

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 Chairman Ann Begeman

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

Names and Titles of Persons Attending: 247955

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

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June 14, 2019
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Public Record

AISI/SMA Members:

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

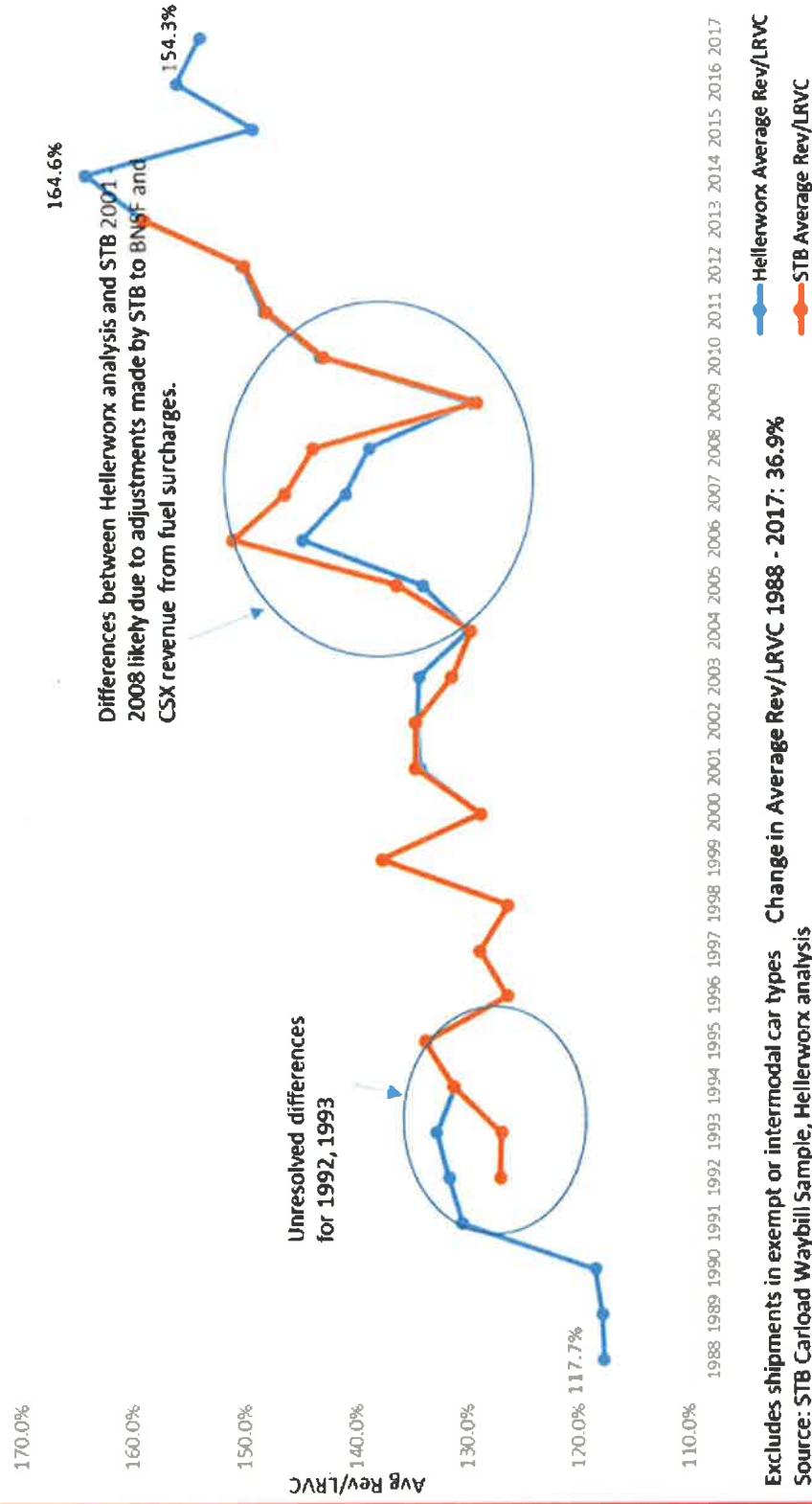
STB: Chairman Ann Begeman
Valerie Quinn, Attorney Advisor
Francis O'Connor, Office of Economics

Summary of Meeting:

