

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 Member Martin Oberman**

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

Names and Titles of Persons Attending:

247939

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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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: Board Member Martin Oberman

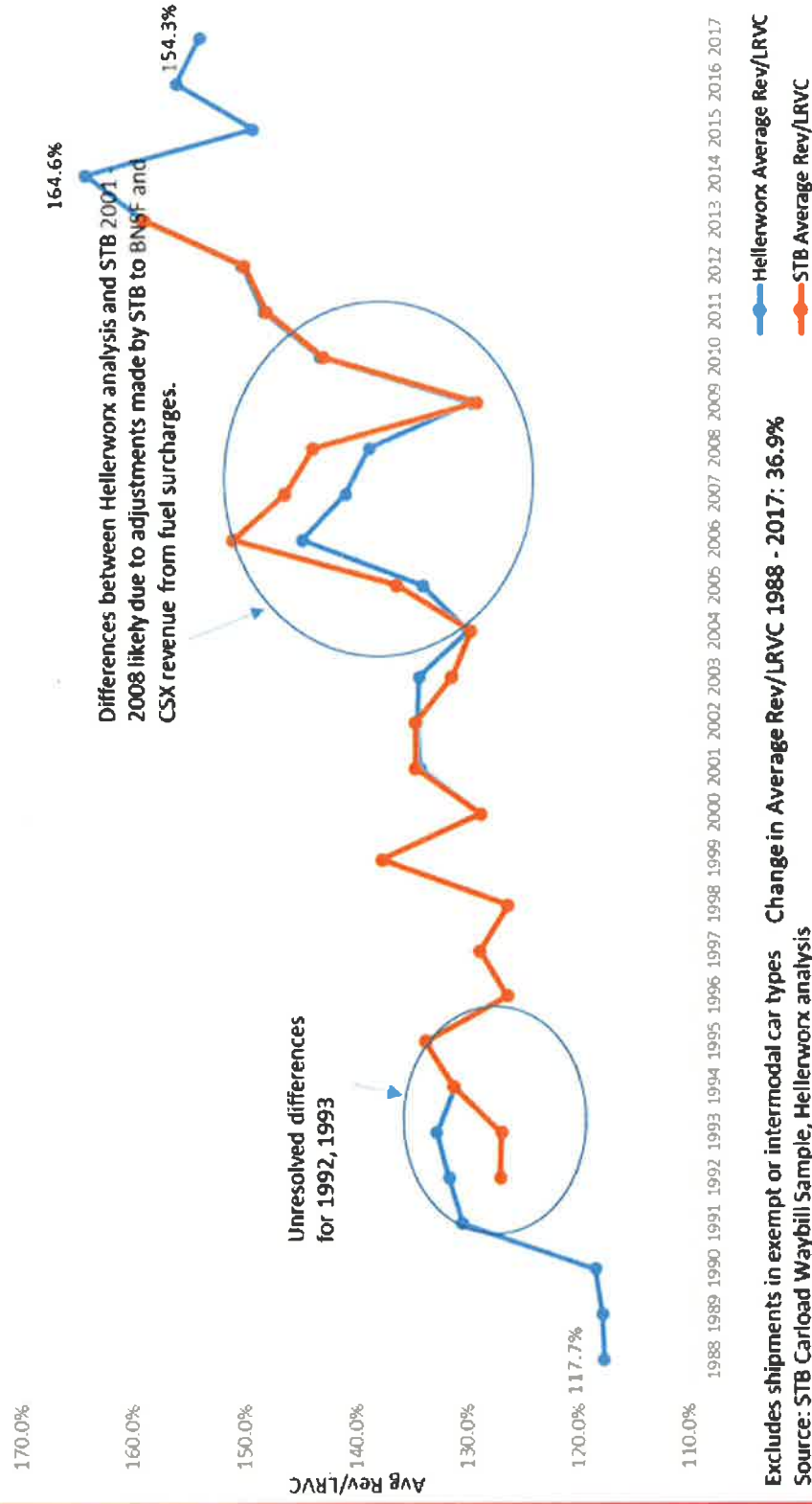
Katherine Bourdon, Attorney Advisor

Summary of Meeting:

