

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

247997

Summary of Ex Parte Meeting Between the Portland Cement Association (PCA)

and
STB Board Member Martin Oberman

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Office of Proceedings
June 21, 2019
Part of
Public Record

Date and Location of Meeting: June 17, 2019, Surface Transportation Board offices

Names and Titles of Persons Attending:

PCA: Charles Franklin, Vice President and Counsel for Government Affairs
Katy Hartnett, Director, Government Affairs

Peter Pfohl – Partner, Slover & Loftus, outside counsel for PCA

PCA Members:

Ash Grove Cement: Curtis Leslie, Vice President of Environmental Affairs

CEMEX: Romeo Trevino, Vice President of Logistics

Humberto H. Garza, Vice President of Logistics

Robert Sullivan, Vice President of Government Affairs

Lehigh Cement Company: Thomas Malinaric, Director, Logistics and Distribution

Titan America Companies: David Brinkley, Director of Distribution and Customer Resources

STB: Board Member Martin Oberman

Lucy Marvin, Office of Public Assistance, Governmental Affairs and Compliance

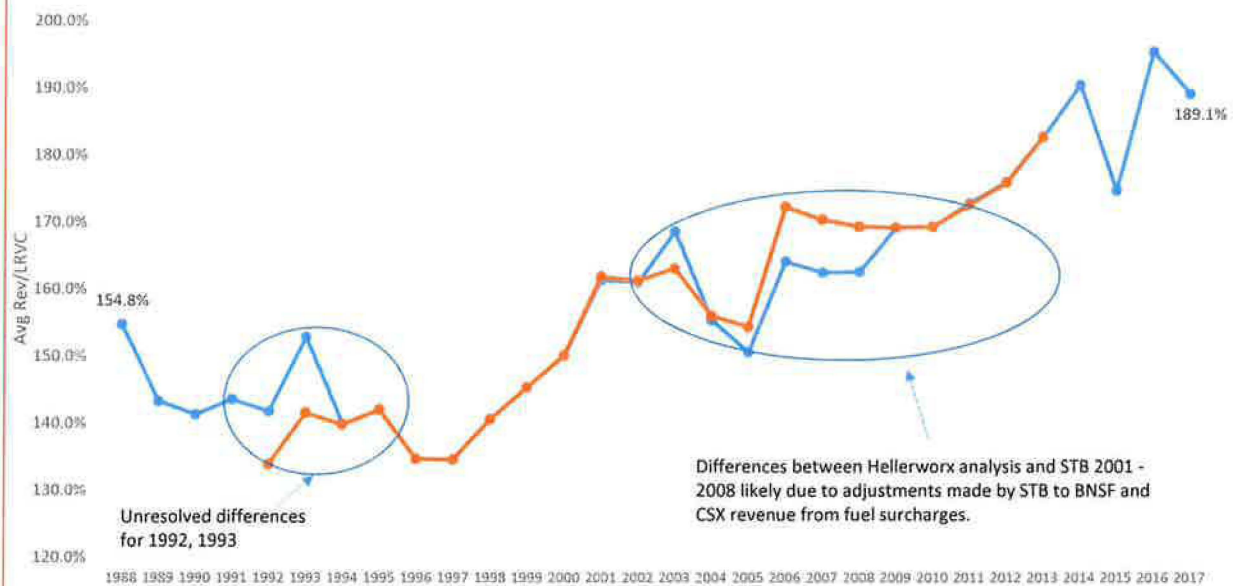
Summary of Meeting:

- Each of the meeting participants introduced themselves.
- Board Member Oberman asked a series of questions concerning the product shipped, the mining and production process, recent industry consolidation and changes, the distances of commodities shipped and by mode generally, which carriers serve each of the plants and terminals, the rail infrastructure at typical cement plants, the use of shipper-provided railcars versus railroad provided railcars, the types of cars used, and the use of short line railroads.
- Board Member Oberman and the PCA representatives then discussed generally the feasibility of truck competition to/from cement plants and terminals; general competitive issues with the railroads; rail rate increases generally; the very high cost of rail service as an overall cost of the production and distribution process; rail service and service variability issues; the contract negotiation posture of railroads generally; the large investments made by cement shippers in their rail transportation infrastructure; recent aggressive railroad demurrage assessment issues; and a lack of reasonable, balanced, and reciprocal railroad demurrage tariffs.
- The participants discussed R/VC ratios, length of haul, and other indicators of railroad market power over cement for significant portions of their transportation.
- In response to Board Member Oberman's question about the types of rates witnessed by the cement shippers, the response was that generally, rates were closer to costs, in the 120% R/VC

range for the few shipping lanes where competition might exist, but in the 200% R/VC range for most captive shipping lanes.

