

Surface Transportation Board
Docket No. EP 704 (Sub-No. 1), *Review of Commodity, Boxcar, and TOFC/COFC Exemptions*

**Summary of Ex Parte Meeting Between the American Iron and Steel Institute (AISI) and
the Steel Manufacturers Association (SMA)
and
STB Vice Chairman Patrick Fuchs**

Date and Location of Meeting: June 7, 2019, Surface Transportation Board offices 247943

Names and Titles of Persons Attending:

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AISI: Kevin Dempsey, Sr. V.P., Public Policy
Brett Smith, Sr. Director, Government Relations
SMA: Eric Stuart, V.P., Energy, Environment and Infrastructure Policy
Peter Pfohl – Partner, Slover & Loftus, outside counsel for AISI/SMA

AISI/SMA Members:

AK Steel: Larry Sutthoff, Corporate Manager Transportation Services
ArcelorMittal: Gary Mohr, Vice President, Supply Chain Management
Leslie Moll, Division Manager, Procurement
Tom Dower, Senior Director, Government Relations
Nucor: Anna Ehrich, Director, Federal Government Affairs
U.S. Steel: Megan Muldowney, Director, Logistical Services
Jennifer W. Lindsey, Legislative Rep. – Fed. Governmental Affairs

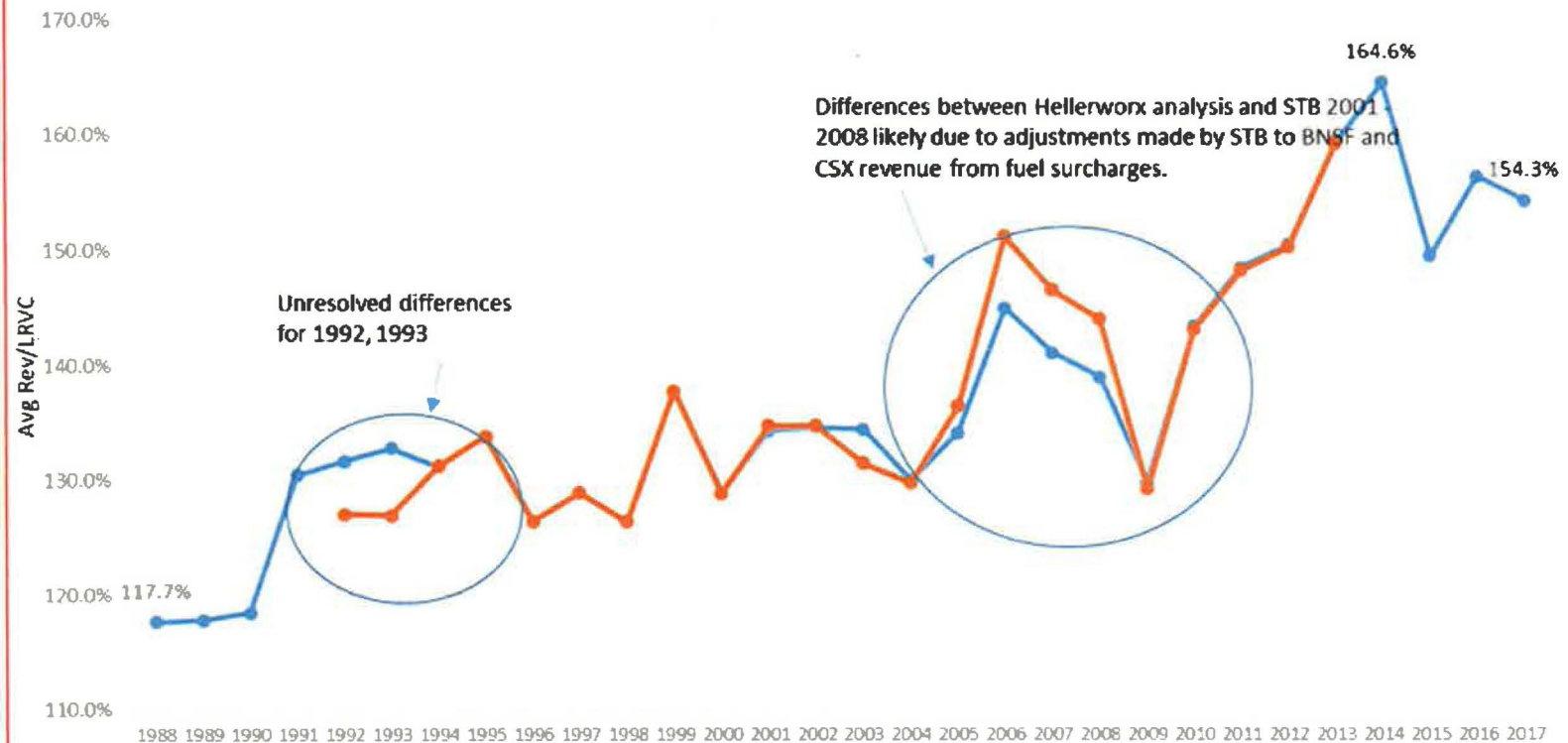
STB: Vice Chairman Patrick Fuchs
Lisa Novins, Attorney Advisor
Douglas Pelsey, Office of Economics