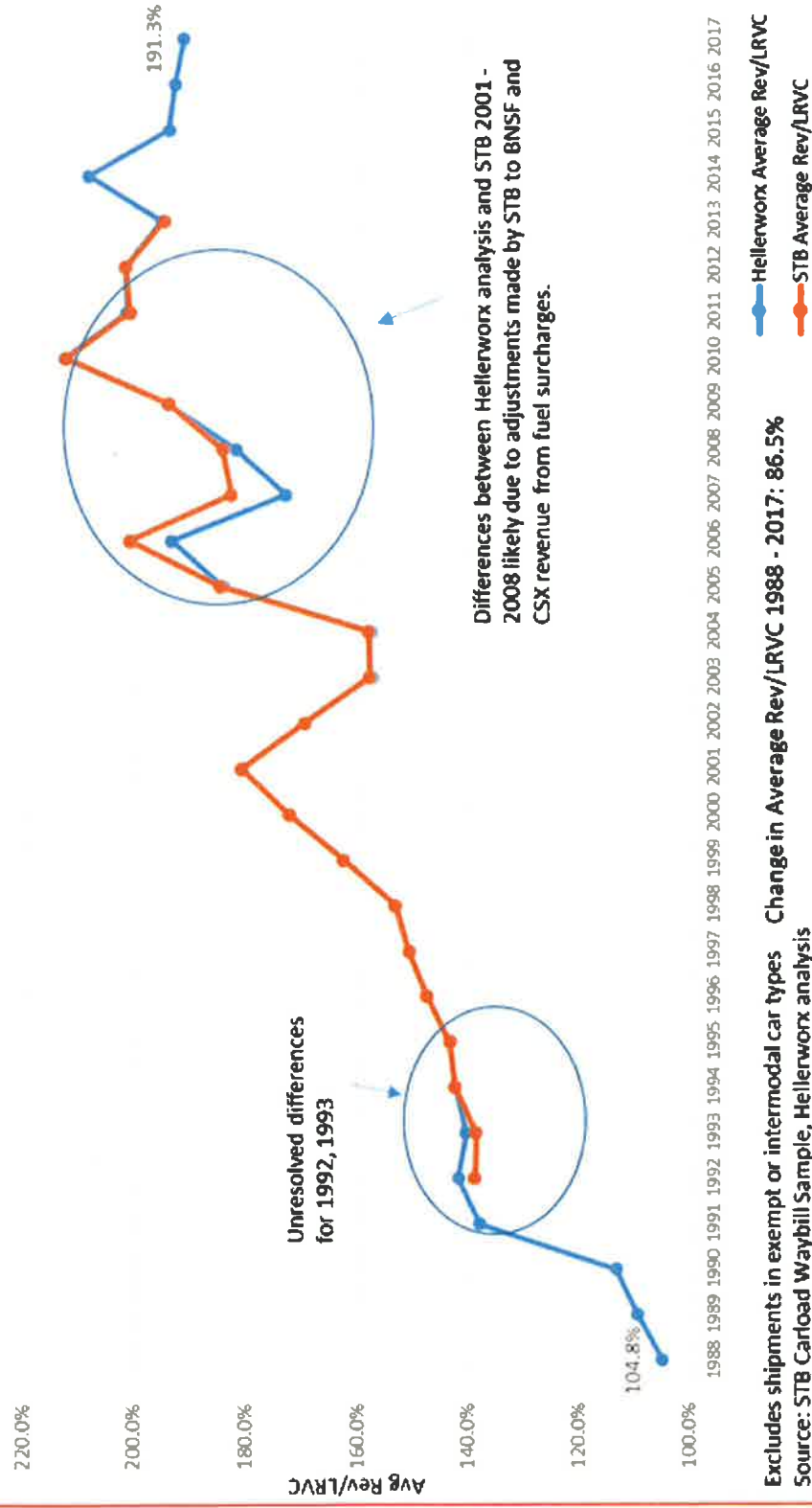
- AISI/SMA representatives introduced themselves and provided background information on their associations, the steelmaking members they represent, and their members' general reliance on rail transportation.
- Each of the representatives of AK Steel, ArcelorMittal, Nucor, and U.S. Steel introduced themselves,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

- STB Member Oberman asked a number of detailed questions about railroad rates, service, and practices including demurrage. 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 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 participants 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.
- The representatives noted that some scrap shippers participated in the Board’s demurrage and accessorial fee proceeding.
- In response to questions about the concerns of the steel 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 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 exceeds 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.

