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Via E-filing

Francis O'Connor
Acting Director, Office of Economics
U.S. Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

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Office of Chief Counsel
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Re: Waybill Data Request 26-13

Dear Mr. O'Connor:

In a letter dated March 27, 2026, a researcher at the University of Wisconsin requested access to the full unmasked confidential Carload Waybill Sample (CCWS) from 1996-2025 for shipments of corn, soybeans, and wheat to research “how rail carriers’ pricing behavior and market power interact with inland waterway infrastructure to shape the cost and efficiency of transporting U.S. grain exports.” Letter Prof. Xiaodong Du, University of Wisconsin—Madison to Director, Office of Economics, STB, at 1 (Mar. 27, 2026) (Request). Notice of this Request was published on April 6, 2026. The stated objective of the research is to conduct an “analysis to quantify intermodal competition between rail and barge transportation. In particular, the project estimates a structural model of route choice and pricing behavior across export corridors, such as rail shipments to the Pacific Northwest and barge shipments to the Gulf, and evaluates how hydrologic shocks and infrastructure constraints affect transportation costs and export competitiveness.” *Id.* Specifically, the CCWS will be used to develop “a structural model of rail pricing under intermodal competition ... provide accurate shipment level revenue and routing information necessary to estimate marginal costs, markups, and conduct parameters” and will be used “to construct corridor-level shipment flows linking inland production regions to export terminals and domestic markets” and analyze “route-specific pricing behavior, and measure[] delivered costs to export gateways.” *Id.* at 2-3. The Request is quite broad, covering 30 years, and includes unmasked revenues, costs, and other confidential information, and should be denied.

By this letter, the Association of American Railroads (AAR), on behalf of its freight railroad members, strongly objects to the release of waybill data pursuant to the Request. Entities seeking access to confidential carload waybill sample (CCWS) under the “other users” provision have a demanding standard to meet. *Procedures on Release of Data from the ICC Waybill Sample (Waybill Procedures)*, 4 I.C.C.2d 194, 1987 ICC LEXIS 377 at 5 (1987) (noting “confidential waybill data generally will not be released to other users”). As explained in

Waybill Procedures, other users must show that “a particular and legitimate need” for the data and, generally, then one must show that there are no reasonable alternatives to obtaining the data. *Waybill Procedures* at 6. As explained by the Board previously, “[t]he 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.”¹ This fact holds true for this Request.

There is no particular and legitimate need for this broad amount of information, especially revenue-related information, to be released, much less to identify specific corridors and routes to ultimately measure pricing and alleged market power. The Request covers 30 years of CCWS data for multiple commodities to help identify export corridors and routes. Yet, the data does not even appear to serve the stated purpose of the research. Information pertinent to research about specific routing is not contained in the CCWS. While there is origin, destination, interchange, and mileage information in the CCWS, the CCWS does not reveal the routing of any traffic. There may be multiple different ways in which a movement could be routed, and that routing cannot be derived from the CCWS. However, the Request is made specifically to “construct corridor-level shipment flows” and analyze “route-specific pricing behavior.” Request at 2-3. Even if one could identify routes or corridors, especially for specific commodities for export, doing so runs a high risk of identifying the shipper and/or railroad involved. This is precisely the type of information that the Board seeks to protect from release.

Furthermore, the Request seeks all unmasked revenues data – the most sensitive data in the Board’s possession – to conduct research to “estimate[] a structural model of *route choice and pricing behavior* across export corridors” and to assist in “construction of *origin-specific exposure* to barge competition, and identification of modal substitution patterns.” *Id.* at 1-2 (emphasis added). Additionally, the Request notes clearly that it seeks to measure “rail prices and market power.” *Id.* at 2. The pricing behavior of railroads for specific routes and corridors for specific commodities is exactly the type of information that should be protected by the Board, especially because that information on specific corridors and routes for particular commodities could reveal the identify of the railroad and/or shippers. Moreover, if the data is sought to identify how shippers can substitute modes and identify other competitive options, then the Board would be releasing the most sensitive data it possesses for the purpose of improving the market position the rail industry’s competitors. This would be an unprecedented use of the waybill data that does not rise to the level of “legitimate need.”

Finally, AAR’s concerns are compounded by the fact that the researcher is driven by financial interests. The Request admits that “[t]he work will support preparation of a proposal to the USDA Agriculture and Food Research Initiative (AFRI), Economics, Markets, and Trade program area, and will be continued *if funding is awarded.*” *Id.* at 1 (emphasis added). Essentially, the Request wants 30 years of the most highly confidential data the Board maintains to advance the goal of securing government funding. Moreover, as the Board well knows, the

¹ See Letter from Dr. Kristen Monaco, Director, Office of Economics, to Derek Thiele, Ph.D. Student, University of Toronto, at 1 (Mar. 6, 2025).

USDA has statutory promotional authority regarding the STB and does so on behalf of grain shippers.² As such, this individual will be conducting the described research with the admitted goal of securing funding from an entity that statutorily represents the interests of grain shippers against railroads before the Board.³ Such a purpose does not establish a legitimate need.

For these reasons, the Request should be denied. I appreciate your time and attention to this important matter.

Sincerely,

J. Frederick Miller Jr.

J. Frederick Miller Jr.
Counsel for the Association of American Railroads

² See 7 U.S.C. 1291 (“The Secretary of Agriculture is authorized to make complaint to the Surface Transportation Board with respect to rates, charges, tariffs, and practices relating to the transportation of farm products, and to prosecute the same before the Board.”).

³ AAR notes that were USDA to desire the waybill data for research purposes, as a federal agency, it has a process for release under 49 C.F.R. 1244.9(b)(2).