitration as an alternative means for resolving disputes that otherwise might have to be brought before the Board for formal resolution. The Board agreed with this recommendation and, after obtaining public comments, in September 1997, adopted rules providing a mechanism for the binding, voluntary arbitration of certain rail disputes.

The rules, at 49 CFR 1108, provide general guiding procedures on how arbitrations should be conducted but give the arbitrator and parties flexibility to modify those procedures. Under the rules, arbitrators' decisions will not be made public unless a party appeals an arbitral award, and the bases for review of an arbitral award are limited. Parties may appeal an award to the Board only on the grounds that the award exceeds the Board's jurisdiction or does not draw its essence from the Board's governing statute. The Board will not otherwise review the reasonableness of arbitral decisions. Limited review of an arbitral award will also be available in federal district court under the standard procedures for judicial enforcement of an arbitral award (9 U.S.C. 9) and the narrow grounds for judicially vacating an arbitral award (9 U.S.C. 10).

APPENDIX A: REPORTS AND PUBLICATIONS

The Board issues several types of publications, including general interest publications, guidelines to assist the consumer, and technical and statistical reports. STB publications may be obtained from:

Surface Transportation Board
Washington, DC 20423-0001

To request a publication, contact the office indicated after the title of the publication sought. These offices are:

OCPS	Office of Congressional and Public Services
OEEAA	Office of Economics, Environmental Analysis, and Administration
SE	Office of the Secretary

A fee is charged for software packages, user documentation, and surveys (see list at end of this appendix). For other publications, a copying charge may apply.

Financial and Statistical Reports of Class I Railroads

The reports listed below are compiled by or for the Board and may be examined, by appointment, in the **OEEAA** Public Reference Room, (202) 565-1535, between the hours of 8:30 AM and 5:00 PM, Monday through Friday. Copies of these reports may be obtained (80 cents/page, \$5 minimum charge/order) from **SE** (Attn: Records Officer) at the above STB address.

Annual Reports (Form R-1s) of Class I Railroads — report of annual financial and operating statistics. (compiled annually)

Wage Statistics: Report of Railroad Employees, Service, and Compensation (Form A and Form B — report of number of employees, service hours, compensation, and mileage run. (compiled quarterly)

Condensed Balance Sheet Report for Class I Railroads (Form CBS) — report of current assets and liabilities, expenditures for additions and betterments, and traffic statistics. (compiled quarterly)

Report of Freight Commodity Statistics (Form QCS) — report of carloads, tonnage, and gross revenue for each commodity group. (compiled quarterly and annually)

Revenue, Expenses, and Income Report (Form RE&I) — report of quarterly operating revenues, expenses, and income. (compiled quarterly)

Independent Accountants' Reports Based on Ex Parte 460 Agreed-Upon Procedures — reviews of specified data in each Class I railroad's Annual Report Form R-1. (prepared annually) **OEEAA**

Board Decisions, News Releases, and Pleadings

Board decisions and filings may be viewed and copied at the Board's Reading Room, Room 755, at 1925 K Street, NW, Washington, DC 20423-0001.

Copies of Board decisions and news releases (up to 1 year from the date of service), and pleadings filed with the Board (up to 6 months from the date of filing) also may be obtained from or viewed at:

DC News & Data, Inc.
Room 210
1925 K St., NW
Washington, DC 20006
VOICE: (202) 289-4357 or (202) 463-8112
FAX: (202) 289-4359

The following periodic decisions and notices relate to publications and reports listed in this appendix:

Depreciation Rate Decisions — depreciation rate orders, by account, for each Class I railroad. (issued periodically) **OEEAA**

Railroad Cost of Capital — determination of the cost of capital rate for the railroad industry. (made annually) (most recent determination, for 1996, in *STB Ex Parte No. 558* (served July 16, 1997)) **SE**

Railroad Revenue Adequacy — determination of the railroads that are revenue adequate. (made annually) (most recent determination, for 1996, issued in *STB Ex Parte No. 552 (Sub-No. 1)*(served Aug. 28,1997)) **SE**

Rail Cost Adjustment Factor (RCAF) — index used to adjust for inflation in long-term railroad contracts, rate negotiations, and transportation studies; indices adjusted for productivity also available. (computed quarterly) (most recent determination, for 3rd quarter 1996, issued in *STB Ex Parte No. 290 (Sub-No. 5)(97-3)* (served Sept. 19, 1997)) **SE**

Indexing the Annual Operating Revenues of Railroads — notice setting forth the annual inflation adjusting index numbers used to adjust gross annual operating revenues of railroads for classification purposes. (issued annually) (most recent determination, for 1996, published at 62 Fed. Reg. 37952 (July 15, 1997)) **SE**

Speeches and Statements

Copies of Board members' speeches (subject to availability) and statements before Congressional committees may be obtained by writing **OCPS** at the STB address shown above or by contacting Congressional Services at (202) 565-1594, Public Services at (202) 565-1592, or Media Services at (202) 565-1596, as appropriate.

Board Regulations

The regulations maintained by the Board are set forth in two volumes of the *Code of Federal Regulations*. The first volume, *49 CFR Parts 1000-1199*, contains general provisions and rules of practice, including provisions relating to exemptions, rate procedures, rail line construction and abandonments, and restructurings within the railroad and intercity bus industries.

The second volume, *49 CFR Parts 1200-End*, contains provisions regarding the uniform system of accounts prescribed by the Board, carrier records and reporting requirements, and filing and disclosure requirements with respect to rates and service terms.

These two volumes may be obtained from:

Superintendent of Documents
U.S. Government Printing Office
P.O. Box 371954
Pittsburgh, PA 15250
(202) 512-1800

Governing Statutes

The primary statutory provisions that govern the Board and that the Board is responsible for administering are codified at 49 U.S.C. 701-727, 10101-16106.

These provisions are reproduced in *United States Code Annotated*, and are contained in one volume, *49 U.S.C.A. §101 to §20100*. It is available from:

West Publishing Company
P.O. Box 64833
St. Paul, MN 55164
(800) 328-9352

Additional Sources of Information

Certain documents referred to herein may be read on-line or downloaded from the Board's Internet web site **www.stb.dot.gov**. That web site also lists publications issued subsequent to the preparation of this Annual Report. More detailed information about STB databases and software may be found in the Department of Transportation's annual publication *Directory of Transportation Data Sources*, (800) 853-1351 or **www.bts.gov**.

Publications

So You Want to Start a Small Railroad: Surface Transportation Board Small Railroad Application Procedures — rules and regulations involved in applying for STB authority to operate a new railroad (revised March 1997). **OCPS**

Before You Start A Small Railroad: A Brief Overview of Things to Consider — suggestions for preparing a financial plan for a new railroad (revised May 1993). **OCPS**

Overview: Abandonments and Alternatives to Abandonment — rules and regulations applicable to abandonments, line sales, and rail banking (revised August 1997). **OCPS**

The Surface Transportation Board: Who's Who and What Does it Do? — names of Board members and Office Directors and a brief description of the Board's jurisdiction and the functions that were transferred to the Board and to DOT when the ICC was abolished (revised regularly). **OCPS**

Class I Line-Haul Railroads — Selected Earnings Data — compilation of railway operating revenues, net railway operating income, net income, and revenue ton-miles of freight of Class I railroads developed from quarterly RE&I and CBS forms (compiled quarterly). **OEEAA**

Rail Rates Continue Multi-Year Decline (1997) — study of average annual rail rates for 1982-1995, based on data for 15 commodity groups obtained from the annual *Freight Commodity Statistics* and the waybill files. **OEEAA**

Report of Railroad Employment — Class I Line-Haul Railroads (Statement M350) — report of number of railroad employees (prepared monthly). **OEEAA**

Statistics of Class I Freight Railroads in the United States (formerly *Transport Statistics*) — a compilation of expense, investment, and operating statistics of U.S. Class I railroads developed from the Annual Report Form R-1s (compiled annually). **OEEAA**