Summary of Meeting:

- AISI/SMA representatives introduced themselves and provided background information on their trade associations, the steelmaking members they represent, and their members' general reliance on rail transportation.
- Each of the representatives of AK Steel, ArcelorMittal, Nucor, and U.S. Steel introduced themselves, described their businesses; the number and locations of their plants; the volume of inbound raw materials shipped by commodity (e.g., iron ore, coke, coal, steel scrap), intracompany shipments, and outbound shipments of finished products; the general transportation options by commodity, plant, and traffic lane for the shipments; the individual railroads serving their plants; their reliance on rail transportation and the growing importance of railroad service as companies have consolidated, and are serving national markets; railroad market power and lack of feasible, competitive options at individual plants and for individual traffic lanes; the need for backstop regulatory protections in the current railroad service marketplace; and their support for the Board's proposed rulemaking to revoke the exemptions for iron or steel products, iron or steel scrap, and coke produced from coal.

- In response to questions about the concerns of the steel shippers over their status as exempt commodity shippers, the representatives discussed the concern of possible rail line abandonment, or at least the demarketing of service over critical supply lines, with no backstop regulatory protections. They responded that they desire to participate as full stakeholders in any agency proceeding and have full access to the Board's regulatory oversight and processes, including the ability to obtain common carrier rates, the maintenance of reasonable practices and rates, and the provision of adequate service.
- The participants discussed R/VC ratios, rail shares, length of haul, and other indicators of railroad market power for a given commodity. The participants also discussed that even if a steel shipper may have competitive options for one commodity or shipping lane for a given plant (e.g., the availability of iron ore shipped by vessel), that their lack of competitive options for other commodities or shipping lanes leaves them vulnerable to market power abuse, and without the availability of backstop regulatory protections available to non-exempt commodity shippers.
- The representatives discussed the Board's demurrage and accessorial fee proceedings, that the Board heard from several steel scrap shippers over demurrage practices, and that many steel shippers face similar practices.
- In response to questions over the sufficiency of current "case-by-case" revocation, the representatives responded that such an approach is too costly, burdensome, and time consuming as evidenced by the very few such revocation requests brought; and that the Board's proceedings were already complicated and expensive, and a steel commodity shipper should not have to bring a full-blown revocation case just to obtain a common carrier rate, to receive service under that rate, or to challenge a practice or a rate. The representatives also referenced that any Board protections for regulated commodities (e.g., relief from percentage of rate fuel surcharges, or possible future relief from demurrage practices) may not necessarily apply to exempt commodity shippers. The railroads in the past have applied different standards for different classes and types of service, including for exempt commodity shippers.
- The steel shippers emphasized that revocation would not cause railroads to once again file tariff or contract summaries with the agency, remove carrier rate-setting prerogatives, subject railroads to renewed rate suspension and investigation activities, or otherwise engage in any new agency reporting requirements. Additionally, the railroads have not alleged in their comments any specific new regulatory burdens or costs that might be brought about as a result of the revocation of the steel shipper exemptions.
- The representatives also discussed an update of their economic analysis and costing studies included in their opening and reply comments. Those studies were provided to the Board at the meeting and are attached to this memorandum. The latest STB waybill data (through 2017) continues to verify and confirm that much of the steel commodity traffic is subject to captive pricing and railroad rates remain far above costs – reflecting the lack of effective competition for many steel shippers; average R/VC ratios for the commodities are close to or exceed the level of other regulated traffic such as coal and grain; and rates measured on a RPTM basis have risen appreciably above rail costs, further reflecting the market power.

