

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

247996

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

**and**  
**STB Chairman Ann Begeman**

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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: Chairman Ann Begeman

Valerie Quinn, Attorney Advisor

Amanda Gorski, Attorney Advisor

Candace White, Attorney Advisor, Office of Proceedings

William Brennan, Director, Office of Economics

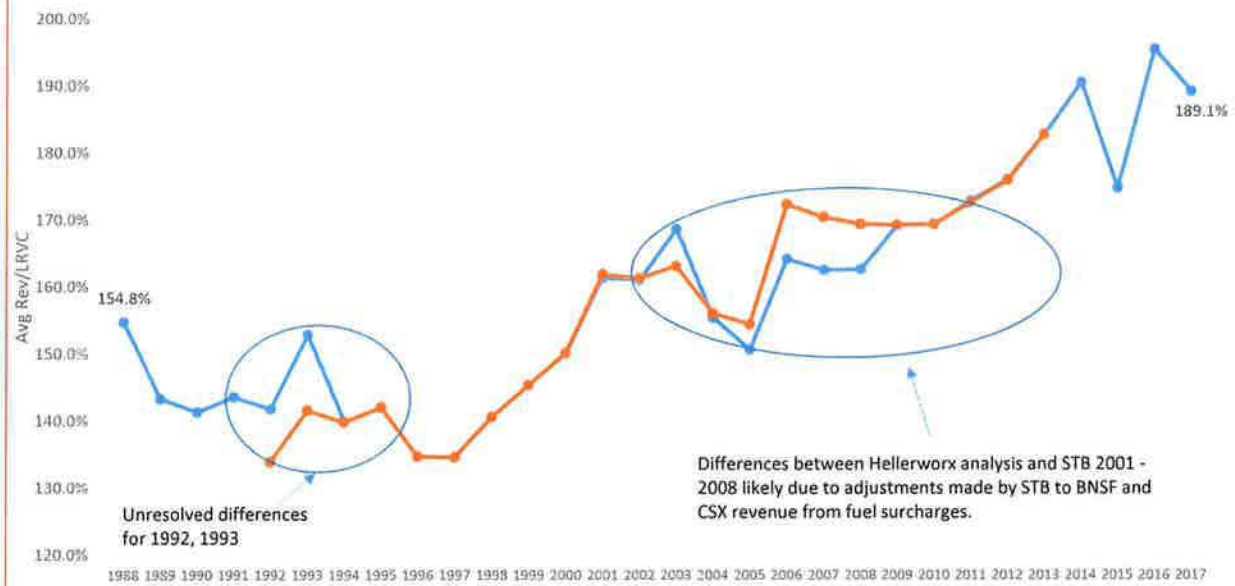
**Summary of Meeting:**

- Each of the meeting participants introduced themselves.
- Each of the representatives of Ash Grove, CEMEX, Lehigh Cement Company, and Titan America Companies described their businesses and responded to questions from the Chairman on general transportation logistics matters, including: the number and locations of their plants and terminals; the volume of portland cement and other commodities shipped; the general transportation options by plant and traffic lane for the shipments; the individual railroads serving their plants and terminals; the amount of traffic shipped by mode; the distances of shipments by rail and truck; recent plant shutdowns; environmental rules affecting cement manufacturers and the consolidation of plants generally.
- In response to questions from the Chairman, each of the PCA representatives also described 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 predominant and growing use of shipper supplied cars versus railroad supplied cars; 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.

- In response to questions about the impacts on the industry if the exemption for cement was revoked, the representatives discussed that the ability to participate as full stakeholders, and the availability of remedies available to other shippers, would assist in negotiations, and ensure that the railroads' market power over the traffic is subject to possible regulatory protection.
- The members discussed the unfair and inefficient hurdle to customer protection provisions resulting from the Board's existing case-by-case revocation rules, and the fact that protections for rail shippers generally afforded by the Board do not apply to exempt commodity shippers.
- The participants discussed R/VC ratios, length of haul, and other indicators of railroad market power over cement for significant portions of their transportation.
- 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 railroad market power.

