

***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.

Waybill Request WB25-18

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**

Digitally signed by
KRISTEN MONACO
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Kristen Monaco, PhD
Director
Office of Economics

April 4, 2025

Kristen Monaco, PhD
Director
Office of Economics
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: Request for Access to Confidential Carload Waybill Sample

Dear Dr. Monaco:

Thompson Hine, on behalf of itself and Escalation Consultants Inc. (collectively, “Requestors”), requests access to the 2023 confidential Carload Waybill Sample (CCWS) with unmasked revenues at the 5-digit STCC level. Requestors make this request under 49 C.F.R. § 1244.9(c).¹

Requesting Parties

Thompson Hine and Escalation Consultants (“Requestors”) are outside counsel and economic consultants, respectively, to the American Chemistry Council (ACC). ACC is a trade association representing more than 190 companies engaged in the business of chemistry. ACC members apply the science of chemistry to provide innovative products and services that make people’s lives better, healthier, and safer. As a \$633 billion enterprise, the business of chemistry is a key element in the nation’s economy, one of the largest exporting sectors, and one of the largest customers of the U.S. freight rail system.

Purpose

Requestors seek access to the CCWS to analyze the impact of rail pricing on the competitiveness of American products.

Consistent with President Trump’s America First trade policy, growing U.S. chemical production promotes a stable domestic economy and will help make America the world’s manufacturing superpower. ACC is studying ways to facilitate growth of U.S. chemical production and U.S. manufacturing, including through policies designed to make American chemistry products, and the thousands of American products they help make possible, more competitive.

A factor influencing the competitiveness of American products is transportation costs. ACC seeks to understand how rail pricing influences the competitiveness of American products. It also seeks to understand whether certain movement characteristics, like access to competitive transportation options, affect competitiveness of American products.

¹ In *Request for Waybill Data*, WB17-44 (STB served Dec. 27, 2017), the Director of the Office of Economics held that transportation practitioners and consulting firms may seek access to the CCWS under 49 C.F.R. § 1244.9(c).

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Dr. Kristen Monaco
April 4, 2025
Page 2

Justification

Requestors seek access to the CCWS because the proposed analysis would be inaccurate and uninformative absent the detail in the CCWS. Critical information for the analysis, including origin destination pairs, carload volumes, and rates, are not available from any other single source in the level of accuracy necessary for this analysis.

The relevant CCWS data fields for each movement that are needed to develop the proposed analysis include, but are not limited to:

- STCC Code
- Origin Rail Station
- Origin address
- Origin railroad
- Origin rail territory
- Destination rail station
- Destination address
- Destination Railroad
- Destination rail territory
- Route
- Number of Interchanges
- Rebill code
- Type of move
- Interstate/Intrastate code
- Rate for movement
- Contract rate flag
- Calculated rate flag
- All Variable Cost categories
- Rail Mileage by segment and total rail miles
- Fuel surcharge

Requestors plan 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. Although the Public Use Waybill Sample (PUWS) also contains origin and destination information, the PUWS's reporting of this information using Business Economic Areas precludes the location-specific analysis necessary to determine whether origins or destinations are open to rail competition.

Requestors also plan to use carload and pricing data to identify aggregate rail transportation costs by 5-digit STCC. They will also use geographic origin and destination data to identify regional variations in rail pricing and, thus, regional shifts in competitiveness of American products. Absent the unmasked revenues in the CCWS, Requestors would have no practical alternative way to obtain pricing data

Dr. Kristen Monaco
April 4, 2025
Page 3

necessary for a valid analysis of rail transportation costs. Further, without accurate carload and pricing data, the analysis will not reliably indicate the rail transportation costs for particular commodities. Since the very purpose of the analysis is to identify the rail transportation costs of U.S. and foreign goods, accurate carload and pricing data is critical.

Requestors will provide aggregated results to ACC. These results will show total rail costs and carloads for shipments in the United States, broadly and by key geographic regions. They also may break rail costs and carloads out by 5-digit STCC as necessary to capture how rail transportation impacts the competitiveness of different commodities and contain other aggregated data at these or higher levels, such as average rates, average rail mileage, and average R/VC.

Confidentiality

Requestors will keep the CCWS data confidential consistent with 49 C.F.R. § 1244.9(f) and the confidentiality undertaking that the Board requires. Requestors will not release the data to ACC or the public, except that they may provide aggregated data consistent with 49 C.F.R. § 1244.9(f) or an alternative method that the Director of the Office of Economics approves.

If you have any questions about this request, please contact me.

Very truly yours,

/s/Jason D. Tutrone

Jason D. Tutrone
