

BEFORE THE
SURFACE TRANSPORTATION BOARD

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In the Matter of:

RAILROAD COST RECOVERY
PROCEDURES - PRODUCTIVITY
ADJUSTMENT

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) Ex Parte No. 290 (Sub-No. 4)
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COMMENTS OF THE WESTERN COAL TRAFFIC LEAGUE

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Dated: November 13, 2017

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OPENING COMMENTS OF THE WESTERN COAL TRAFFIC LEAGUE

The Western Coal Traffic League (“WCTL”)¹ submits the following comments in response to the decision (“Decision”) that the Surface Transportation Board (“STB” or “Board”) served in the above-captioned proceeding on September 29, 2017, tentatively calculating railroad industry productivity for 2015 for use in the Rail Cost Adjustment Factor (“RCAF”) productivity adjustment.

As WCTL explained in the comments it filed March 16, 2017, regarding the Board’s original linking factor proposal, all that is required to calculate the change in output properly is to use the same methodology to measure output in the base year (in this

¹ WCTL is a voluntary association, whose regular membership consists entirely of shippers of coal mined west of the Mississippi River that is transported by rail. WCTL members currently ship and receive in excess of 125 million tons of coal by rail each year. WCTL’s members are: Ameren Missouri, Arizona Electric Power Cooperative, Inc., Austin Energy (City of Austin, Texas), CLECO Corporation, CPS Energy, Entergy Services, Inc., Kansas City Power & Light Company, Lower Colorado River Authority, MidAmerican Energy Company, Minnesota Power, Nebraska Public Power District, Omaha Public Power District, Western Fuels Association, Inc., and Wisconsin Public Service Corporation.

instance, 2014) and the review year (in this instance, 2015). Either a routing algorithm or reader-based approach to estimate movement miles is appropriate, so long as it is consistently applied in both years. Now, as then, the Board has not explained why the data cannot be reanalyzed using the same methodology for both years, and has not identified the cost or other burdens of doing so.²

The Board's solution is instead to estimate 2015 waybill miles under the previous ALK methodology by relying on the historical relationship of the ALK-based waybill mileage to total Class I mileage as measured by an ordinary least squares ("OLS") regression. At the technical conference, the Board staff expressed a high degree of confidence in the results and suitability of the regression methodology.

However, the basic problem with the Board's proposed solution is that it does not purport to measure the correct thing. The Board's productivity methodology does not measure output based on the change in total ton-miles. Instead, it measures output based on the change in ton-miles in each cell of a 189-cell matrix, which changes are then weighted by each segment's share of total revenues to measure the change in total output. Decision at 7. The Board's assumption is that the change in total ton-miles based on its OLS regression will be fully and equally applicable to the change in each of

² The problem appears to be a one-time occurrence in that 2015 and 2016 output will both use Railinc-measured mileage data. However, problems may arise insofar as the reader methodology changes over time. For example, carriers may move or install additional meters, or at some point incorporate PTC-based data. Data consistency should be an ongoing concern.

the 189 individual cells of the matrix.³ But there is no analysis of any of those cells to support the Board's conclusion, and the Board's reasoning, such as it is, is not spelled out and is at best implicit in its Decision.

The Board's assumption is made more problematic by the fact that adoption of the RCAF productivity adjustment was delayed by many years because the Board's predecessor found that changes in total ton-miles are not a suitable proxy for measuring output or productivity. *Railroad Cost Recovery Procedures*, 364 I.C.C. 841 (1981), *aff'd sub nom. Western Coal Traffic League v. United States*, 677 F.2d 915, 927-28 (D.C. Cir. 1982) (noting that railroad "[w]itnesses explained that the conventional measure of railroad output -- the 'ton-mile' -- produces distorted estimates of productivity trends").

Perhaps the Board has reason to believe that there is no reasonable or feasible alternative, that there is some reason to think that the total ton-miles linking factor is a suitable proxy for the individual cells, that the problem is manageable because

³ The Board's application of its OLS amounts to a form of extrapolation by estimating, beyond the original observation interval, the value of a variable on the basis of its relationship with another variable. The Board's OLS regression model included independent variables ranging between 1.033 and 1.851 trillion ton-miles. Decision at 9. Unless the ton-miles included in each one of the 189 cells of the matrix fall within this range, the Board is simply extrapolating its OLS results to the sub-group within the matrix. Statistical literature is replete with the inherent dangers of extrapolating OLS regression results, especially when data is extrapolated well beyond the original observational interval. *E.g.*, NIST/SEMATECH e-Handbook of Statistical Methods, Section 4.1.4.1 "Linear Least Squares Regression," accessible at <http://www.itl.nist.gov/div898/handbook/pmd/section1/pmd141.htm>.

it is one-time only and will not be repeated in the future, etc. But such matters should be made explicit in the decision in some way.

In addition, the Board should give some consideration whether the calculated decline in productivity over a five-year period is accurate and/or indicative of the state of, or problems within, the industry,⁴ whether it reflects other distortions (such as the premium that Berkshire Hathaway paid to acquire the remainder of BNSF in 2010) or a reduction in competition, and whether it has implications for other matters. The 2015 productivity results cannot be blithely dismissed as a one-year trend inasmuch as the substantial increase in output for 2011 (1.041) seems likely to be displaced by another substantial decrease in 2016, if total ton-miles are any indication.

As explained above, WCTL respectfully submits that the tentative calculation in the Decision needs further analysis, support, and explanation at this time.

Respectfully submitted,

WESTERN COAL TRAFFIC LEAGUE

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⁴ Those problems could include the service problems of 2013-2014 or carriers' willingness to sacrifice volume to achieve lower operating ratios.

Certificate of Service

I hereby certify that today, November 13, 2017, copies of the foregoing Comments of the Western Coal Traffic League have been served on all parties of record in this proceeding in accordance with the Board's Rules of Practice.

/s/ Robert D. Rosenberg