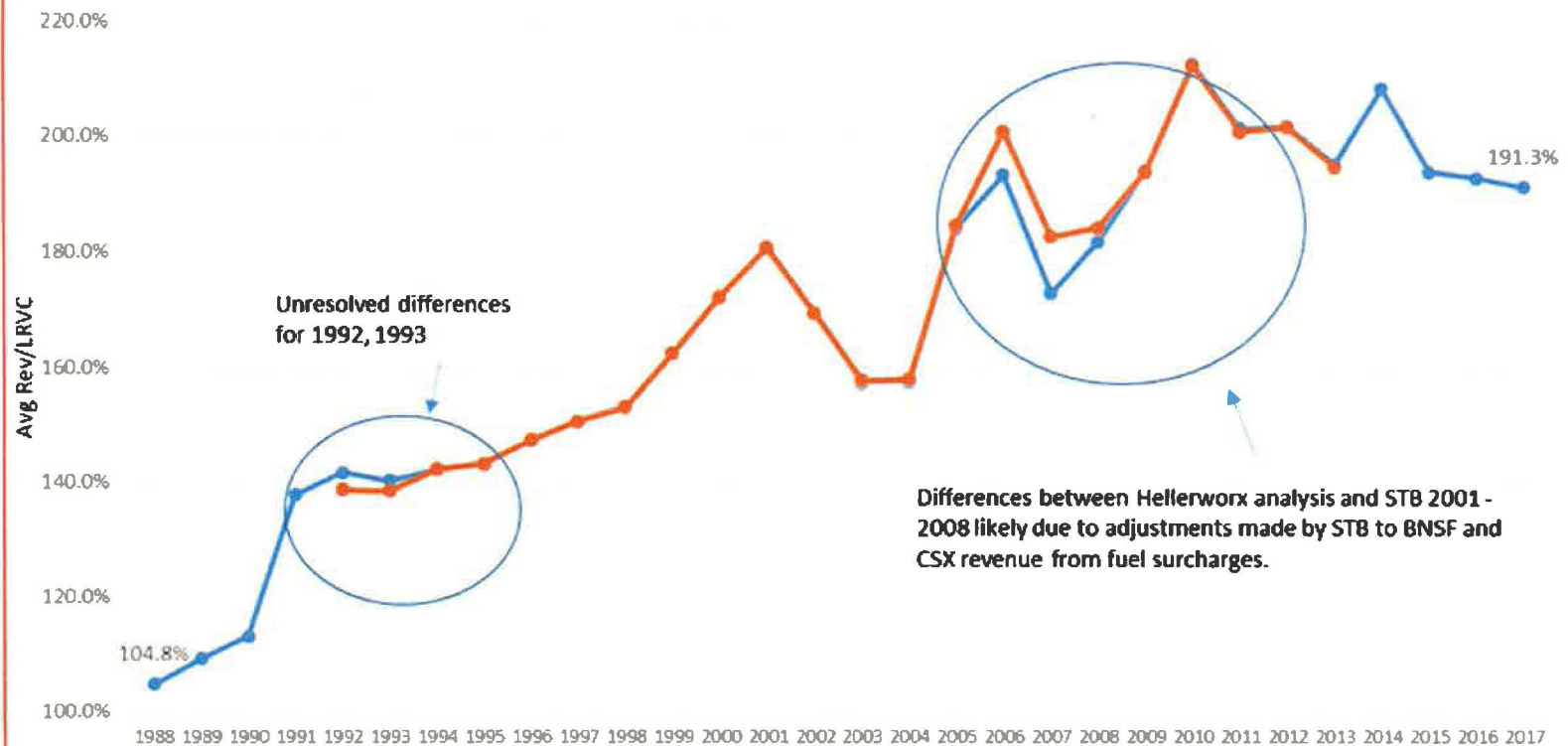
**STCC 33-12 Primary Iron of Steel Products
Average Revenue/LRVC Ratio
1988-2017**



Excludes shipments in exempt or intermodal car types Change in Average Rev/LRVC 1988 - 2017: 36.9%
Source: STB Carload Waybill Sample, Hellerworx analysis