Wage Statistics of Class I Railroads in the United States (Statement A300) — compilation of number of employees, service hours, compensation, and mileage run developed from Wage Forms A and B (compiled annually). **OEEAA**

Property Account Indices — indices by property account for use in trending original cost and assessing price fluctuations (prepared annually). **OEEAA**

Software, User Documentation, and Surveys Available for a Fee

Computer Assisted Depreciation and Life Analysis System (CADLAS) — programs used to analyze the life characteristics of property; calculate historical salvage ratios; develop depreciation rates; calculate annual accruals and accumulated depreciation; determine Reproduction Cost New

Less Depreciation (RCNLD) (also known as Trended Net Original Cost or TNOC); estimate property replacements; and value assets. **OEEAA** [Software and User Documentation fee of **\$195**]

Uniform Railroad Costing System (URCS) Phase III Movement Costing Program — used to develop average variable and total shipment costs for U.S. Class I railroads and for the east and west regions of the United States. **OEEAA** [Program, Data, and User Manual fee of **\$50**; Data only (updated annually) fee of **\$20**; Source code fee of **\$500**]

Uniform Railroad Costing System (URCS) Phase II Unit Cost Calculation Program — used to develop, for use in *Phase III*, unit costs of U.S. Class I railroads based on data from the Annual Report Form R-1s and other sources. **OEEAA** [Program, User Manual, and Technical Manual fee of **\$400**; Source code fee of **\$1,500**; Data only (updated annually) fee of **\$50**]

Carload Waybill Sample — confidential sample of U.S. railroad traffic used in complaint cases before the STB and by states in developing state rail plans and in related studies. **OEEAA** [**\$650** fee (CD); User Guide fee of **\$50**] (Sample and Guide free to states and Federal agencies)

Carload Waybill Sample Public Use File — nonconfidential railroad movement and revenue data for use in performing plant location and other transportation planning studies. **OEEAA** [**\$450** fee (CD)]

APPENDIX B: APPROPRIATIONS AND EMPLOYMENT

The following table shows average full-time equivalent (FTE) employment and total appropriations for FY 1995 through FY 1997 for activities included under the current appropriation title "Salaries and Expenses."

Full-time Equivalent (FTE) Employment and Total Appropriations						
Fiscal Year	Appropriations	Average FTE Employment		Fiscal Year	Appropriations	Average FTE Employment
1995				1996		
ICC	\$33,083,000	416		STB	\$8,414,000	106***
Offset*	7,738,217			Offset*	651,521	
1996				1997		
ICC	\$13,379,000	86**		STB	\$12,244,000	131
Offset*	3,400,000			Offset*	3,000,000	

Source: Appropriations data are from Annual Appropriation Acts.
Average FTE Employment data are from Report to OPM, SF 113-G.

* The appropriations have been statutorily offset by the collection of user fees.

** The ICC operated only 3 months in FY 1996. These average FTE employment figures represent the 3-month equivalent of an annualized employment level.

*** The STB operated only 9 months in FY 1996. These average FTE employment figures represent the 9-month equivalent of an annualized employment level.

— Status of Appropriations —	
Status of FY 1996 Appropriations (as of Sept. 30, 1996)	
Salaries and Expenses	
Total appropriations	\$8,414,000
Net transfer from ICC for ICC-related obligations	7,856,222
Offsetting collections	651,521
Reimbursements from other agencies	550,037
Total obligations	17,471,780
Unobligated balance available for adjustments	91,839
Status of FY 1997 Appropriations (as of Sept. 30, 1997)	
Total appropriations	\$12,244,000
Offsetting collections	3,000,000
Reimbursements from other agencies	88,998
Total obligations	15,332,998
Unobligated balance available for adjustments	37,899
Carryover of offsetting collections to next fiscal year	571,092

Source: DOT's Accounting System.

APPENDIX C: WORKLOAD DURING FY 1997

Workload During FY 1997					
<i>Rail Matters</i>					
Category	Pending at Start	Received During	Decided During	Pending at End	Decisions Served
Carrier Consolidations	16	39	38	17	156
Review of Labor Arbitral Decisions	9	6	7	8	18
Rates and Services					
Rate Reasonableness	17	7	11	13	64
Rate Disclosure	0	0	0	0	0
Through-Routes or Divisions	0	0	0	0	0
Contract Rates	2	0	2	0	4
Reasonable Practice	8	1	5	4	11
Discrimination	2	1	2	1	5
Car Supply and Interchange	4	1	2	3	3
Service Orders	0	0	0	0	0
Competitive Access	0	1	0	1	3
Constructions					
Line Crossing	2	0	0	2	1
Constructions	6	30	9	27	31
Abandonment					
Abandonments	103	113	169	47	398

Workload During FY 1997 (Continued)					
<i>Rail Matters</i>					
Category	Pending at Start	Received During	Decided During	Pending at End	Decisions Served
Other Line Transactions					
Line Consolidations	24	66	64	26	75
Line Acquisitions Under 49 U.S.C. 10901	14	30	32	12	52
Line Acquisitions by Shortline	14	42	48	8	83
Feeder Line Development	2	1	1	2	6
Collective Actions					
Collective Ratemaking	1	0	1	0	1
Pooling	0	1	1	0	2
Lien Recordation	0	0	0	0	0
Data Collection and Oversight					
RCAF	4	0	3	1	11
Accounting and Records	0	3	3	0	3
Reports - Rail	0	0	0	0	0
Passenger Rail					
Amtrak Track Use/ Compensation	1	7	6	2	17
Passenger Rail - Other	1	3	3	1	7
Exemption Rulemakings	5	2	4	3	11
Other Rail					
Common Carrier Obligation	6	3	3	6	9
Interlocking Officer or Director	1	0	1	0	1
Other	4	9	8	5	16
Total Rail	246	366	423	189	988

Workload During FY 1997 (Continued)					
<i>Nonrail Matters</i>					
Category	Pending at Start	Received During	Decided During	Pending at End	Decisions Served
<i>Motor</i>					
Rate Reasonableness					
Joint Motor-Water Rates in Noncontiguous Domestic	0	0	0	0	0
Collectively Set Trucking Rates	0	0	0	0	0
Household Goods	1	0	1	0	3
Collective Actions					
Collective Ratemaking	8	4	3	9	9
Truck Pooling	1	0	0	1	0
Undercharges	403	24	197	230	353
Bus Regulation					
Through-Route Regulation	0	0	0	0	0
Mergers	6	12	14	4	23
Bus Pooling	1	5	3	3	7
Other Motor	11	9	10	10	16
<i>Water</i>					
Port-to-Port Water Rates	3	0	3	0	5
Other	3	1	3	1	4
<i>Pipeline</i>					
Rate Regulation	3	0	2	1	6
Other	0	0	0	0	0
<i>Other</i>	4	9	12	1	15
Total Nonrail	444	64	248	260	441
Total Rail and Nonrail	690	430	671	449	1,429

APPENDIX D: RAILROAD FINANCIAL AND STATISTICAL DATA

Rail Carriers Regulated by the Board	
Carriers Subject to Uniform System of Accounts and/or Required to File Annual and Periodic Reports (as of Oct. 1, 1997)	
Railroads, Class I	9
Railroads Not Required to File Reports (as of Oct. 1, 1997)	
Railroads, Class II Line-Haul	27
Railroads, Class III Line-Haul	333
Railroads, Other	206
Holding Companies - Rail	11

Railroads are classified based on their annual operating revenues. The class to which a carrier belongs is determined by comparing its *adjusted* operating revenues for 3 consecutive years to the following scale:

Class I	\$250 million or more
Class II	\$20 million to \$250 million
Class III	\$0 to \$20 million

The formula below is used to adjust a railroad's operating revenues to eliminate the effects of inflation:

$$\text{Current Year's Revenues} * \left(\frac{\text{1991 Avg Index}}{\text{Current Year's Avg Index}} \right)$$

The average index (deflator factor) is based on the annual average Railroad Freight Price Index for all commodities. The factor for 1991 is 1.00; for 1996, 0.9802.