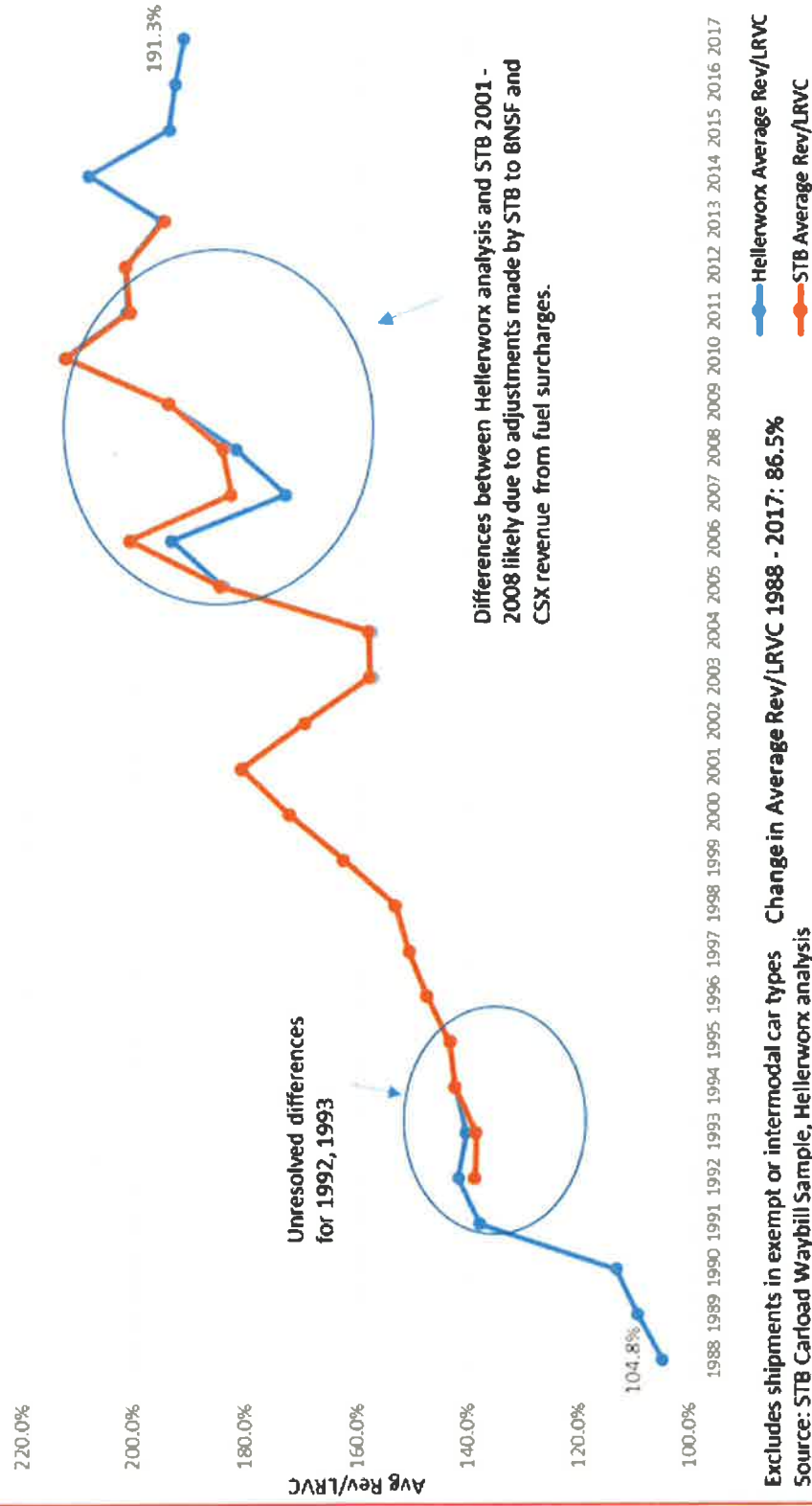
- Each of the meeting participants introduced themselves.
- AISI/SMA representatives provided background information on their trade associations, the steelmaking members they represent, and their members' general reliance on rail transportation.
- Each of the representatives of AK Steel, ArcelorMittal, Nucor, and U.S. Steel 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 remove the exemptions for iron or steel products, iron or steel scrap, and coke produced from coal.