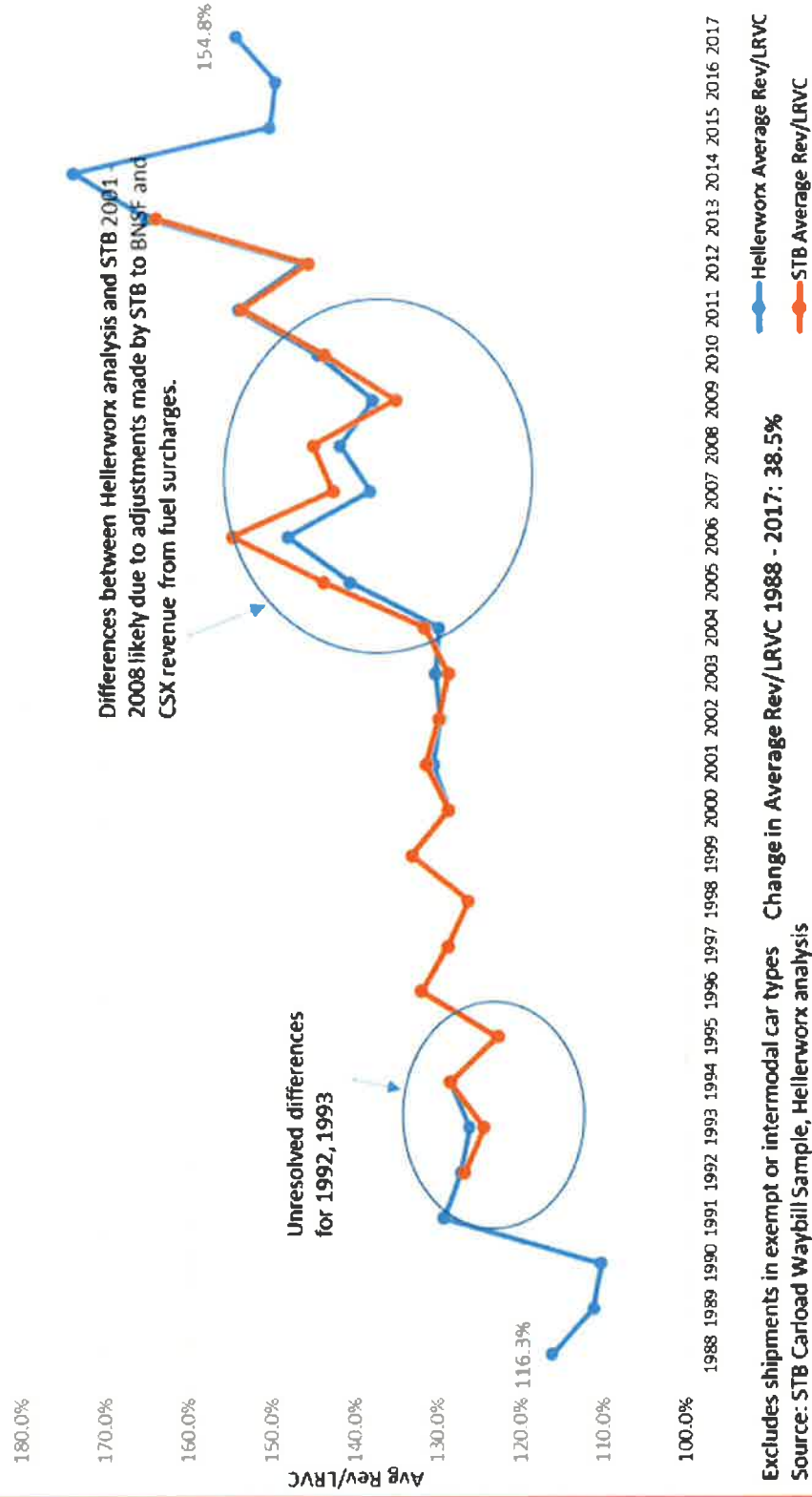
STCC 33-12 Primary Iron of Steel Products Average Revenue/LRVC Ratio 1988-2017



