

***Surface Transportation Board
Washington, D.C. 20423-0001
Office of Economics***

May 5, 2025

Jason Tutrone
Thompson Hine
1919 M Street, N.W., Suite 700
Washington, D.C. 20036-3537

Re: Waybill Request WB25-18

Dear Mr. Tutrone:

This letter responds to your request under 49 C.F.R. § 1244.9(c) of April 4, 2025, for access to the unmasked, Confidential Carload Waybill Sample (CCWS) for the year of 2023. You requested, on behalf of yourself and Escalation Consultants Inc., the data to analyze the impact of rail pricing on the competitiveness of American products. Notice of your request was published in the Federal Register on April 11, 2025 (90 Fed. Reg. 15506), and an objection from American Association of Railroads (AAR) was received on April 25, 2025. AAR argues that your request impermissibly “seeks CCWS information for commercial purposes, including unmasked revenues, costs, contracts, and other confidential information.”

I have reviewed your request and AAR’s objection. The CCWS contains data that is highly confidential to rail shippers and railroads. Unmasked revenue data, in particular, are among the most commercially sensitive information that railroads possess. The Board has, under appropriate circumstances, granted access to the CCWS for “other users” under § 1244.9(c) who are not using the CCWS for commercial purposes. The Board’s regulations require both a complete and detailed explanation of the purpose for which the data are requested and a detailed justification for why the specific data requested are needed. See 49 C.F.R. § 1244.9(e)(1)(i-iii).

Your letter states the purpose of your request is “to analyze the impact of rail pricing on the competitiveness of American products.” You indicate that you will provide aggregated results to your client, the American Chemistry Council (ACC), which “is studying ways to facilitate growth of U.S. chemical production and U.S. manufacturing.”

In general terms, your letter indicates that you intend to “use the CCWS origin and destination data to identify rail shipments of American and foreign goods and access to competitive rail options for rail traffic.” Your request also states that you plan to use “carload and pricing data to identify rail transportation costs by 5-digit STCC.” You also indicate that you will “use geographic origin and destination data to identify regional variation in rail pricing.”

I am denying your request. In Request for Waybill Access (U.S. Wheat), WB 20-40 (STB served Nov. 20, 2020) and Request for Waybill Data (Trinity), WB-20-50 (STB served June 17, 2021), the Board confirmed that CCWS data would not be made available for purposes of preparing private, commercial reports. Your request falls within the type of uses prohibited by the Board in that it seeks the data for private commercial and competitive purposes. Even if your request was not prohibited by the Board’s precedent, you also failed to provide a detailed justification for why the data are needed or how it would be used in any model.

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Pursuant to 49 C.F.R. § 1244.9 (d)(4)(iii), you may appeal this determination within 10 days of the date of this letter. Under the Board's regulations, "[a]ppeals are not favored and will be granted only in exceptional circumstances to correct a clear error of judgment or to prevent manifest injustice." 49 C.F.R. § 1011.6(b). Replies must be filed within 10 days after the due date for appeals.

Sincerely,

**KRISTEN
MONACO**

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Kristen Monaco, PhD
Director
Office of Economics