- The steel shipper representatives discussed generally rail service issues, discussed the impacts and effects of “precision railroading” on steel shippers, and thanked Chairman Begeman for her leadership on the issue.
- In response to questions about the possible protections provided by the removal of the exemptions, the participants 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.
- In response to questions about competitive concerns of steel shippers, some of the steel company representatives responded that they are facing substantial rail rate increases; the lack of guaranteed service; the lack of service standards; risks of a lack of sufficient railcar supply by carriers; the fear of possible rail line abandonment, or at least the demarketing of service over critical supply lines; and the implementation by railroads of practices such as one-sided minimum and maximum volume requirements imposed on shippers operating in a volatile marketplace – even though the railroads contend that steel shippers enjoy significant competition that arguably should provide market protections against such one-sided rates and provisions.
- The representatives added that Board heard last week from several steel scrap/recycling companies facing demurrage abuses – practices facing many steel shippers who seek full access to, and avenues of redress, at the Board like other non-exempt shippers.
- 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, 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 stated that railroad contentions that the proposed rule is “re-regulatory” are not true. They 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.
- Chairman Begeman referenced the overall success the Board has had with its informal dispute resolution program, which she said is made available to all shippers including exempt commodity shippers, and she provided the participants with further information on the program and encouraged them to use it.

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

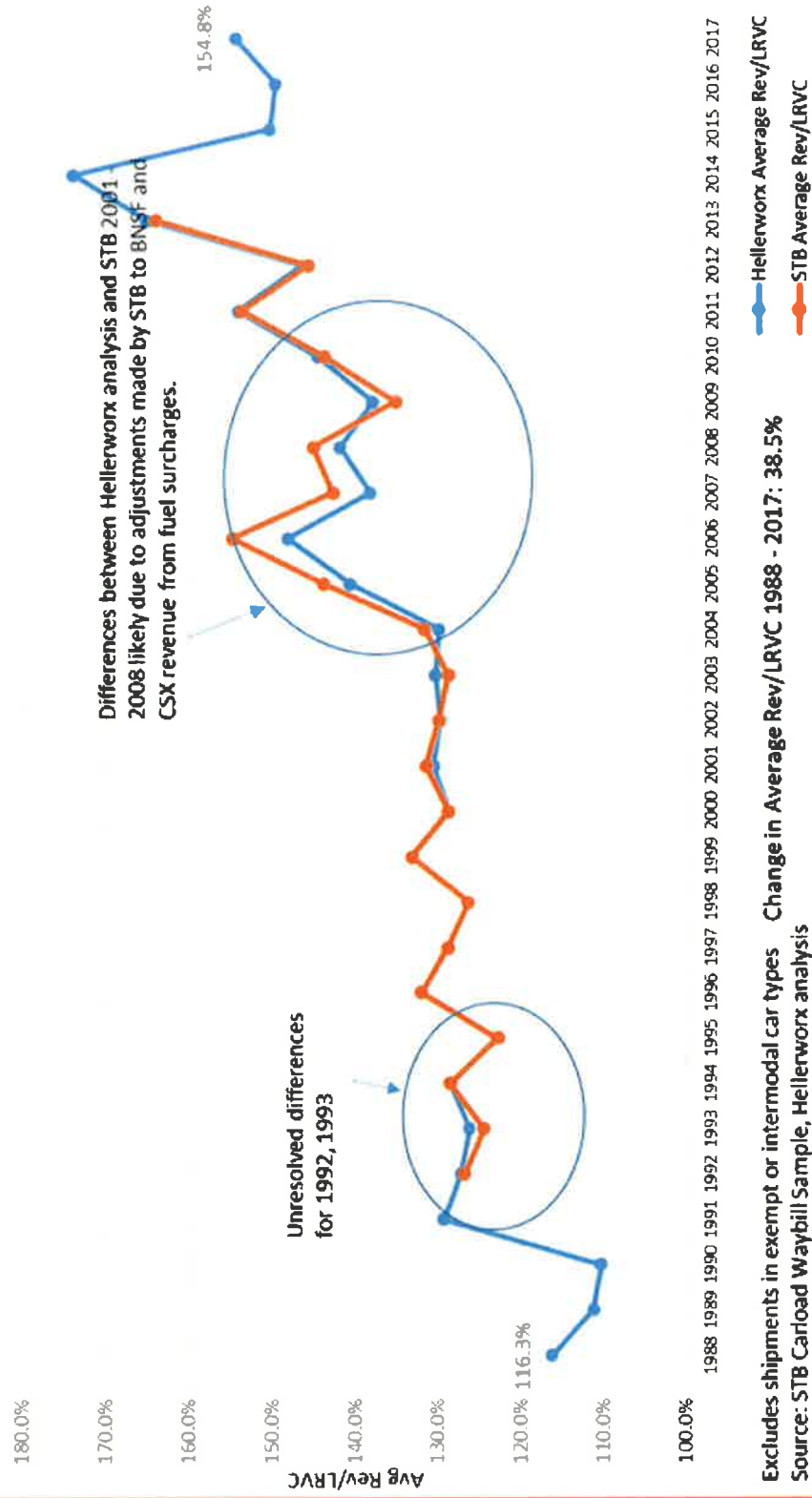


STCC 29-914 Coke from Coal Average Revenue/LRVC Ratio 1988-2017

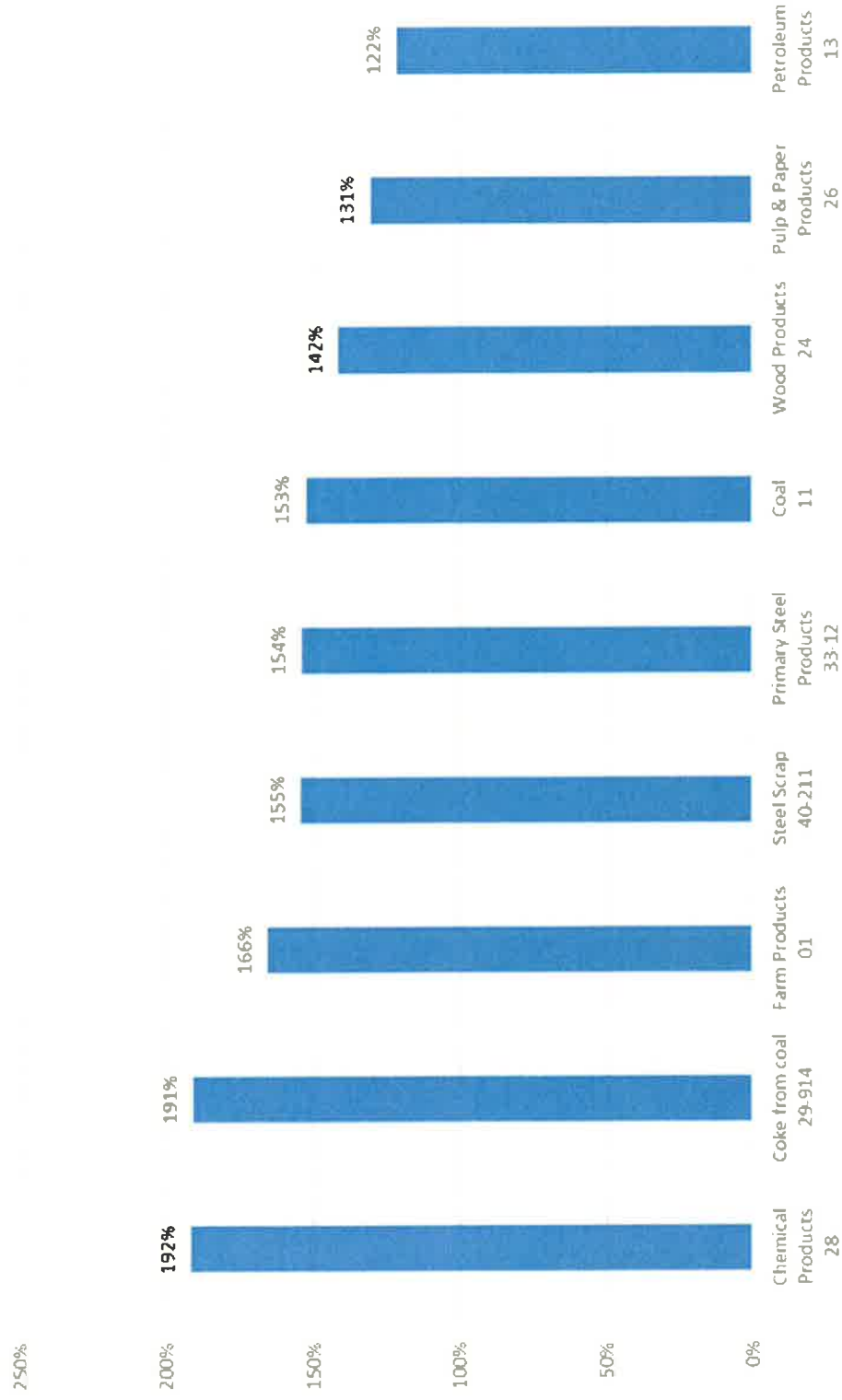


Excludes shipments in exempt or intermodal car types
 Source: STB Carload Waybill Sample, Hellerworx analysis