- In response to questions about the concerns of the cement shippers over being exempt commodity shippers, the representatives discussed the lack of regulatory backstop protections, and their desire to participate as full stakeholders in agency proceedings, with 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 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 a majority of cement traffic is subject to captive pricing and railroad rates remain far above costs – reflecting the lack of effective competition; average R/VC ratios for the commodities are close to or exceed the level of other regulated traffic; and rates measured on a RPTM basis have risen appreciably above rail costs, further reflecting the market power.

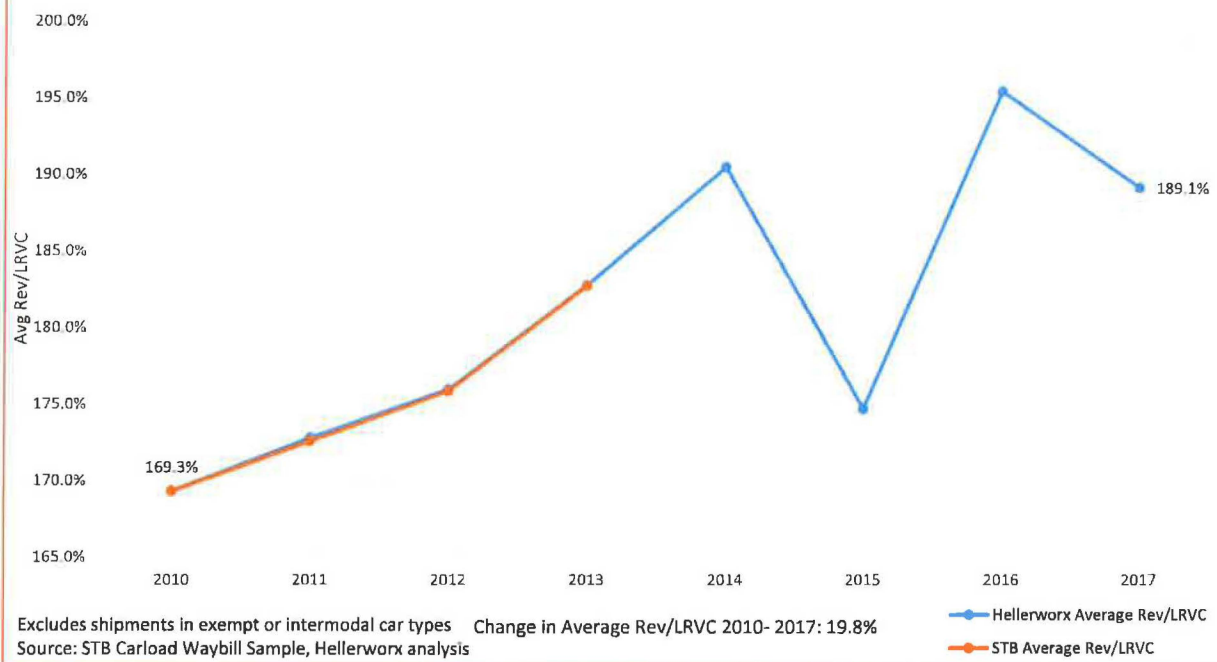
STCC 32-4
Average Revenue/LRVC Ratio
1988-2017