Class I Railroads: Condensed Income Statement, Financial Ratios, and Employee Data (Dollars in Thousands)			
	1994	1995	1996
1. Number of carriers represented	12	11	10
CONDENSED INCOME STATEMENT			
2. Operating revenues:			
a. Freight	\$30,721,110	\$32,190,955	\$32,590,078
b. Passenger	<u>87,867</u>	<u>88,536</u>	<u>102,560</u>
c. Total operating revenues	30,808,977	32,279,491	32,692,638
3. Total operating expenses	25,511,105	27,896,748	26,328,047
4. Net railway operating income	3,385,703	2,857,691	4,341,425
5. Net income	3,298,343	2,323,914	3,885,282
6. Dividends Paid	1,397,908	1,517,622	3,937,058
NET INVESTMENT AND EQUITY			
7. Net investment in transportation property and equipment, plus working capital	\$41,394,904	\$47,068,947	\$49,293,011
8. Shareholders' equity	27,388,811	31,418,945	32,225,214
FINANCIAL RATIOS (PERCENT)			
9. Operating ratio (L3/L2c)	82.80%	86.42%	80.53%
10. Return on net investment (L4/L7)	8.18%	6.07%	8.81%
11. Return on equity (L5/L8)	12.04%	7.40%	12.06%
EMPLOYEE DATA			
12. Average number of employees	189,962	188,215	181,511
13. Compensation	\$8,873,890	\$9,069,695	\$9,201,968

Accumulated deferred income tax reserves have been subtracted from the net investment base in accordance with the modification approved in *Standards for Railroad Revenue Adequacy*, 3 I.C.C.2d 261 (1986).

Class I Railroads: Selected Balance Sheet Data (as of Dec. 31, 1995 and 1996) (Dollars in Thousands)				
	1995 Amount	Percent Change From 1994	1996 Amount	Percent Change From 1995
1. Total current assets	\$7,017,110	4.6%	\$7,032,688	0.2%
2. Total current liabilities	9,650,832	-1.2%	9,974,908	3.4%
3. Transportation property				
Road	62,149,885	14.8%	64,665,952	4.0%
Equipment	21,935,855	0.3%	22,907,915	4.4%
Other	1,203,108	-19.9%	1,641,536	36.4%
Less accumulated depreciation and amortization	(23,046,627)	-5.2%	(24,070,338)	4.4%
Net Transportation Property	62,242,221	17.0%	65,145,065	4.7%
4. Long-term debt due after 1 year	12,044,277	42.4%	12,312,818	2.2%
5. Shareholders' equity				
Capital stock	2,436,445	14.0%	1,531,980	-37.1%
Additional capital	11,356,804	73.3%	13,081,442	15.2%
Retained earnings	17,629,482	-4.9%	17,615,579	-0.1%
Less treasury stock	3,787	0.0%	3,787	0.0%
Net shareholders' equity	31,418,944	15.4%	32,225,214	2.6%

Railroad Revenue Adequacy Status for Calendar Year 1996		
Railroad	Return on Investment	Finding
Burlington Northern-Santa Fe	8.6%	Inadequate
Conrail	8.4%	Inadequate
CSX	8.9%	Inadequate
Grand Trunk Western	Negative	Inadequate
Illinois Central	15.2%	Adequate
Kansas City Southern	7.2%	Inadequate
Norfolk Southern	13.0%	Adequate
Soo Line	23.5%	Adequate
Union Pacific	8.3%	Inadequate

APPENDIX E: TRANSITION FROM THE ICC

On December 29, 1995, President Clinton signed into law the ICC Termination Act of 1995 (ICCTA) abolishing the 108-year-old Interstate Commerce Commission (ICC) and establishing the Board to assume certain of the ICC's functions as of January 1, 1996.

In February 1996, the Board informed the public that it intended to proceed as expeditiously as its limited resources would allow to issue new regulations to reflect the new law and to conform existing regulations previously administered by the ICC. Several task forces within the Board were assigned various aspects of this regulatory effort. In the interim, under section 204 of the ICCTA, the regulations in existence at the time of the ICC's abolition applied, as appropriate, until pertinent regulatory changes were made.

The Board has updated the ICC's regulations to reflect the elimination of discontinued functions and the transfer of functions to the Board and to FHWA. Certain of the changes in the regulations were ministerial, such as revised nomenclature, while others reflected substantive changes in the statute or modified internal Board procedures to improve efficiency. Among the procedural revisions were the elimination of several employee boards and the reassignment of authority to individual staff members.

In addition to handling cases filed with the Board, the Board has been responsible for completing all cases pending before the ICC at the time of its abolition that relate to functions that were retained and transferred to the Board. Cases pending at the ICC, but determined by the Board to involve functions eliminated by the ICCTA, have been terminated. Cases pending at the ICC involving motor functions that were transferred by the ICCTA to the DOT have been transferred to FHWA for final disposition.

Holders of ICC Practitioner licenses (licenses to practice before the ICC) at the time of that agency's abolition are allowed to use those licenses to practice before the Board. The Board is devising a new practitioners examination to reflect the more limited composition of Board regulatory responsibilities.

APPENDIX F: SIGNIFICANT BOARD ACTIONS

(Jan. 1, 1996, through Sept. 30, 1997)

RAIL

Implementation of ICCTA

- Adopted rules for disclosure of rail rates under 49 U.S.C. 11101 —
Disclosure, Publication, and Notice of Change of Rates and Other Service Terms for Rail Common Carriage, 1 S.T.B. 153 (STB served **June 28, 1996**) (STB Ex Parte No. 528) (adopting 49 CFR 1300).
- Adopted procedures to expedite rail rate and exemption cases pursuant to 49 U.S.C. 10704(d) —
Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings, STB Ex Parte No. 527 (STB served **Oct. 1, 1996**), modified (STB served Nov. 15, 1996) (revising 49 CFR 1011, 1104, 1111-1115 and 1121), petition for judicial review pending sub nom. *United Transportation Union – Illinois Legislative Board v. Surface Transportation Board et al.*, No. 97-1027 (D.C. Cir. argued Oct. 27, 1997).
- Revised rules for abandonments and discontinuances to reflect 49 U.S.C. 10903-10905 and to streamline the process —
Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903, STB Ex Parte No. 537 (STB served **Dec. 24, 1996**) (revising 49 CFR 1105 and 1152), clarified and further revised (STB served June 27, 1997), petition for judicial review pending sub nom. *National Association of Reversionary Property Owners v. Surface Transportation Board et al.*, No. 97-1516 (D.C. Cir. filed Aug. 18, 1997).
- Revised rules for rail agricultural contracts to reflect 49 U.S.C. 10709 —
Railroad Contracts, STB Ex Parte No. 541 (STB served **Dec. 30, 1996**) (revising 49 CFR 1313).

- Adopted simplified evidentiary guidelines for determining the reasonableness of challenged rates charged on captive traffic where the constrained market pricing guidelines cannot practicably be applied —

Rate Guidelines — Non-Coal Proceedings, Ex Parte No. 347 (Sub-No. 2) (STB served **Dec. 31, 1996**), petition to reopen denied (STB served Sept. 24, 1997), petition for judicial review pending sub nom. *Association of American Railroads v. Surface Transportation Board et al.*, No. 97-1020 (D.C. Cir. filed Jan. 10, 1997).

- Revised rules for interlocking rail officers to reflect 49 U.S.C. 11328 —

Revision of Regulations for Interlocking Rail Officers, STB Ex Parte No. 543 (STB served **Jan. 15, 1997**) (revising 49 CFR 1185).

- Established standards for protection of railroad employees affected by a line acquisition by a Class II carrier and authorized Wisconsin Central to acquire two UP lines —

Wisconsin Central Ltd. -- Acquisition Exemption -- Lines of Union Pacific Railroad Company, STB Finance Docket No. 33116 (STB served Apr. 16, 1997), petitions for judicial review pending sub nom. *Association of American Railroads v. Surface Transportation Board et al.*, Nos. 97-1384 et al. (D.C. Cir. filed June 3, 1997).