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

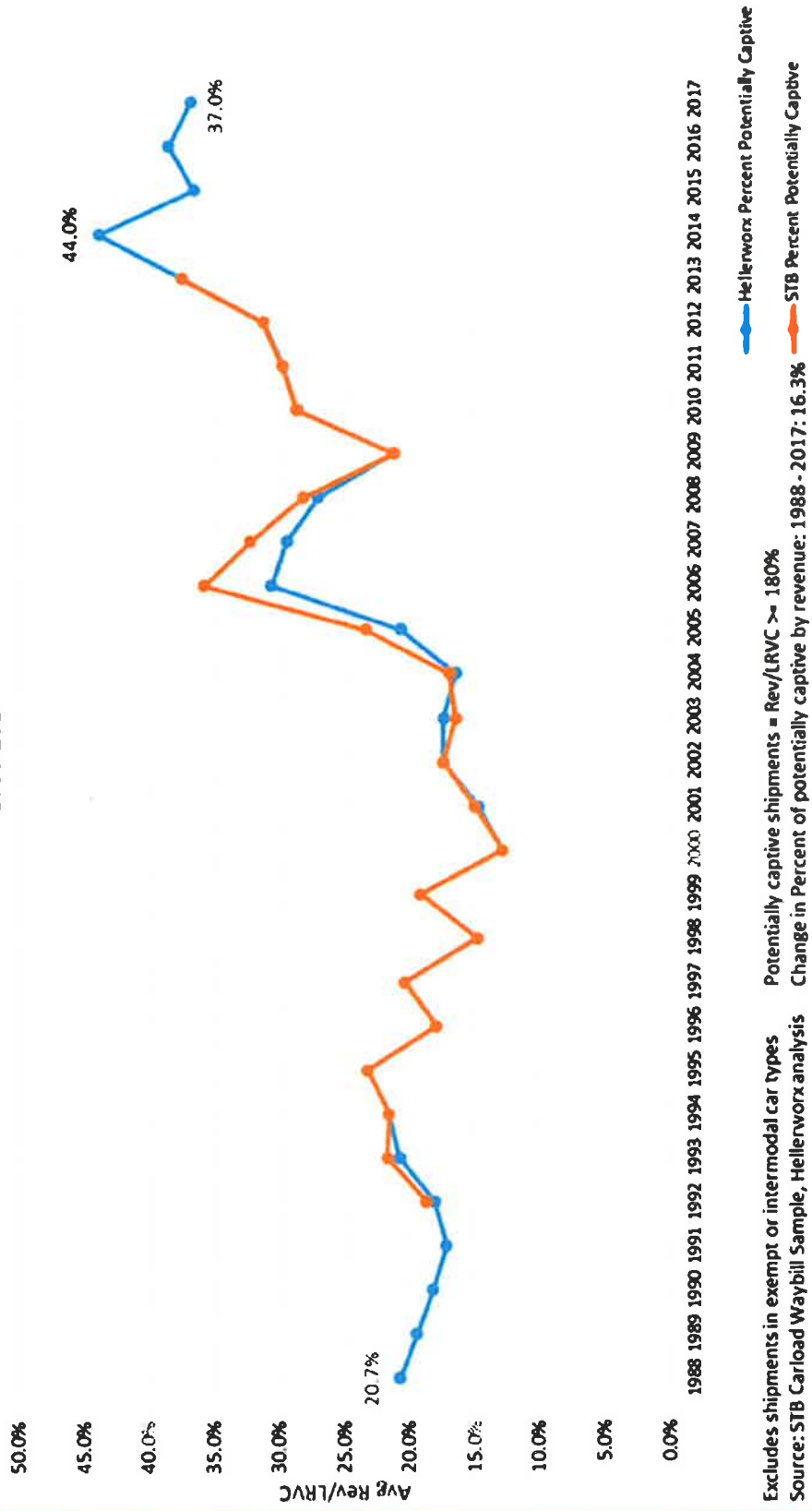


Avg Revenue/LRVC Ratio 2017