—●— Hellerworx Average Rev/LRVC
—●— STB Average Rev/LRVC

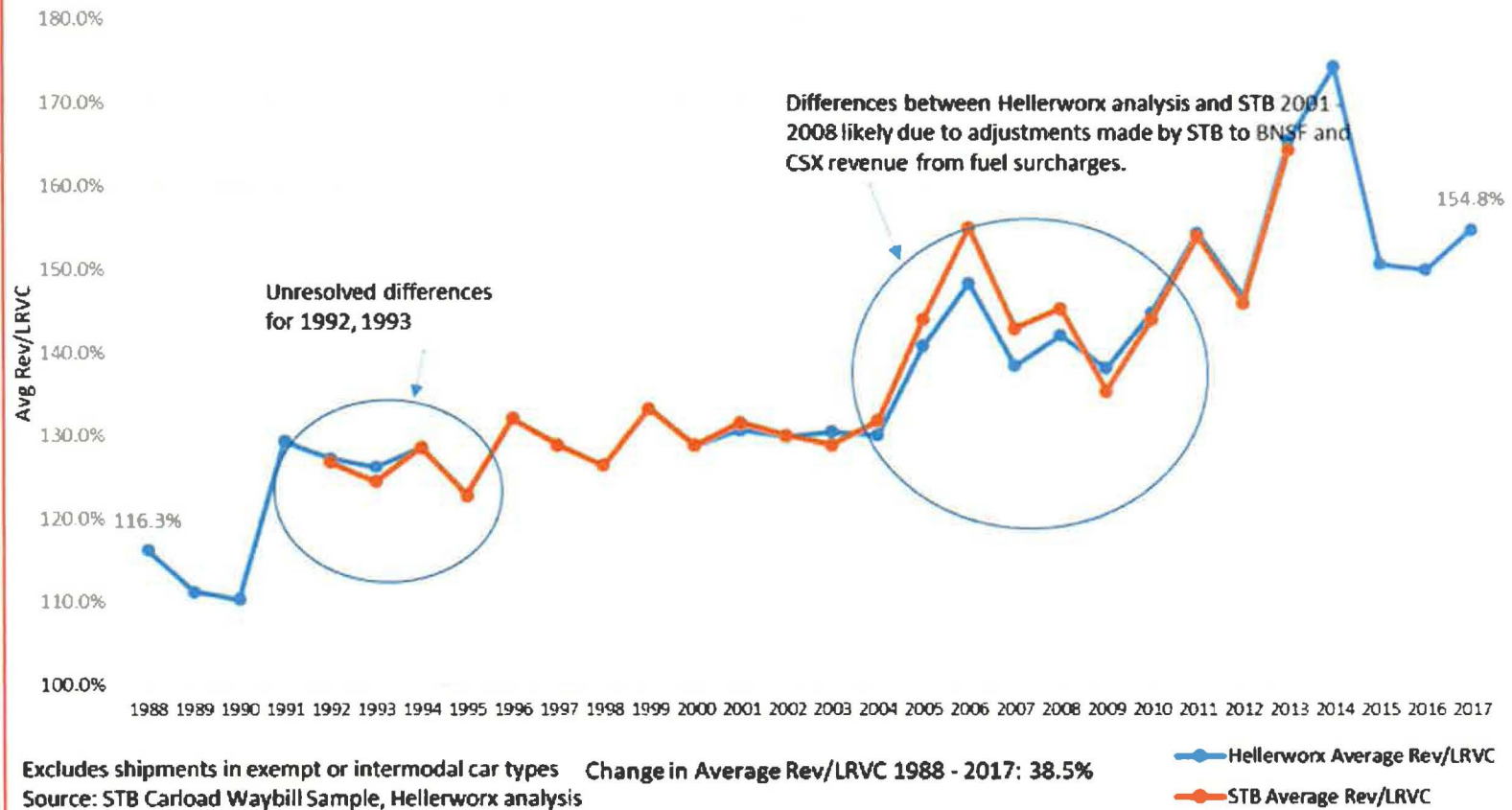
STCC 29-914 Coke from Coal
Average Revenue/LRVC Ratio
1988-2017