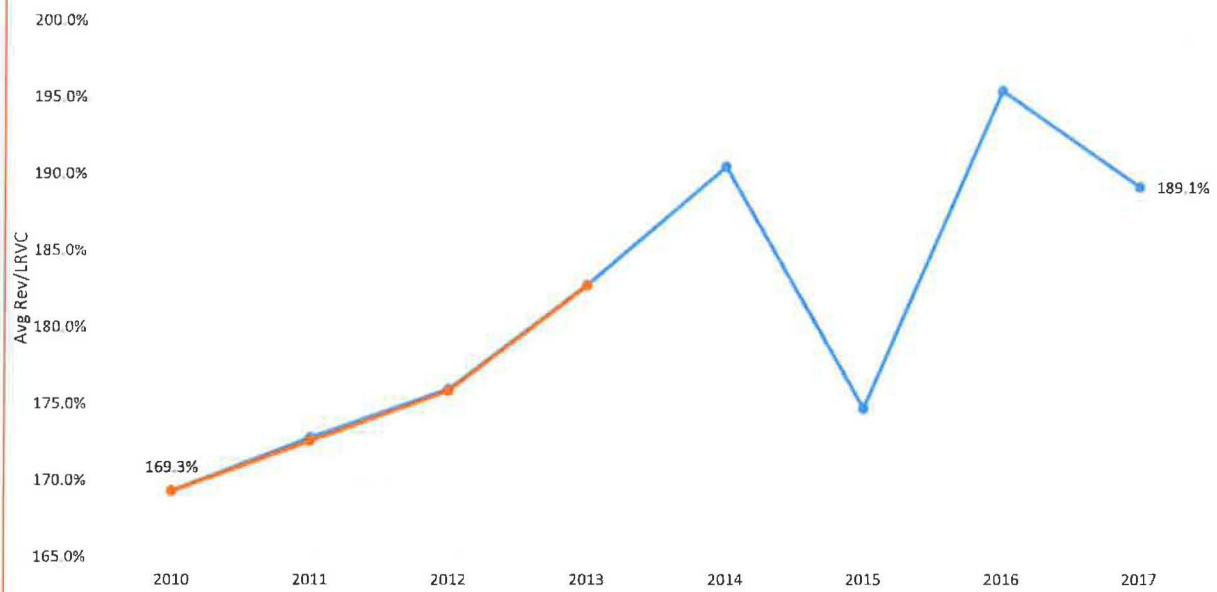
STCC 32-4  
Average Revenue/LRVC Ratio  
1988-2017



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

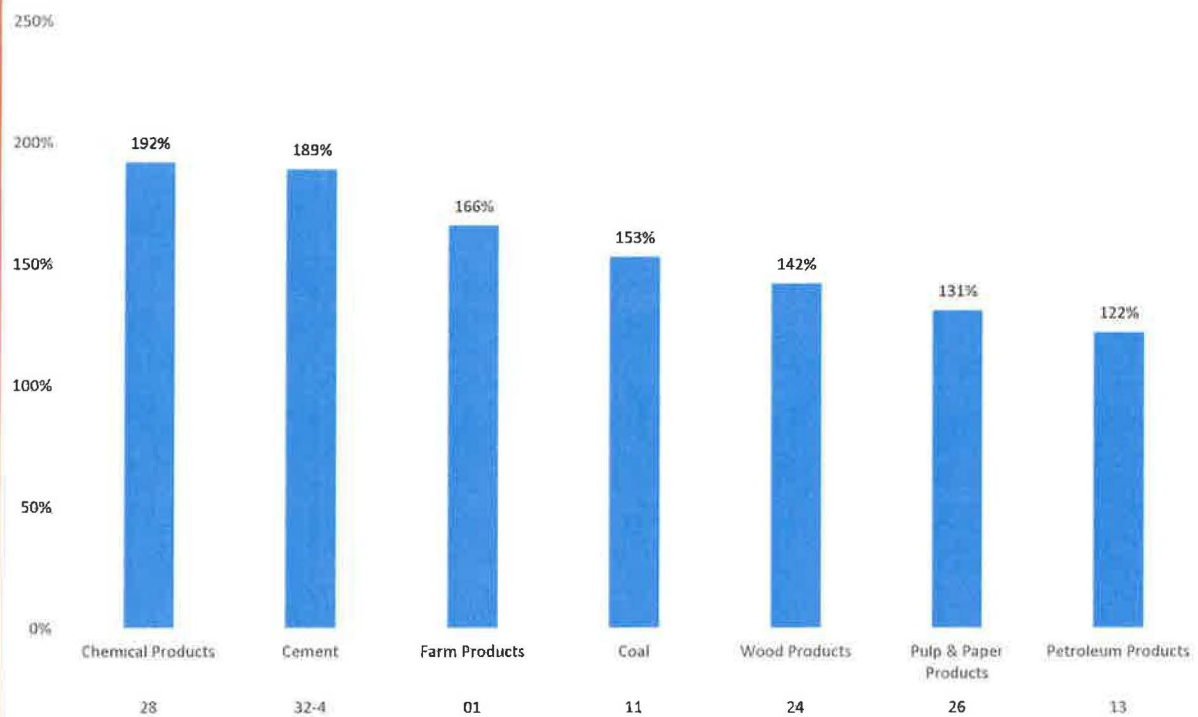
STCC 32-4  
Average Revenue/LRVC Ratio  
2010 -2017



Excludes shipments in exempt or intermodal car types Change in Average Rev/LRVC 2010- 2017: 19.8%  
Source: STB Carload Waybill Sample, Hellerworx analysis