- Updated carrier percentages for simplified evidentiary rate reasonableness benchmarks and provided regional and national percentages for use in cases involving non-Class I railroads—

Rate Guidelines -- Non-Coal Proceedings, Ex Parte No. 347 (Sub-No. 2) (STB served **May 1, 1997**).

- Adopted 60-day advance notification period for acquisitions of rail lines by entities other than Class I railroads, where the combined annual revenues will exceed \$5 million —

Acquisition of Rail Lines Under 49 U.S.C. 10901 and 10902 -- Advance Notice of Proposed Transactions, STB Ex Parte No. 562 (STB served **Sept. 9, 1997**), petition for judicial review pending sub nom. *Association of American Railroads v. Surface Transportation Board et al.*, No. 97-1624 (D.C. Cir. filed Oct. 6, 1997).

New Initiatives

- Withdrew antitrust immunity for collective establishment of rail demurrage charges —

Exemption of Demurrage from Regulation, Ex Parte No. 462 (STB served **Mar. 29, 1996**).

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- Exempted from regulation transportation of recyclables in boxcars —
Exemption from Regulation - Boxcar Traffic, STB Ex Parte No. 548 (STB served **May 29, 1996**) (revising 49 CFR 1039.14(b)).
 - Exempted from regulation the construction of connecting track —
Class Exemption for the Construction of Connection Track Under 49 U.S.C. 10901, 1 S.T.B. 75 (STB served **June 13, 1996**) (adopting 49 CFR 1150.36), reopening denied, Ex Parte No. 392 (Sub-No. 2) (STB served Aug. 15, 1997) .
 - Exempted from regulation line acquisitions by Class III railroads —
Class Exemption for Acquisition or Operation of Rail Lines by Class III Rail Carriers under 49 U.S.C. 10902, 1 S.T.B. 95 (STB served **June 21, 1996**) (STB Ex Parte No. 529) (adopting 49 CFR 1150.41-1150.45), aff'd per curiam sub nom. *United Transp. Union— Illinois Legislative Bd. v. STB et al.*, No. 97-1057 (D.C. Cir. Nov. 9, 1997).
 - Exempted from regulation rail transportation of blast furnace products —
Rail General Exemption Authority -- Exemption of Ferrous Recyclables, Ex Parte No. 346 (Sub-No. 35) (STB served **Sept. 9, 1996**) (revising 49 CFR 1039.11(a)).
 - Expanded exemption from regulation for rail transportation of hydraulic cement —
Rail General Exemption Authority -- Exemption of Hydraulic Cement, Ex Parte No. 346 (Sub-No. 34) (STB served **Dec. 17, 1996**) (revising 49 CFR 1039.11(a)), petition for reconsideration denied (STB served Apr. 23, 1997).
 - Solicited comments on circumstances under which a railroad should be required to operate over track that does not meet FRA track safety standards —
Service Obligations Over Excepted Track, STB Ex Parte No. 564 (STB served **May 1, 1997**).
 - Proposed exemption from regulation for 29 nonferrous recyclable commodities —
Rail General Exemption Authority -- Nonferrous Recyclables, STB Ex Parte No. 561 (STB served **May 5, 1997**).

- Adopted rules for binding, voluntary arbitration of certain rail disputes, as recommended by Railroad-Shipper Transportation Advisory Council —

Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board., STB Ex Parte No. 560 (STB served **Sept. 2, 1997**).

- Proposed procedures for applying simplified rail rate guidelines to individual cases —

Expedited Procedures for Processing Simplified Rail Rate Reasonableness Proceedings, STB Ex Parte No. 527 (Sub-No. 1) (STB served **Sept. 24, 1997**).

Significant Case Decisions

- Found BN coal rate charged to West Texas Utilities Co. unreasonable (based upon stand-alone cost analysis), prescribed lower rate, and awarded reparations —

West Texas Utility Company v. Burlington Northern Railroad Company, No. 41191 (STB served **May 3, 1996**), *aff'd sub nom. Burlington N.R.R. v. STB et al.*, 114 F.3d 206 (D.C. Cir. 1997).

- Addressed dispute between Amtrak and a freight railroad by requiring freight railroad to make lines available for Amtrak's use, and initiating proceeding to set terms of use (Proceeding later dismissed when parties agreed to terms) —

Application of the National Railroad Passenger Corporation under 49 U.S.C. 24308(a) -- Order to Require Service and Set Compensation Terms, STB Finance Docket No. 32911 (STB served **May 7, 1996**), dismissed (STB served Oct. 18, 1996).

- Authorized construction of 20-mile Alameda Rail Corridor between central Los Angeles and Ports of Los Angeles and Long Beach —

Alameda Corridor Construction Application, Finance Docket No. 32830 (STB served **June 6, 1996**).

- Lifted stay of arbitrated implementing agreements appealed to the Board in UP/CNW control case upon the parties voluntarily agreeing to modifications to and interpretations of the appealed arbitrator's awards —

Union Pacific Corporation, et al.--Control--Chicago & North Western Transportation Company and Chicago & North Western Railway, STB Finance Docket No. 32133 (Sub-Nos. 4 and 5) (STB served **July 8, 1996**).

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- Established basis for and amount of compensation that shipper must pay to railroad for constructing crossing track to reach a competing railroad —

Omaha Public Power District--Petition under 49 U.S.C. 10901(d), Finance Docket No. 32630 (Sub-No. 1) (STB served **Aug. 1, 1996**), petition for judicial review pending sub nom. *Burlington Northern Railroad Company v. Surface Transportation Board et al.*, No. 96-1364 (D. C. Cir. filed Sept. 26, 1996).

 - Union Pacific-Southern Pacific merger proposal (*Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company--Control and Merger--Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company*, Finance Docket No. 32760)
 - Authorized merger, with conditions (Decision No. 44) (STB served **Aug. 12, 1996**), petitions for judicial review pending sub nom. *Western Coal Traffic League et al. v. Surface Transportation Board et al.*, Nos. 96-1373 et al. (D. C. Cir. filed Sept. 30, 1996).
 - Requested comments on the effects of the merger on competition and the implementation of the conditions imposed by the Board to address competitive harms, in ongoing oversight of that merger (STB Finance Docket No. 32760 (Sub-No. 21) (STB served May 7, 1997)).
 - Overturned portion of arbitrator's decision requiring certain employees of the merged systems to change health plans (STB Finance Docket No. 32760 (Sub-No. 22)) (STB served June 26, 1997).
 - Clarified extent of trackage rights acquired by BNSF as a condition to Board's authorization of merger (Decision No. 73) (STB served Aug. 14, 1997).
 - Clarified eligibility for 2-to-1 contract modification condition and opportunity to address competitive issues in oversight proceedings (Decision No. 74) (STB served Aug. 29, 1997).
 - Section of Environmental Analysis issued preliminary mitigation plans for Wichita, KS and Reno, NV to develop measures, in addition to those previously imposed upon merger authorization, to address environmental impacts of projected increased merger-related train traffic that are unique to those areas, Finance Docket No. 32760 (STB served Sept. 15, 1997) (Reno Mitigation Study; Wichita Mitigation Study).

- Issued declaratory orders addressing the effect of federal preemption on state and local environmental regulation of rail projects —

King County, WA--Petition for Declaratory Order--Burlington Northern Railroad Company--Stampede Pass Line, STB Finance Docket No. 33095 (STB served **Sept. 25, 1996**), petition for judicial review pending sub nom. *City of Auburn v. Surface Transportation Board et al.*, No. 96-71051(9th Cir. filed Dec. 20, 1996); clarified, *Cities of Auburn and Kent, WA--Petition for Declaratory Order--Burlington Northern Railroad Company--Stampede Pass Line*, STB Finance Docket No. 33200 (STB served July 2, 1997), petition for judicial review pending sub nom. *City of Auburn v. Surface Transportation Board et al.*, No. 97-70920 (9th Cir. filed Aug. 15, 1997).