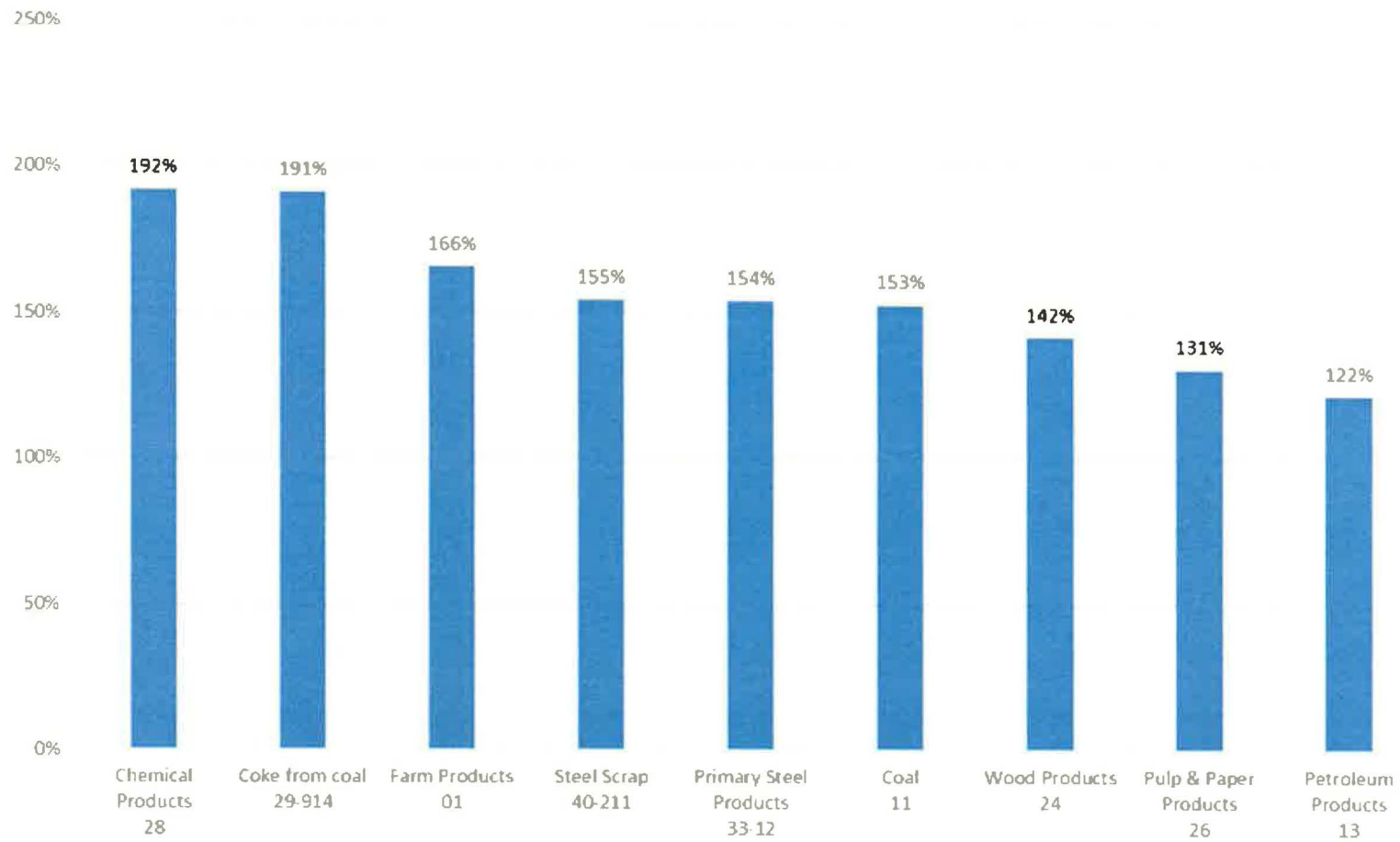
Excludes shipments in exempt or intermodal car types Change in Average Rev/LRVC 1988 - 2017: 86.5%
Source: STB Carload Waybill Sample, Hellerworx analysis