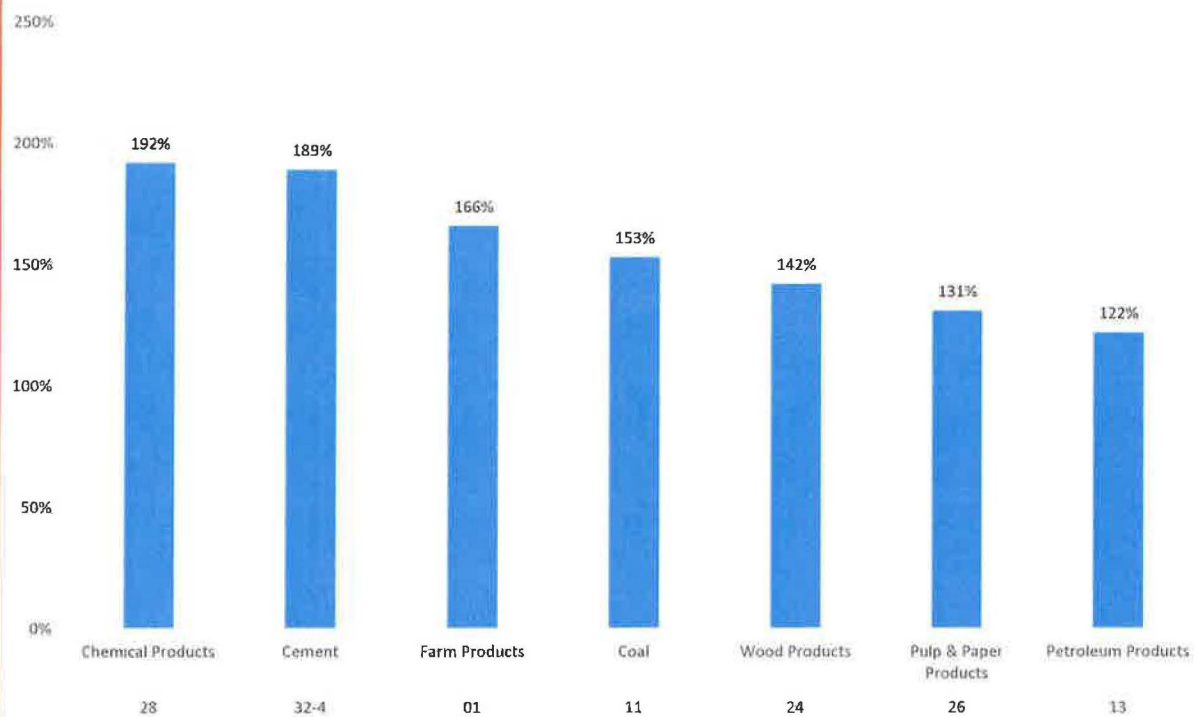
Excludes shipments in exempt or intermodal car types Change in Average Rev/LRVC 1988 - 2017: 34.3%
Source: STB Carload Waybill Sample, Hellerworx analysis