- Authorized Burlington Northern to acquire and operate Washington Central to permit reactivation of Stampede Pass Line, subject to environmental conditions —

Burlington Northern Santa Fe Corporation, BNSF Acquisition Corp., and Burlington Northern Railroad Company--Control--Washington Central Railroad Company, Inc., STB Finance Docket No. 32974 (STB served **Oct. 25, 1996**), petition for judicial review pending sub nom. *City of Auburn et al. v. Surface Transportation Board et al.*, No. 97-70022 (9th Cir. filed Dec. 20, 1996).

- Authorized CSX to acquire Indiana Rail Road —

CSX Corporation and CSX Transportation, Inc.--Control--The Indiana Rail Road Company, STB Finance Docket No. 32892 (STB served **Nov. 7, 1996**).

- Authorized construction of additional 41-mile segment of rail line in Montana (to shorten route for transportation of coal from Powder River Basin to upper Midwest), subject to environmental conditions and requirement that entire line be constructed within 3 years —

Tongue River Railroad Co.--Rail Construction and Operation--Ashland to Decker, Montana, Finance Docket No. 30186 (Sub-No. 2) (STB served **Nov. 8, 1996**), petitions for judicial review pending sub nom. *Northern Plains Resource Council, Inc. et al. v. Surface Transportation Board et al.*, Nos. 97-70037 et al. (9th Cir. filed Jan. 7, 1997).

- Authorized construction of line to serve industrial park in Hastings, NE—

Hastings Industrial Link Railroad Company--Construction and Operation Exemption--Hastings, NE, STB Finance Docket No. 32984 (STB served **Dec. 10, 1996**) (tentative authorization) and (STB served Apr. 17, 1997) (final authority).

- Addressed broad issues raised in several pending complaints regarding rates and through-service offered by bottleneck rail carriers —

Central Power & Light Company v. Southern Pacific Transportation Company, Nos. 41242, *et al.* (STB served **Dec. 31, 1996**), clarified (STB served Apr. 30, 1997), petitions for judicial review pending sub nom. *MidAmerican Energy Company v. Surface Transportation Board et al.*, Nos. 97-1081 *et al.* (8th Cir. argued Nov. 18, 1997).

- Applied the newly-adopted simplified rate reasonableness guidelines to a long-pending rate complaint, finding rate not unreasonable —

South-West Railroad Car Parts Company v. Missouri Pacific Railroad Company, No. 40073 (STB served **Dec. 31, 1996**), petition for reconsideration pending.

- Stated policy to deny exemption proposals lacking sufficient evidence, and applied that policy to deny an abandonment exemption proposal of the Boston & Maine and Springfield Terminal Railroads —

Boston and Maine Corporation--Abandonment Exemption--In Hartford and New Haven Counties, CT, STB No. AB-32 (Sub-No. 75X), *et al.* (STB served **Dec. 31, 1996**).

- Allowed Sault Ste. Marie Bridge to acquire and operate Union Pacific's 220-mile "Duck Creek North Lines" in Michigan and Wisconsin —

Sault Ste. Marie Bridge Company--Acquisition and Operation Exemption--Lines of Union Pacific Railroad Company, STB Finance Docket No. 33290 (STB served **Jan. 24, 1997**).

- Denied opposed portion of Tulare Valley abandonment exemption proposal for insufficient evidence —

Tulare Valley Railroad Company--Abandonment and Discontinuance Exemption--In Tulare and Kern Counties, CA, STB No. AB-397 (Sub-No. 5X) (STB served **Feb. 21, 1997**).

- Denied request to find railroad embargo unlawful and to award damages —

GS Roofing Products Company, Inc., Beazer West, Inc., d/b/a Gifford-Hill & Company, Bean Lumber Company and Curt Bean Lumber Company v. Arkansas Midland Railroad and Pinsley Railroad Company, Inc., No. 41230 (STB served **Mar. 11, 1997**), petition for judicial review pending sub nom. *GS Roofing Products Company, Inc. et al. v. Surface Transportation Board et al.*, No. 97-1707 (8th Cir. argued Aug. 8, 1997).

- Authorized I&M Rail Link to acquire Soo Line's Kansas City-Chicago mainline and Soo's "Corn Lines" located in five Midwestern states —

I&M Rail Link, LLC--Acquisition and Operation Exemption--Certain Lines of Soo Line Railroad Company d/b/a Canadian Pacific Railway, STB Finance Docket No. 33326 (STB served **Apr. 4, 1997**), petitions for judicial review pending sub nom. *City of Ottumwa et al. v. Surface Transportation Board et al.*, Nos. 97-1848 et al. (8th Cir. filed Apr. 3, 1997).

- Authorized Kansas City Southern to control Gateway Western and Gateway Eastern railroads —

Kansas City Southern Industries, Inc., KCS Transportation Company, and The Kansas City Southern Railway Company--Control--Gateway Western Railway Company and Gateway Eastern Railway Company, STB Finance Docket No. 33311 (STB served **May 1, 1997**).

- Set evidentiary schedule in track compensation dispute between Amtrak and Boston & Maine railroad group, denied discovery requests relating to Amtrak's financial condition, and denied motions to dismiss —

Application of the National Railroad Passenger Corp. Under 49 U.S.C. 24308(a)--Springfield Terminal Railway Company, Boston and Maine Corporation, and Portland Terminal Company, STB Finance Docket No. 33381 (STB served **May 6, 1997** and June 25, 1997).

- Denied request to hold rate case in abeyance pending CSX-Norfolk Southern-Conrail acquisition proposal —

Pennsylvania Power & Light Company v. Consolidated Rail Corporation et al., No. 41295 (STB served **May 14, 1997**).

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- Denied opposed request for exemption authority for San Joaquin Valley railroad to abandon line segment in Kings and Fresno Counties, CA, for lack of evidence —

*San Joaquin Valley Railroad Company--Abandonment Exemption--in Kings and Fresno Counties, CA, STB No. AB-398 (Sub-No. 4X) (STB served **May 23, 1997**).*

- Dismissed a shipper “bottleneck” rate case that did not establish any grounds for relief—

*Western Resources, Inc. v. Atchison, Topeka & Santa Fe Railway Company, No. 41604 (STB served **May 28, 1997**).*

- Granted interim compensation for Norfolk Southern lease of North Carolina Railroad track, and otherwise held request to set lease terms in abeyance pending negotiations between the parties —

*North Carolina Railroad--Petition to Set Trackage Compensation and Other Terms and Conditions--Norfolk Southern Railway Company, Norfolk & Western Railway Company, and Atlantic and East Carolina Railway Company, STB Finance Docket No. 33134 (STB served **May 29, 1997**).*

- Joint application of CSX and Norfolk Southern to acquire Conrail (*CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company--Control and Operating Leases/Agreements--Conrail Inc. and Consolidated Rail Corporation, STB Finance Docket No. 33388*) —

- Set procedural schedule (Decision No. 6) (STB served **May 30, 1997**).
- Ruled on waiver and clarification requests (Decision No. 7) (STB served May 30, 1997).
- Announced intent to prepare Environmental Impact Statement and requested comment on scope (STB served July 3, 1997).
- Accepted application for consideration (Decision No. 11) (STB served July 23, 1997).
- Announced procedures for separate handling of six related construction projects (Sub-Nos. 2 through 7) (STB served July 23, 1997).
- Disallowed use, by a shipper in a pending rate challenge, of information obtained through discovery (Decision No. 18) (STB served Aug. 5, 1997).

- Denied extension of earlier-imposed 2-year subsidy of an out-of-service line, given the uncertainty of future traffic claims and the ICCTA's 1-year limit on Board-imposed operating subsidies —

Illinois Central Railroad Company--Abandonment Exemption--In Perry Co., IL, Docket No. AB-43 (Sub-No. 164X) (STB served **July 11, 1997**).

- Conditionally authorized construction of a connecting line that would afford a competitive alternative for rail transportation to a power plant in Jefferson County, AL, subject to environmental review —

Southern Electric Railroad--Construction and Operation Exemption--West Jefferson, AL, STB Finance Docket No. 33387 (STB served **July 16, 1997**).