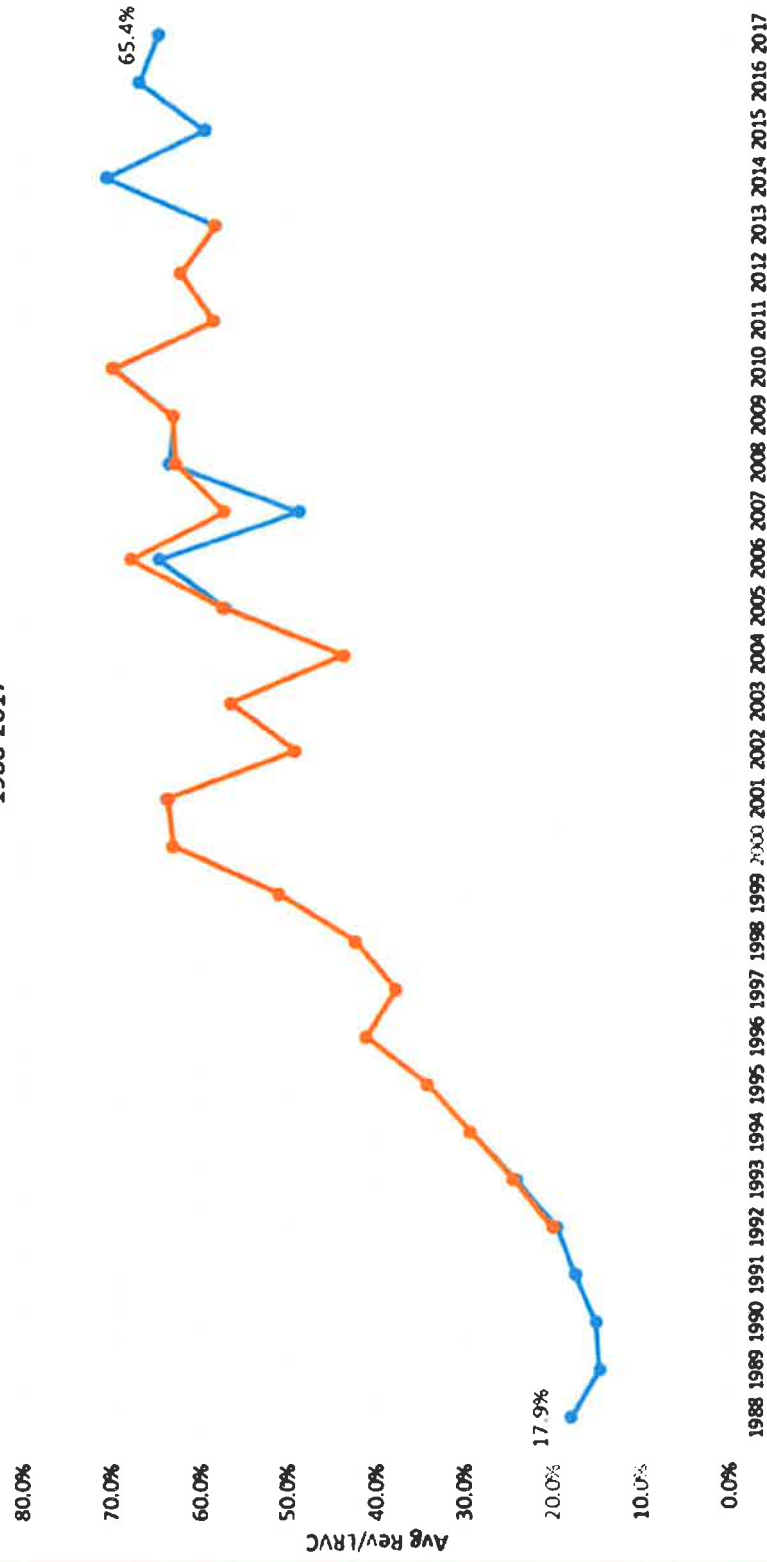


Source: STB Carload Waybill Sample (29-914, 40-211, 33-12) and
STB Commodity Revenue Stratification Report