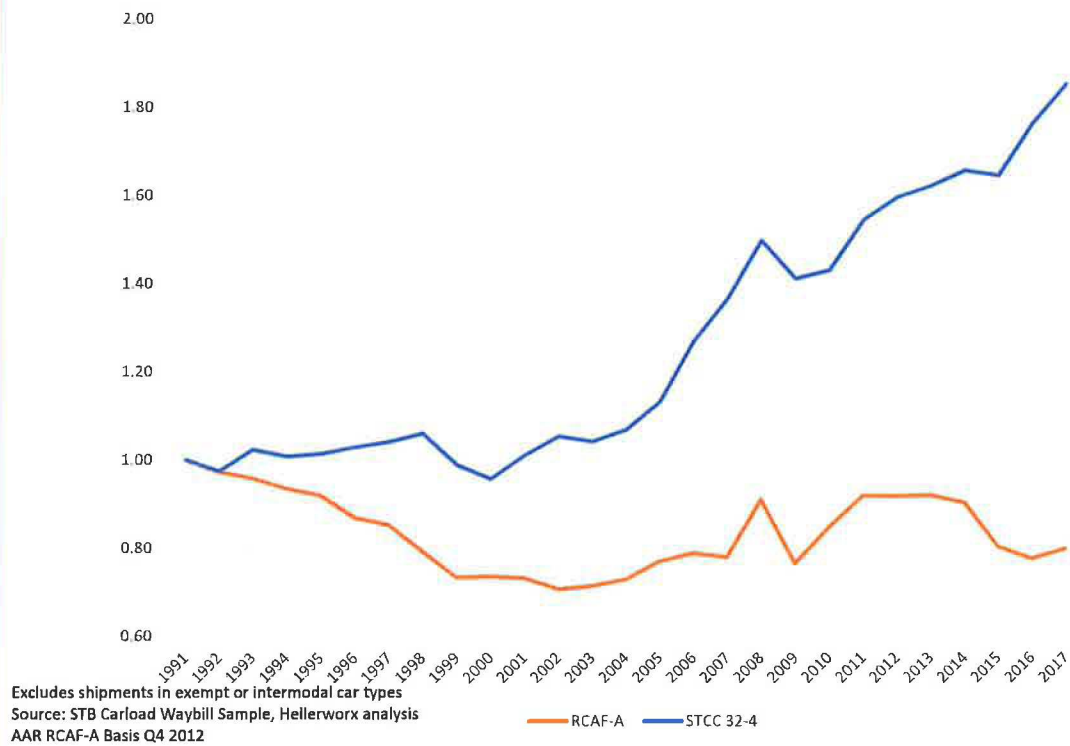
—●— Hellerworx Average Rev/LRVC  
—●— STB Average Rev/LRVC

**Avg Revenue/LRVC Ratio  
2017**

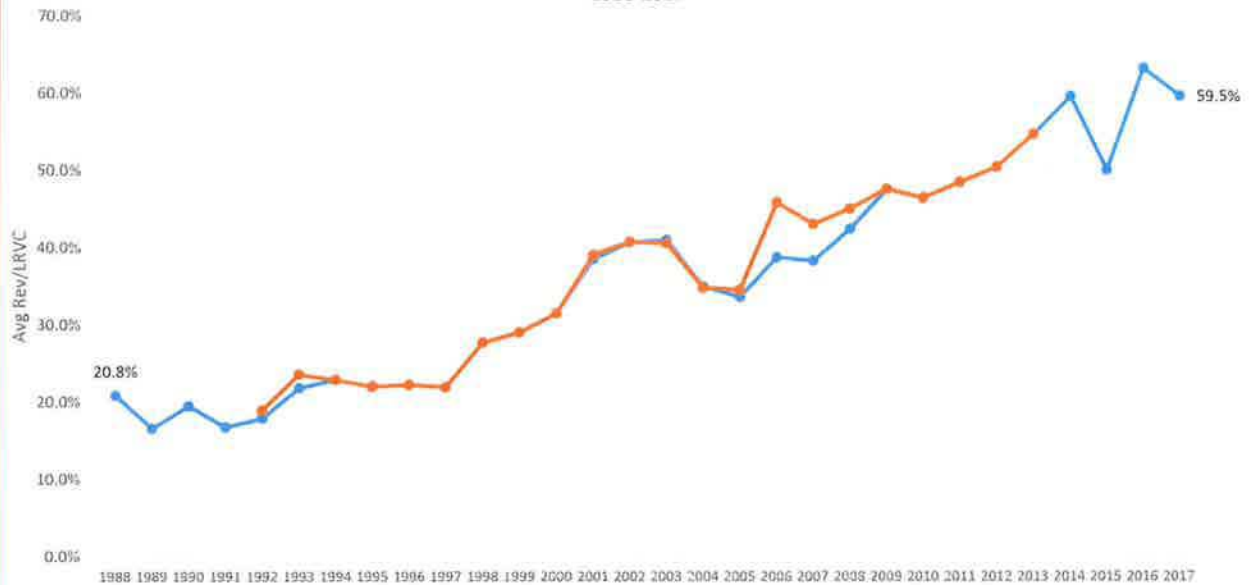


Source: STB Carload Waybill Sample (32-4) and  
STB Commodity Revenue Stratification Report

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  $\geq$  180%  
Change in Percent of potentially captive by revenue: 1988 - 2017: 38.7%

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