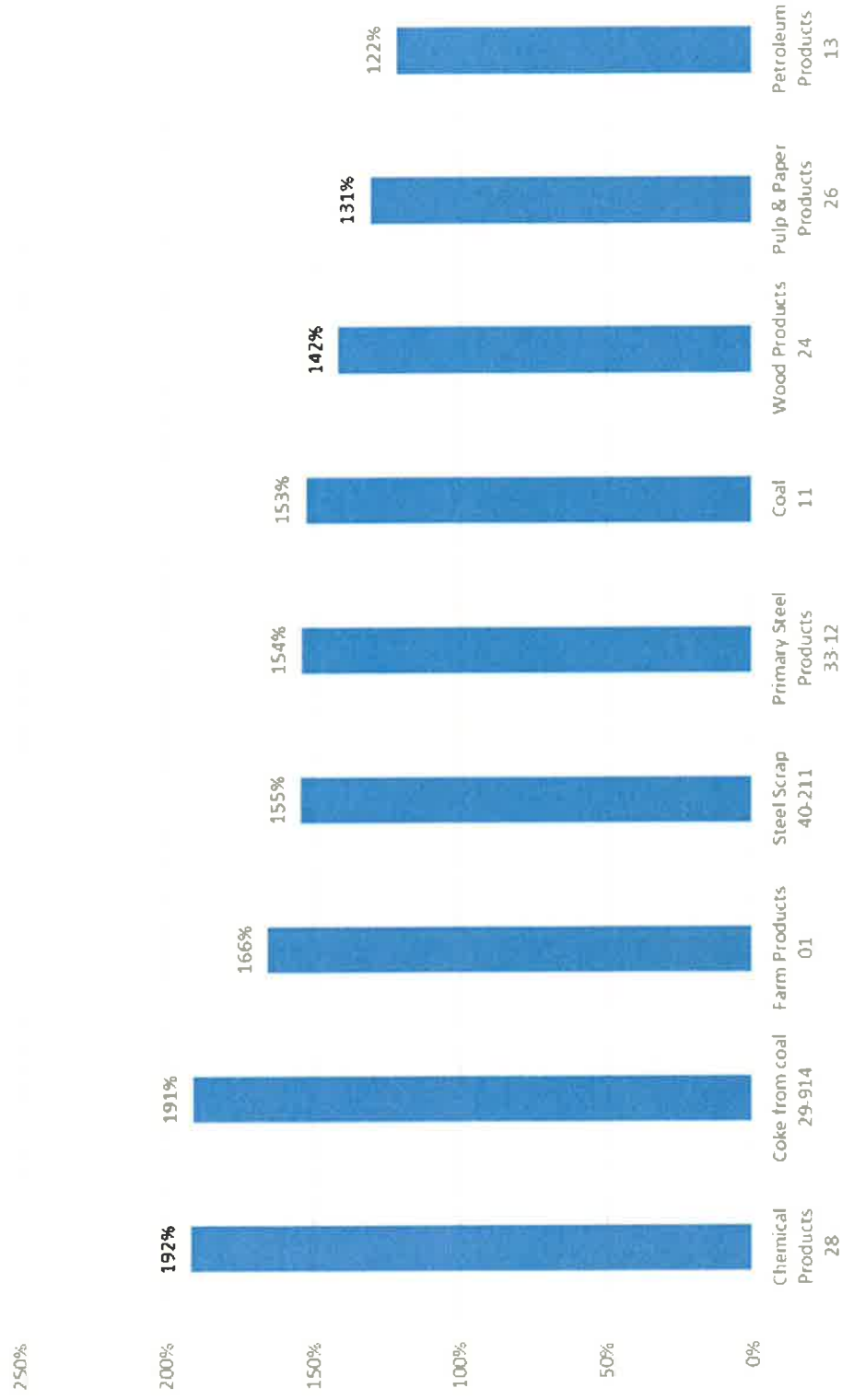
STCC 29-914 Coke from Coal Average Revenue/LRVC Ratio 1988-2017