- Denied motion to dismiss complaint seeking competitive access to a BN rail line in the Powder River Basin of Wyoming —

Western Fuels Service Corporation v. Burlington Northern and Santa Fe Railway Company, No. 41987, et al. (STB served **July 28, 1997**).

- Found Santa Fe coal rate charged to Arizona Public Service Co. unreasonable (based on stand-alone cost analysis), prescribed lower rate, and awarded reparations —

Arizona Public Service Company and Pacificorp v. Atchison, Topeka & Santa Fe Railroad Company, No. 41185 (STB served **July 29, 1997**), petition to reopen pending.

- Denied authorization for Owensville Terminal to abandon a 22.5-mile rail line between Browns, IL and Poseyville, IN that appears to be a critical link for shippers in that area with both Norfolk Southern and CSX —

Owensville Terminal Company, Inc.--Abandonment Exemption--In Edwards and White Counties, IL and in Gibson and Posey Counties, IN, STB Docket No. AB-477 (Sub-No. 1X) (STB served **Aug. 1, 1997**).

- Found certain Burlington Northern rates on grain traffic not shown to be unreasonably high (based on stand-alone cost analysis) —

McCarty Farms, Inc. et al. v. Burlington Northern, Inc., Nos. 37809 et al. (STB served **Aug. 20, 1997**), petition for judicial review pending sub nom. *McCarty Farms, Inc. et al. v. Surface Transportation Board et al.*, No. 97-1632 (D.C. Cir. filed Oct. 14, 1997).

- Dismissed shipper complaint against tariff terms that were incorporated into contract because transportation under contract is not subject to Board regulation —

H.B. Fuller Company v. Southern Pacific Transportation Company, No. 41510 (STB served **Aug. 22, 1997**).

- Denied appeals of two arbitration awards in favor of rail employees in connection with ICC-approved railroad consolidations —

CSX Corporation--Control--Chessie System, Inc. et al. (Arbitration Review), STB Finance Docket No. 28905 (Sub-No. 28) (STB served **Sept. 3, 1997**).

The Bay Line Railroad--Acquisition and Operation Exemption--Rail Lines of Atlanta & St. Andrews Bay R.R. (Arbitration Review), STB Finance Docket No. 32435 (Sub-No. 1) (STB served **Sept. 3, 1997**).

- Revoked authorization for noncarrier to acquire a line in Washington State due to misuse of process (after action to abandon the line had been initiated within days after its acquisition), and ordered the line returned to the selling carrier —

The Land Conservancy of Seattle and King County--Acquisition and Operation Exemption--Burlington Northern and Santa Fe Railway Company, STB Finance Docket No. 33389 (STB served **Sept. 26, 1997**).

- Directed UP/SP to continue to make tracks and facilities available to Amtrak; instituted proceeding to determine the nature and extent of UP/SP's duty to allow Amtrak to use UP/SP's tracks for express carriage —

Application of National Railroad Passenger Corporation Under 49 U.S.C. 24308(a)--Union Pacific Railroad Company and Southern Pacific Transportation Company, STB Finance Docket No. 33469 (STB served **Sept. 30, 1997**).

Ongoing Responsibilities

- Computed average growth in railroad productivity for 1991-1995 (5-year) period —

Railroad Cost Recovery Procedures--Productivity Adjustment, STB Ex Parte No. 290 (Sub-No. 4) (STB served **Mar. 7, 1996**), modified (STB served Feb. 6, 1997).

- Made annual revenue adequacy determinations —

Railroad Revenue Adequacy – 1995 Determination, 1 S.T.B. 167 (STB served **July 19, 1996**) (Ex Parte No. 552).

Railroad Revenue Adequacy – 1996 Determination, STB Ex Parte No. 552 (Sub-No. 1) (STB served Aug. 28, 1997).

- Computed alternative productivity-adjusted rail cost measures —

Productivity Adjustment--Implementation, Ex Parte No. 290 (Sub-No. 7) (STB served **Oct. 3, 1996**), petition for reconsideration denied (STB served Apr. 1, 1997), clarified (STB served May 20, 1997).

- Issued rerouting orders to enable continued Amtrak service during track interruptions—

STB Passenger Train Operation Order No. 119 (STB served **Oct. 30, 1996**).

STB Passenger Train Operation Order No. 120 (STB served June 16, 1997).

STB Passenger Train Operation Order No. 121 (STB served June 16, 1997).

STB Passenger Train Operation Order No. 122 (STB served June 16, 1997).

STB Passenger Train Operation Order No. 123 (STB served Aug. 12, 1997).

- Computed railroad industry cost of capital for 1996 —

Railroad Cost of Capital--1996, STB Ex Parte No. 558 (STB served **July 16, 1997**).

- Determined that monitoring of TTX pooling activities was not warranted at that time —

TTX Co. et al.--Application for Approval of the Pooling of Car Service With Respect to Flat Cars, STB Finance Docket No. 27590 (Sub-No. 2) (STB served **Aug. 7, 1997**).

Administrative Matters

- Delegated authority for emergency routing orders —

Appointment of Agent to Require Emergency Routing of Amtrak Passenger Trains (STB served **Feb. 23, 1996**).

- Appointed Railroad-Shipper Transportation Advisory Council —

STB Press Release No. 96-20 (STB served **Apr. 19, 1996**).

- Announced policy of no ex parte communications in rail merger proceedings —

Petition of Fieldston Co., Inc. to Establish Procedures Regarding Ex Parte Communications in Railroad Merger Proceedings, STB Ex Parte No. 619 (STB served **Jan. 8, 1997**).

MOTOR

Implementation of ICCTA

- Adopted rules for household goods tariffs —

Household Goods Tariffs, STB Ex Parte No. 555 (STB served **Feb. 4, 1997**) (adding 49 CFR 1310), postponed until May 31, 1997 (STB served Mar. 5, 1997).

- Began general review of rate bureaus and of collective rate setting in the motor carrier industry, as required by the ICCTA, in connection with requests by certain rate bureaus to expand their scope —

EC-MAC Motor Carriers Service Association, Inc., et al., Sec. 5a Application No. 118 (Amendment No. 1), et al. (STB served **May 29, 1997**).

- Proposed to revise regulations governing motor carrier mergers and acquisitions to remove obsolete (freight carrier) provisions and to streamline remaining (bus merger) provisions —

Revisions to Regulations Governing Finance Applications Involving Motor Passenger Carriers, STB Ex Parte No. 559 (STB served **July 8, 1997**) (proposing to revise 49 CFR 1182 and remove 49 CFR 1187 and 1188).

Significant Case Decisions

- Authorized consolidation of 10 bus companies, creating second-largest bus holding company in the country, and subsequent acquisitions of 17 additional carriers —

Notre Capital Ventures II, LLC and Coach USA, Inc.--Control Exemption--Arrow Stage Lines, Inc.; Cape Transit Corp.; Community Coach, Inc.; Community Transit Lines, Inc.; Grosvenor Bus Line, Inc.; H.A.M.L. Corp.; Leisure Time Tours; Suburban Management Corp.; Suburban Trails, Inc.; and Suburban Transit Corp., STB Finance Docket No. 32876 (Sub-No. 1) (STB served **May 3, 1996**).

Coach USA, Inc.--Control Exemption--American Sightseeing Tours, Inc.; California Charters, Inc.; Texas Bus Lines, Inc.; Gulf Coast Transportation, Inc. and K-T Contract Services, Inc., STB Finance Docket No. 33073 (STB served **Nov. 8, 1996**).

Coach USA, Inc.--Control Exemption--Progressive Transportation Services, Inc.; Powder River Transportation Services, Inc.; Worthen Van Service, Inc.; and PCSTC, Inc., STB Finance Docket Nos. 33343, et al. (STB served **May 15, 1997**).