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



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

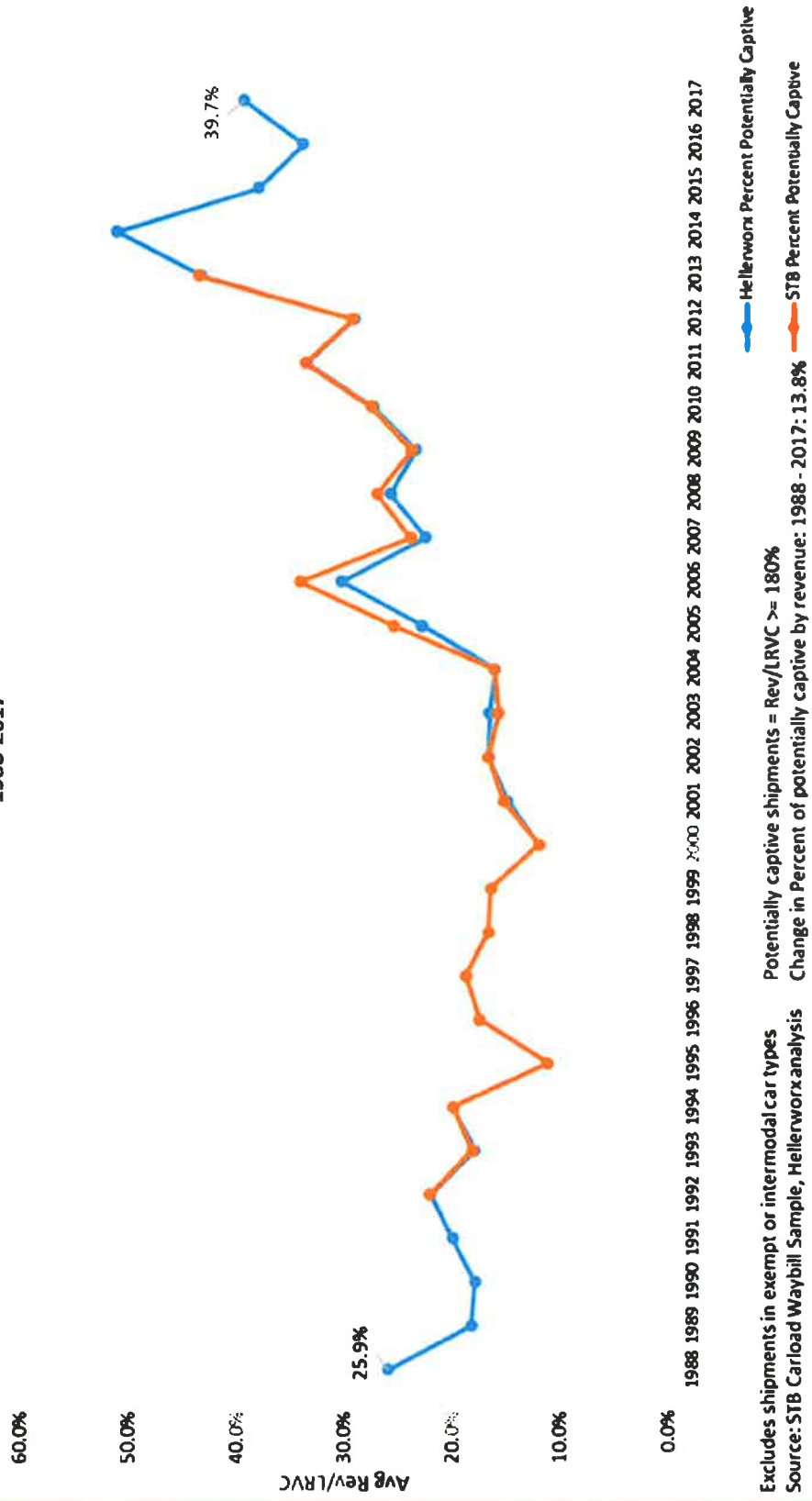


Excludes shipments in exempt or intermodal car types
Source: STB Carload Waybill Sample, Hellerworx analysis