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

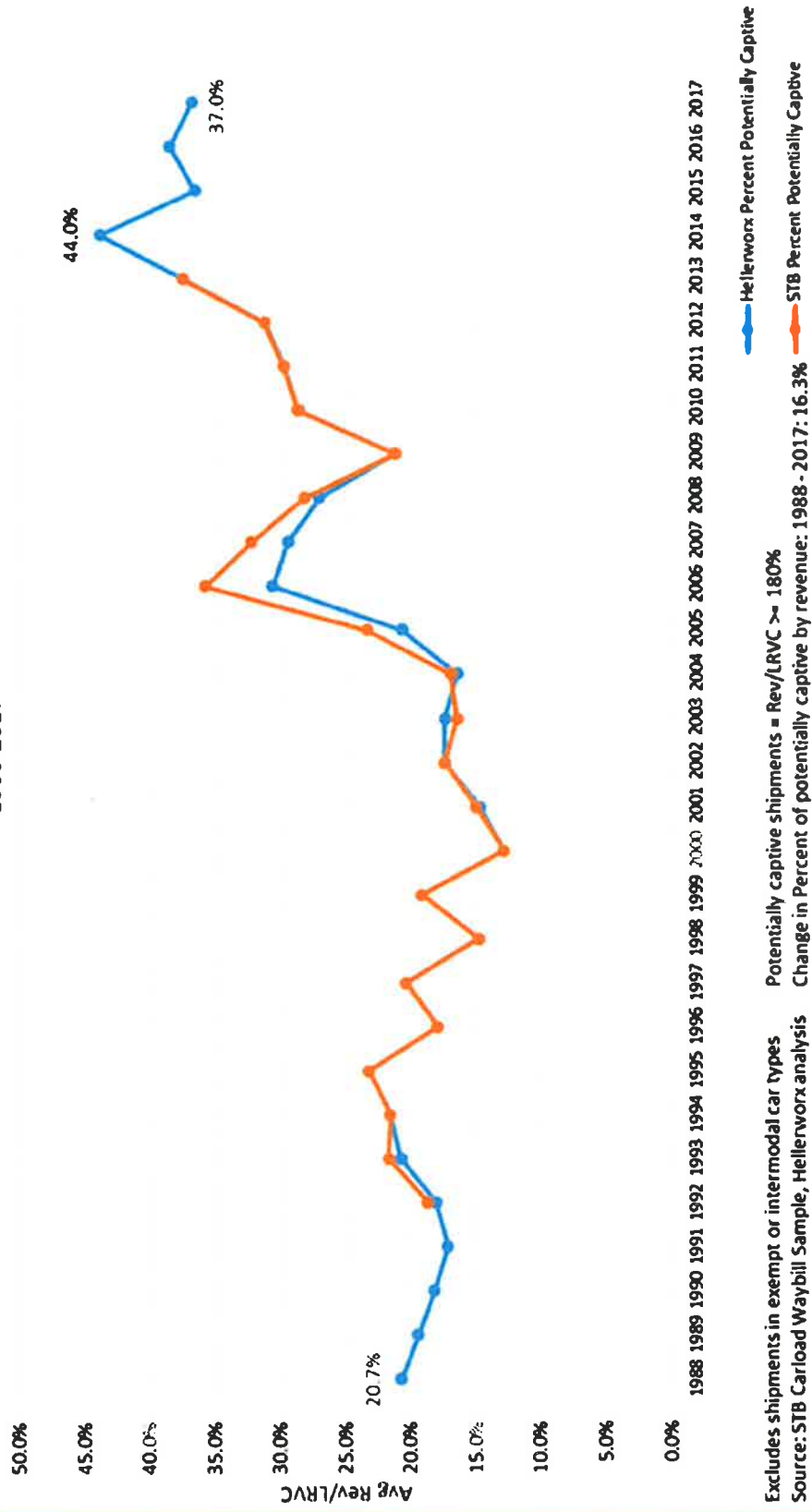


Avg Revenue/LRVC Ratio 2017