- Suspended certain tariff changes (involving notification of reduced carrier cargo liability) to investigate whether they are contrary to the public interest and whether they violate the prohibition against collectively-set carrier limitations on cargo liability —

Definition of the Term "Tariff" and Wording Changes in Bill of Lading Formats (National Motor Freight Classification), Investigation and Suspension Docket No. 35000 (STB served **Oct. 24, 1996**).

- Authorized merger of five bus companies —

Laidlaw Transit, Inc., et al.--Control and Merger Exemption--National School Bus Service, Inc., Charterways Transportation Limited, Enterprise Transit Corp., and MCS Interstate, Inc., STB Finance Docket No. 33007 (STB served **Oct. 25, 1996**).

- Authorized a partial market swap arrangement between two bus companies—

Northwestern Stage Lines, Inc., and Greyhound Lines, Inc.--Purchase (Portion) Exemption, STB Finance Docket No. 33122 (STB served **Dec. 13, 1996**).

- Approved pooling arrangement between Peter Pan and Greyhound Bus Lines between Philadelphia and New York to improve efficiency of operations —

Peter Pan Bus Lines, Inc.--Pooling--Greyhound Lines, Inc., STB No. MC-F-20904 (STB served **June 30, 1997**).

- Approved pooling arrangement between Capital Trailways and Greyhound Bus Lines on routes in Alabama, Florida, Georgia, Louisiana, and Mississippi —

Capital Motor Lines, Et Al.--Pooling--Greyhound Lines, Inc., STB No. MC-F-20906 (STB served **Sept. 25, 1997**).

Undercharge Activities

- Disposed of 26 cases involving Maislin Industries on the ground that collecting undercharges would be an unreasonable practice in violation of section 2(e) of the Negotiated Rates Act of 1993 (now codified at 49 U.S.C. 13711) —

*Auto Specialties Manufacturing Co., et al.--Petition for Declaratory Order--Certain Rates and Practices of Maislin Industries, U.S., Inc., Nos. MC-C-3007, et al. (STB served **May 17, 1996**).*

- Interpreted 180-day notification requirement for motor billing disputes, and resolved questions regarding application of the requirement —

*Carolina Traffic Services of Gastonia, Inc.--Petition for Declaratory Order, STB No. 41689 (STB served **June 7, 1996**).*

*National Association of Freight Transportation Consultants, Inc.--Petition for Declaratory Order, No. 41826 (STB served **Apr. 21, 1997**).*

- In a lead case, found that Superior Fast Freight is not entitled to collect undercharges because (1) it was acting as a freight forwarder and thus was not required to charge tariff rates and (2), even it had been acting as a motor carrier, it had not adopted the tariffs sought to be applied —

*Infinity Systems, Inc.--Petition for Declaratory Order--Certain Rates and Practices of Superior Fast Freight, Inc., STB Docket No. 41911 (STB served **July 2, 1997**).*

Administrative Matters

- Transferred records in 15 cases to DOT pursuant to ICCTA —

*STB Press Release No. 96-19 (STB served **Apr. 17, 1996**).*

- Transferred various ICC regulations to FHWA —

*Motor Carrier Transportation; Redesignation of Regulations from the Surface Transportation Board Pursuant to the ICC Termination Act of 1995, 61 Fed. Reg. 54706 (**Oct. 21, 1996**) (transferring 49 CFR 1008, 1023, 1043-1045, 1047-1049, 1051-1052, 1054-1058, 1061, 1063-1064, 1081, 1084, 1160, 1167, 1171, 1181, and 1320; redesignating transferred regulations to appear in 49 CFR 365-369, 371-378, 387, and 390; and removing 49 CFR 1067).*

- Transferred to FHWA motor carrier portion of an ICC proposal to permit consensual invoiceless billing (and discontinued remainder of proceeding) —

Petition for Rulemaking--Invoiceless Billing Transactions, Ex Parte No. 55 (Sub-No. 95) (STB served **Apr. 15, 1997**).

WATER

Implementation of ICCTA

- Announced, jointly with FMC, water tariff filing procedures for noncontiguous domestic trade —

Noncontiguous Domestic Trade Tariffs, STB Ex Parte No. 533 / FMC No. 96-04 (STB served **Oct. 1, 1996**).

Electronic Filing of Noncontiguous Domestic Trade Tariffs, STB Special Tariff Authority No. 4 (STB served **Oct. 1, 1996**).

- Revised tariff regulations for freight transportation by or with a water carrier in noncontiguous domestic trade —

Regulations for the Publication, Posting and Filing of Tariffs for the Transportation of Property By or With a Water Carrier in the Noncontiguous Domestic Trade, STB Ex Parte No. 618 (STB served **Apr. 17, 1997**) (revising 49 CFR 1312).

New Initiatives

- Required copy of short-notice changes in tariffs for noncontiguous domestic trade to be sent to all subscribers —

The Municipality of Anchorage, AK--Notice for Rate Increases for Alaska Intermodal Motor/Water Traffic--Petition for Rulemaking, 1 S.T.B. 90 (STB served **June 14, 1996**) (Ex Parte No. MC-220) (revising 49 CFR 1312.6(b)(2)).

Significant Case Decisions

- Dismissed complaint that a cargo inspection service unlawfully shared confidential shipper information with various freight forwarders employing its inspection services—

Caribbean Shippers Association v. NPR, Inc. and The Adherence Group, Inc., STB No. WCC-100 (STB served **Mar. 25, 1997**), petition for judicial review pending sub nom. *Caribbean Shippers Association v. Surface Transportation Board, et al.*, No. 97-1346 (D.C. Cir. filed May 9, 1997).

PIPELINE

Implementation of ICCTA

- Adopted rules for disclosure of pipeline rates under 49 U.S.C. 15701 —

Disclosure and Notice of Change of Rates and Other Service Terms for Pipeline Common Carriage, 1 S.T.B. 146 (STB served **June 28, 1996**) (STB Ex Parte No. 538) (adopting 49 CFR 1305).

Significant Case Decisions

- On referral from court, found pipeline rate unreasonably high at certain volume levels, based upon stand-alone cost presentation —

Ashley Creek Phosphate Company v. Chevron Pipe Line Company, et al., Nos. 40131 (Sub-No. 1), et al. (STB served **Oct. 30, 1996**).

- Began investigation of rates charged by Koch Pipeline for anhydrous ammonia —

CF Industries, Inc. v. Koch Pipeline Company, L.P., STB No. 41685 (STB served **May 14, 1997**).

FREIGHT FORWARDER

New Initiatives

- Exempted freight forwarders from rate reasonableness and tariff filing requirements in noncontiguous domestic trade —

Exemption of Freight Forwarders in the Noncontiguous Domestic Trade From Rate Reasonableness and Tariff Filing Requirements, STB Ex Parte No. 598 (STB served **Feb. 21, 1997**).

GENERAL

Ongoing Responsibilities

- Revised fee schedule —

Regulations Governing Fees for Service Performed in Connection with Licensing and Related Services--1996 Update, STB Ex Parte No. 542 (STB served **Aug. 14, 1996**) (revising 49 CFR 1002), modified (STB served Dec. 17, 1996), aff'd fee for trails use requests, *Nebraska Trails Council et al. v. STB et al.*, 120 F.3d 901 (8th Cir. 1997); aff'd (per curiam) fees for formal complaints, declaratory orders, labor arbitration proceedings, and internal appeals, *United Transp. Union-- Illinois Legislative Bd. v. STB et al.*, No. 97-1038 (D.C. Cir. Nov. 10, 1997).

Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services--1997 Update, STB Ex Parte No. 542 (Sub-No. 1) (STB served **Jan. 23, 1997**).

- Revised fee policy for cases directly related to rail consolidation cases —

Railroad Consolidation Procedures--Modification of Fee Policy, STB Ex Parte No. 556 (STB served **May 5, 1997**).

Administrative Matters

- Transferred ICC's body of regulations to STB —

Transfer of Regulations from the Interstate Commerce Commission to the Surface Transportation Board Pursuant to the ICC Termination Act of 1995, STB Ex Parte No. 525 (STB served **Jan. 24, 1996**).