—●— Hellerworx Average Rev/LRVC
—●— STB Average Rev/LRVC

STCC 40-211 Iron or Steel Scrap
Average Revenue/LRVC Ratio
1988-2017

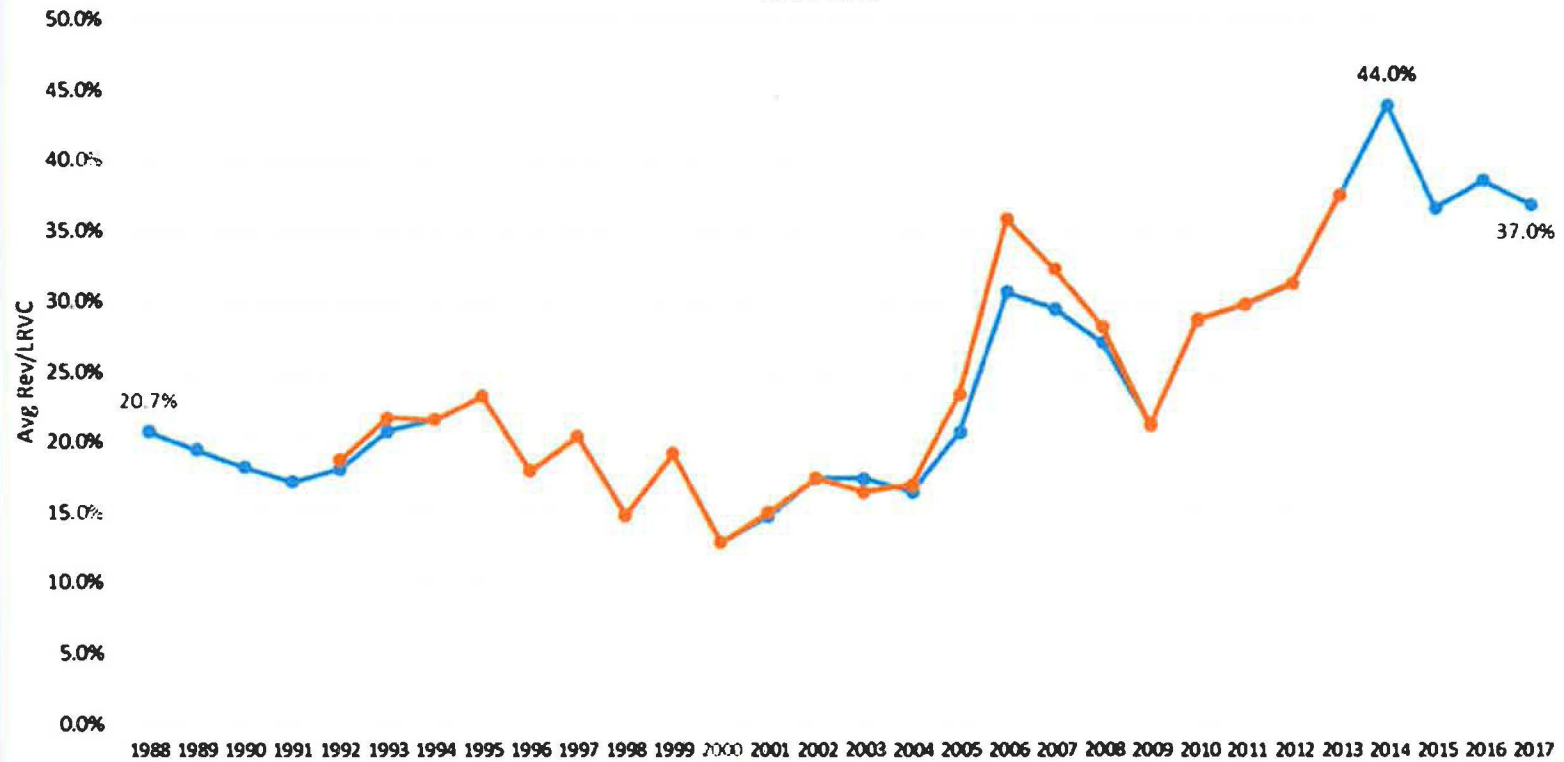


Avg Revenue/LRVC Ratio 2017



Source: STB Carload Waybill Sample (29-914, 40-211, 33-12) and
STB Commodity Revenue Stratification Report