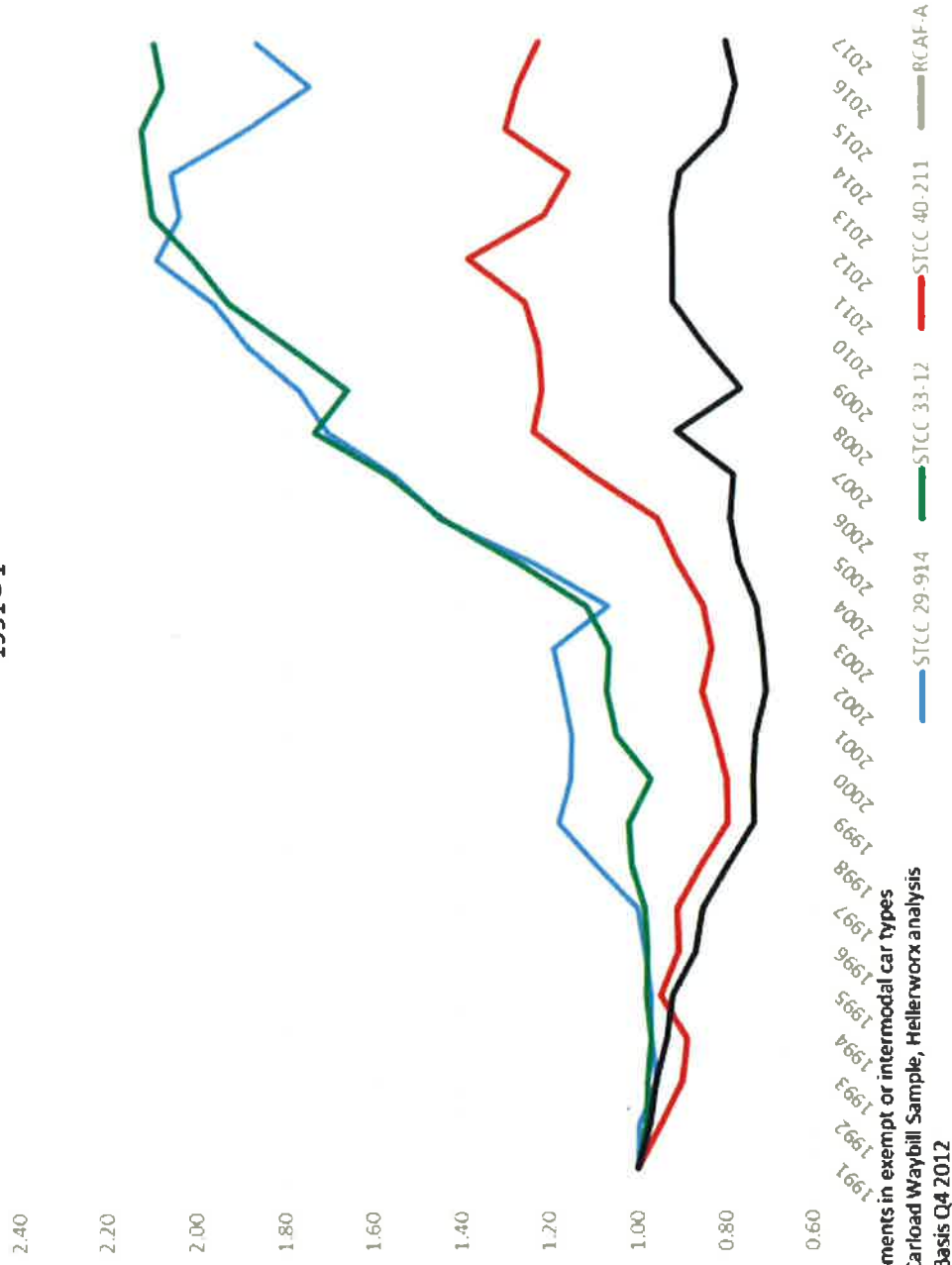
Potentially captive shipments = Rev/LRVC >= 180%

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

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



Excludes shipments in exempt or intermodal car types
 Source: STB Carload Waybill Sample, Hellerworx analysis
 AAR RCAF-A Basis Q4 2012