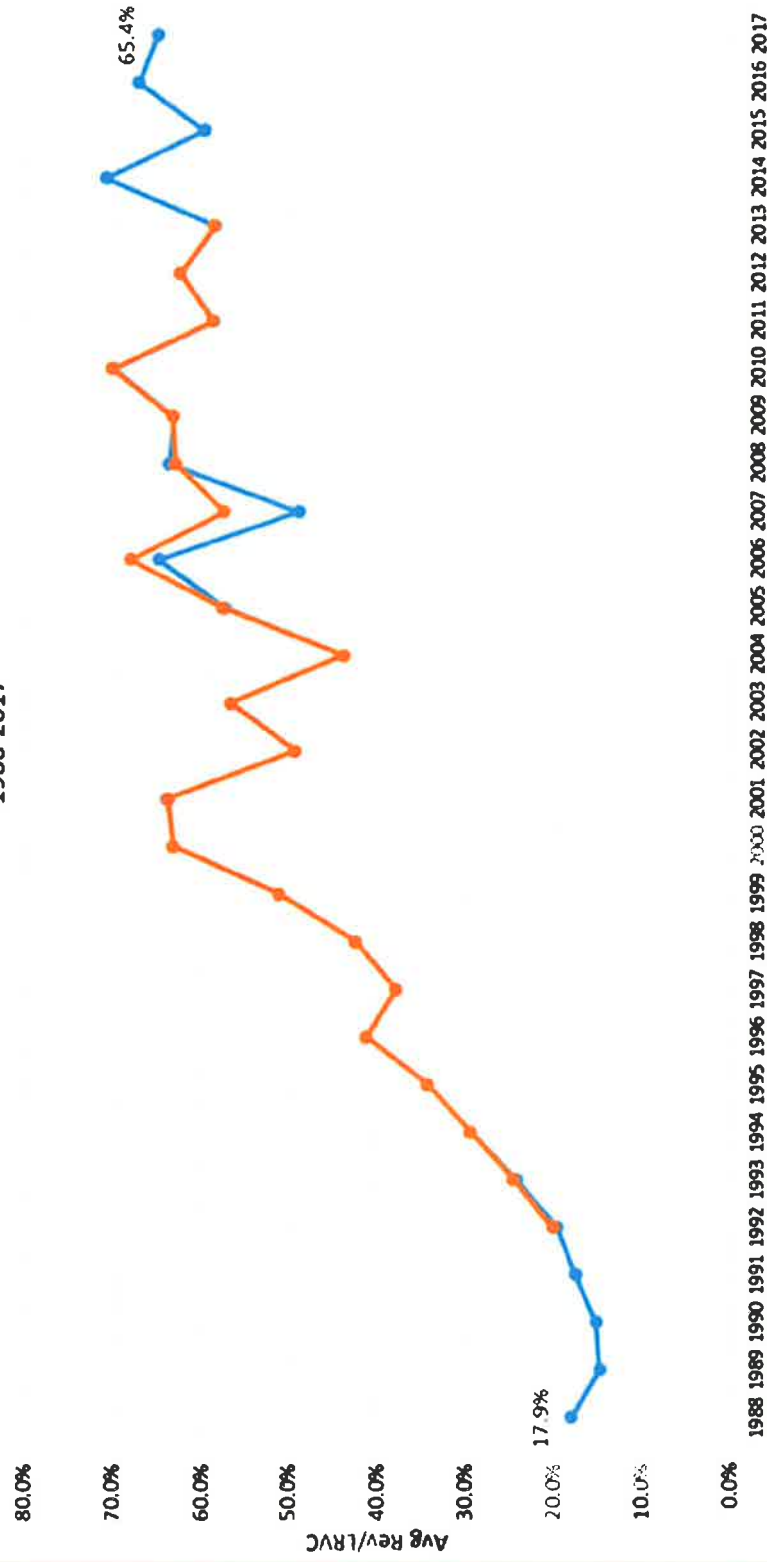


Source: STB Carload Waybill Sample (29-914, 40-211, 33-12) and
STB Commodity Revenue Stratification Report