**STCC 33-12 Primary Iron of Steel
Products Percent Potentially Captive
By Revenue
1988-2017**

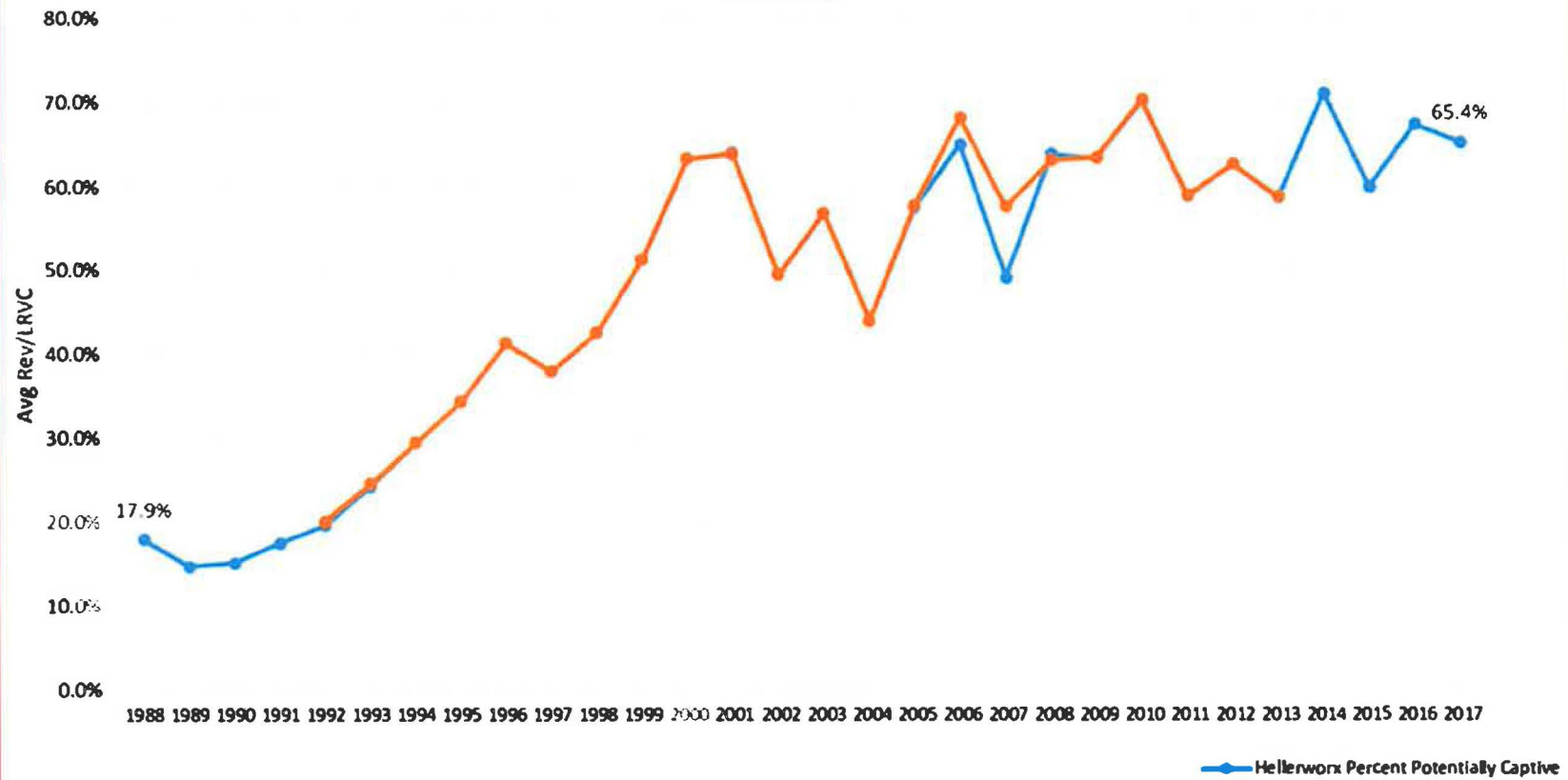


Excludes shipments in exempt or intermodal car types
Source: STB Carload Waybill Sample, Hellerworx analysis

Potentially captive shipments = Rev/LRVC >= 180%
Change in Percent of potentially captive by revenue: 1988 - 2017: 16.3%

—●— Hellerworx Percent Potentially Captive
—●— STB Percent Potentially Captive

STCC 29-914 Coke from Coal
Percent Potentially Captive
By Revenue
1988-2017



Excludes shipments in exempt or intermodal car types
Source: STB Carload Waybill Sample, Hellerworx analysis