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- Outlined STB procedures to implement ICCTA and dispose of pending ICC proceedings—
STB Press Release No. 96-1 (STB served **Feb. 12, 1996**).
 - Authorized ICC-licensed practitioners to appear before STB —
STB Press Release No. 96-8 (STB served **Mar. 14, 1996**).
 - Launched experimental project to serve certain STB Decisions by fax to those electing receipt in that manner —

STB Press Release No. 97-2 (STB served **Jan. 15, 1997**); *STB Press Release No. 97-39* (STB served May 21, 1997).
 - After relocation of STB offices to 1925 K St. NW, Washington, DC 20423-0001, announced new procedures for document delivery and retrieval, limited to normal business hours —

STB Press Release No. 97-19 (STB served **Apr. 1, 1997**).
 - Revised regulations to make nomenclature changes to reflect the transfer of functions from the ICC to the STB —

Nomenclature Changes in the Board's Regulations, STB Ex Parte No. 567 (STB served **Aug. 5, 1997**).
 - Announced policy of limiting service in Board proceedings to one representative per party—

STB Press Release No. 97-68 (STB served **Aug. 18, 1997**).
 - Revised general regulations to reflect changes made by the ICCTA —

Modifications to the General Provisions of the Board, STB Ex Parte No. 568 (STB served **Sept. 18, 1997**).
 - Revised regulations to update authority citations —

Revision of Authority Citations, STB Ex Parte No. 571 (STB served **Sept. 26, 1997**).
 - Revised regulations regarding delegations of authority to employee boards —

Technical Amendments Concerning Employee Boards, STB Ex Parte No. 570 (STB served **Sept. 29, 1997**).

TRANSITION FROM ICC**Obsolete Regulations Removed****Multimodal**

Removal of Obsolete Regulations Concerning Filing Quotations for Government Shipments, 1 S.T.B. 39 (STB served **May 16, 1996**) (STB Ex Parte No. 547) (removing 49 CFR 1330).

Rail

Removal of Obsolete Rail Tariff Regulations, 1 S.T.B. 4 (STB served **Feb. 28, 1996**) (STB Ex Parte No. 530) (removing 49 CFR 1314).

Removal of Obsolete Recyclables Regulations, 1 S.T.B. 7 (STB served **Feb. 28, 1996**) (STB Ex Parte No. 531) (removing 49 CFR 1134, 1135.1, 1145).

Removal of Obsolete Regulations for Reasonably Expected Costs and Joint Rates Subject to Surcharge or Cancellation, 1 S.T.B. 10 (STB served **Feb. 28, 1996**) (STB Ex Parte No. 532) (removing 49 CFR 1138, 1140 and 1039.18).

Removal of Obsolete Passenger Train or Ferry Discontinuance Regulations, 1 S.T.B. 14 (STB served **Feb. 28, 1996**) (STB Ex Parte No. 534) (removing 49 CFR 1153).

Removal of Obsolete Securities Regulations, 1 S.T.B. 17 (STB served **Feb. 28, 1996**) (STB Ex Parte No. 535) (removing 49 CFR 1175).

Removal of Obsolete Valuation Regulations, 1 S.T.B. 20 (STB served **Mar. 7, 1996**) (STB Ex Parte No. 539) (removing 49 CFR 1262).

Removal of Obsolete Regulations for Determination of Avoidable Losses under the Rail Passenger Service Act of 1970, 1 S.T.B. 23 (STB served **Apr. 11, 1996**) (STB Ex Parte No. 540) (removing 49 CFR 1154).

Removal of Obsolete Regulations Concerning Railroad Contracts, 1 S.T.B. 71 (STB served **June 7, 1996**) (STB Ex Parte No. 550) (removing 49 CFR 1039.23).

Removal of Obsolete Regulations Concerning Rail Passenger Fare Increases, STB Ex Parte No. 624 (STB served **June 18, 1997**) (removing 49 CFR 1136).

Commuter Rail Service Continuation Subsidies and Discontinuance Notices, STB Ex Parte No. 563 (STB served **Aug. 27, 1997**) (removing 49 CFR 1157).

Removal of Miscellaneous Obsolete Regulations, STB Ex Parte No. 572 (STB served **Sept. 29, 1997**) (removing 49 CFR 1030, 1131, and 1156, inter alia).

Motor

Removal of Obsolete Regulations for Discontinuance of Bus Transportation in One State, 1 S.T.B. 26 (STB served **Apr. 22, 1996**) (STB Ex Parte No. 544) (removing 49 CFR 1169).

Regulations Implementing Section 7 of the Negotiated Rates Act of 1993, 1 S.T.B. 29 (STB served **May 3, 1996**), petitions to reopen denied, Ex Parte No. MC-180 (Sub-No. 3) (STB served Mar. 12, 1997) (removing 49 CFR 1053).

Removal of Obsolete Regulations Concerning Owner-Operators, 1 S.T.B. 33 (STB served **May 10, 1996**) (removing 49 CFR 1164 and 1311).

Removal of Obsolete Regulations Concerning Exemption of Motor Carrier of Property Finance Transactions, STB Ex Parte No. 553 (STB served **Feb. 4, 1997**) (removing 49 CFR 1186).

Removal of Obsolete Regulations Concerning Expedited Complaint Procedures Against Bus Carrier Rates, STB Ex Parte No. 621 (STB served **Feb. 4, 1997**) (removing 49 CFR 1142) .

Removal of Obsolete Motor Passenger Carrier Accounting Regulations, STB Ex Parte No. 569 (STB served **Sept. 5, 1997**) (removing 49 CFR 1206).

Removal of Miscellaneous Obsolete Regulations, STB Ex Parte No. 572 (STB served **Sept. 29, 1997**) (removing 49 CFR 1022, 1091, 1143, and 1170, inter alia).

Water

Removal of Obsolete Regulations Concerning Water Carriers, STB Ex Parte No. 557 (STB served **Oct. 17, 1996**) (removing 49 CFR 1070 and 1071).

Removal of Obsolete Regulations Concerning Extension of Operations by Water Carriers, STB Ex Parte No. 620 (STB served **Jan. 30, 1997**) (removing 49 CFR 1166).

Obsolete Proceedings Terminated

Rail

Cost Ratio for Recyclables – 1994 Determination, Ex Parte No. 394 (Sub-No. 13) (STB served **Mar. 29, 1996**).

State Intrastate Rail Rate Authority – Pub. L. No. 96-448, Ex Parte No. 388 (STB served **Apr. 3, 1996**).

Motor

Revision of Tariff Regulations – Indexes, Ex Parte No. MC-211 (STB served **Mar. 8, 1996**).

Policy Statement on the Transportation Industry Regulatory Reform Act of 1994, Ex Parte No. MC-222 (STB served **Apr. 3, 1996**).

Policy Statement on Motor Contract Requirements Under the Negotiated Rates Act of 1993, Ex Parte No. MC-198 (Sub-No. 1) (STB served **May 3, 1996**).

Jurisdiction Over Motor Finance Transactions, Ex Parte No. MC-216 (STB served **July 8, 1997**).

Superseded Proposals Withdrawn**Rail**

Uniform System of Records of Property Changes for Railroad Companies, Ex Parte No. 512 (STB served **Mar. 7, 1996**).

Abandonment Proceedings: Elimination of the Revenue and Cost Data for All Years Prior to the Base Year Period, Ex Parte No. 274 (Sub-No. 26) (STB served **Mar. 15, 1996**).

New Procedures in Rail Exemption Revocation Proceedings, Ex Parte No. 400 (Sub-No. 4) (STB served **Mar. 22, 1996**).

Rail General Exemption Authority – Exemption of Nonferrous Recyclables and Railroad Rates on Recyclable Commodities, Ex Parte No. 346 (Sub-No. 36) (STB served **May 5, 1997**).

Motor

Review of Motor Tariff Regulations – 1993, Ex Parte No. MC-212 (STB served **May 3, 1996**).