

November 7, 2017

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By Messenger

William J. Brennan, Director
Office of Economics
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

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RE: Request for Release of 2006-2015 Confidential Waybill Data

Dear Director Brennan:

Thompson Hine LLP, on behalf of itself, Economists, Inc., and L.E. Peabody & Associates, Inc. (collectively "Requestors"), hereby reply to the November 7, 2017 letter submitted on behalf of the Association of American Railroads ("AAR"), which requests a nine day extension of the 14 day deadline for filing objections to the Requestors' October 20, 2017 letter ("Request Letter") requesting permission to use data from the Confidential Waybill Sample ("CWS"). See 49 C.F.R. § 1244.9(d)(3). The Requestors submitted the Request Letter on behalf of their client, the American Chemistry Council ("ACC"). As the AAR letter notes, Requestors declined AAR's request for consent to extend the 14-day deadline.

AAR has not offered sufficient justification for extending the regulatory deadline that the Board has deemed sufficient for objecting to waybill use requests. AAR asserts that an "extension is appropriate to ensure that interested parties have the opportunity to fully address the issues implicated by the request." The only issue that AAR identifies with any specificity, however, is "competitively sensitive revenue information." But the Board's rules governing the release of waybill data clearly contemplate that issue by restricting the use and dissemination of the CWS through regulatory restrictions, a confidentiality agreement, and complaint procedures in the event of misuse. See 49 C.F.R. §§ 1244.9(a)(4)(iv-v), (f) and (g). Furthermore, the Requestors are lawyers and consultants with a long history of practice before the Board which makes them especially sensitive to the confidential nature of the CWS and the impact that any misuse could have upon their own professional interests.

Notably, AAR does not state that *it* specifically needs more time, much less explain why it needs more time. Clearly, AAR has been informed of the Request Letter by the Federal Register Notice, consistent with the purpose of Federal Register publication, and a week still remains for AAR to prepare any objections. Furthermore, it is reasonable to expect that AAR has notified its individual railroad members who may wish to object, even if one assumes that AAR members missed the Federal Register Notice.

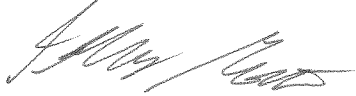
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Requestors, therefore, respectfully submit that AAR has not presented circumstances that warrant any extension to the 14-day period for objecting to the Letter Request, which the STB has determined by rulemaking to be sufficient for that purpose.

Sincerely,



Jeffrey O. Moreno
Thompson Hine LLP