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

STCC 32-4
Average Revenue/LRVC Ratio
2010 -2017

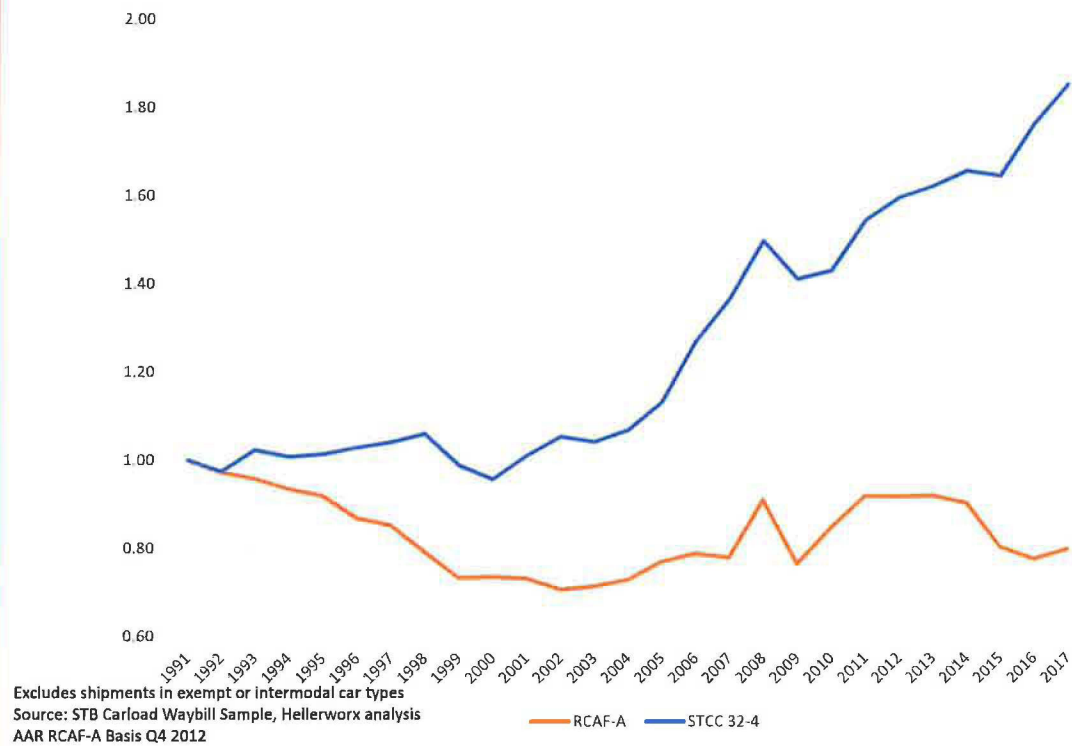


**Avg Revenue/LRVC Ratio
2017**

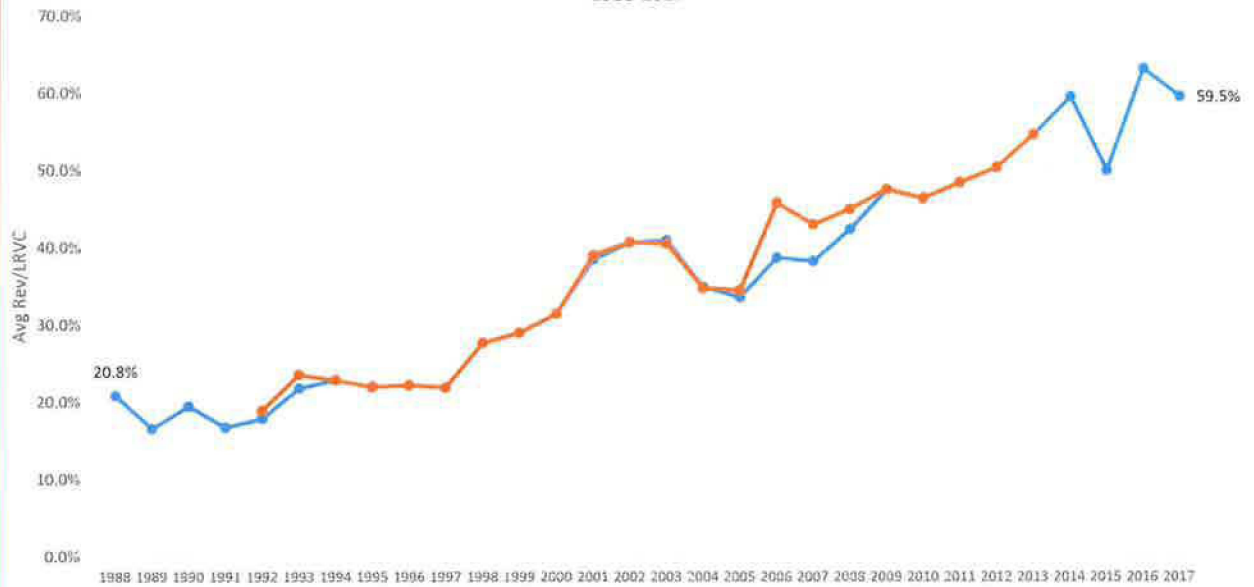


Source: STB Carload Waybill Sample (32-4) and
STB Commodity Revenue Stratification Report

STCC 32-4
Change in Average Revenue Per Revenue Ton Mile and RCAF-A
1991 - 2017
1991 = 1



STCC 32-4
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: 38.7%

— Hellerworx Percent Potentially Captive
— STB Percent Potentially Captive