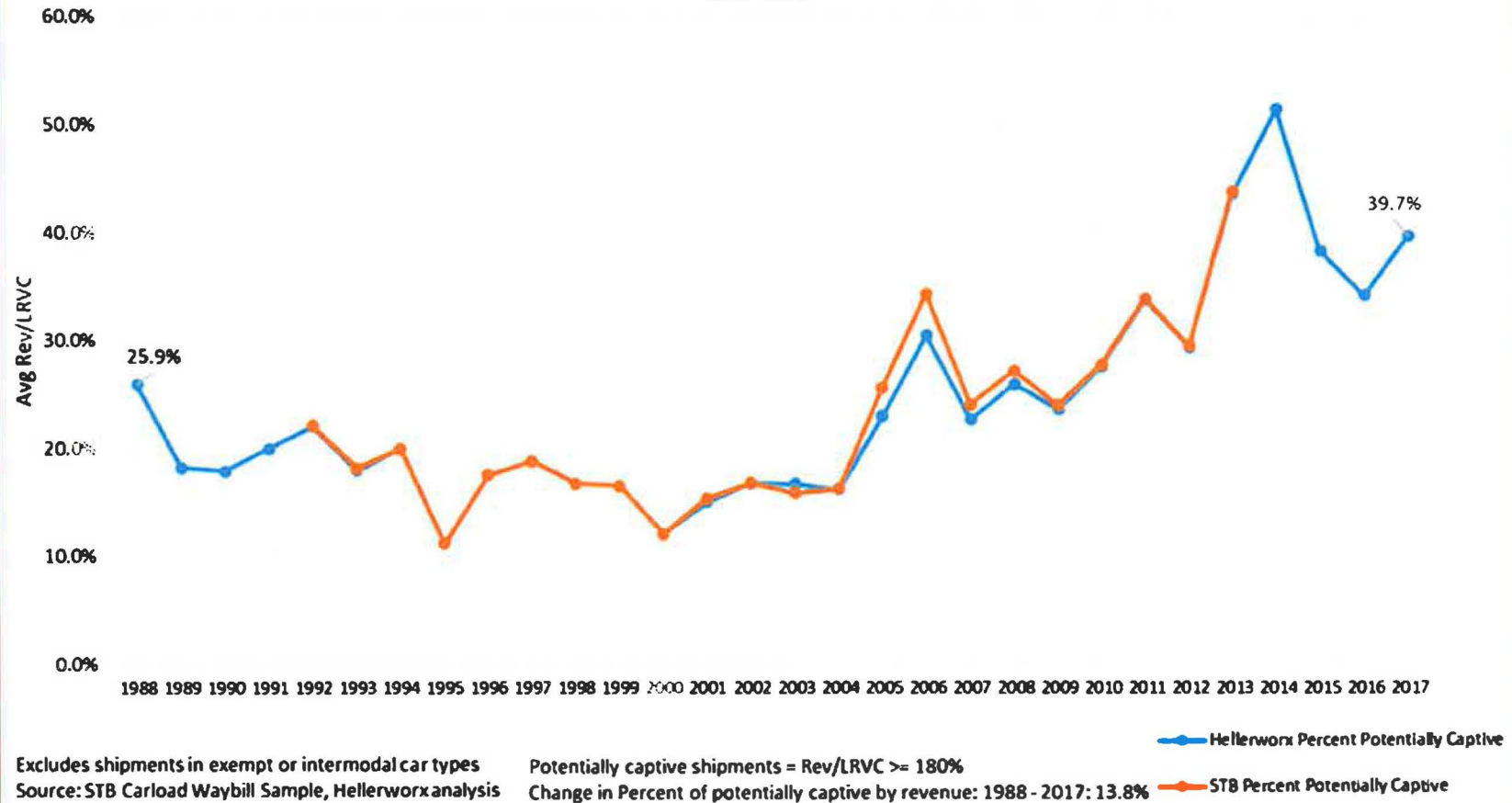
Potentially captive shipments = Rev/LRVC $\geq$ 180%

Change in Percent of potentially captive by revenue: 1988 - 2017: 47.5%

—●— Hellerworx Percent Potentially Captive

—●— STB Percent Potentially Captive

**STCC 40-211 Iron or Steel Scrap
Percent Potentially Captive
By Revenue
1988-2017**



STCC 29-914 Coke from Coal
 STCC 33-12 Primary Iron or Steel Products
 STCC 40-211 Iron or Steel Scrap
 Change in Average Revenue Per Revenue Ton Mile and RCAF-A
 1991 - 2017
 1991 = 1