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

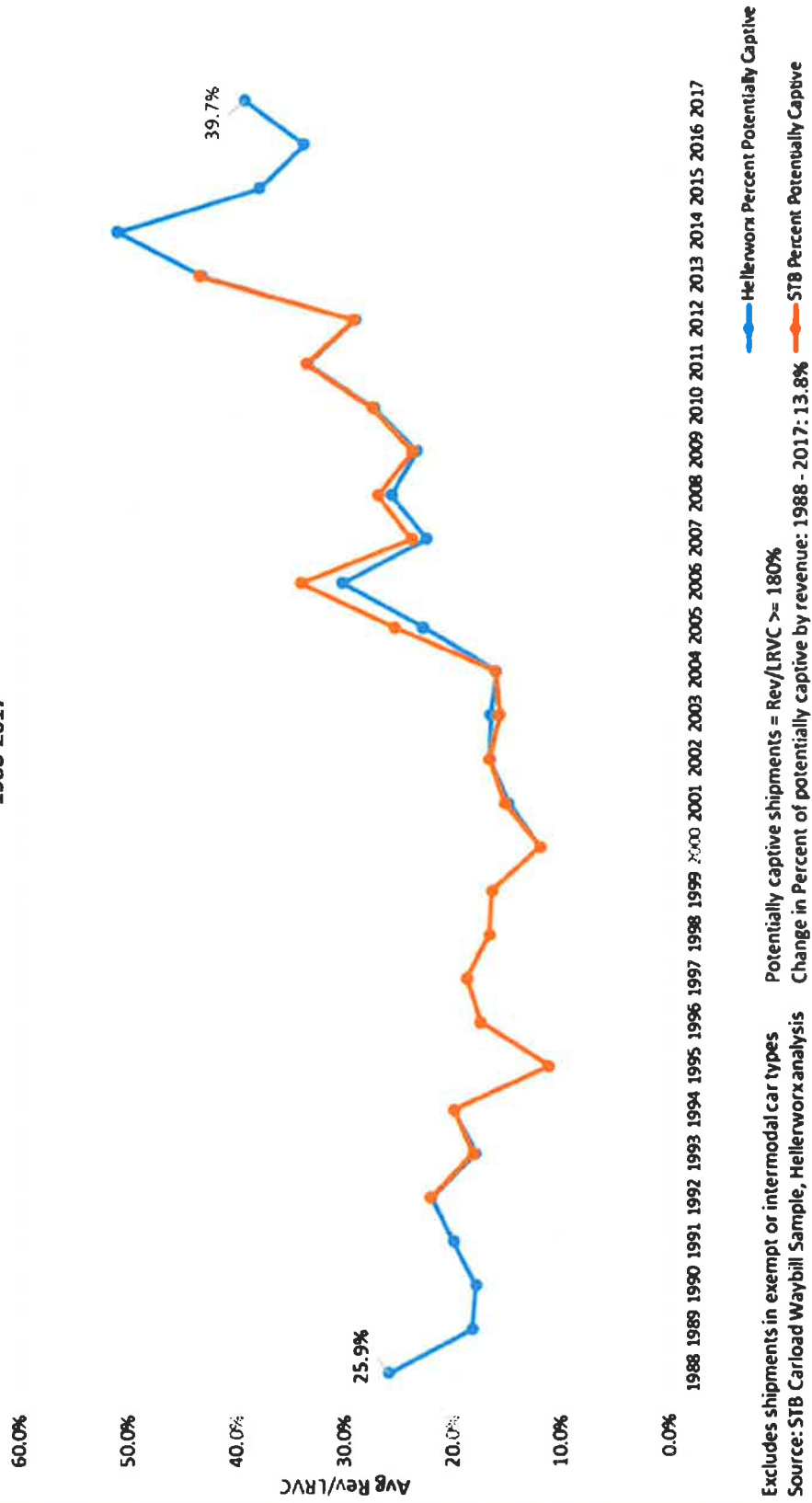


STCC 29-914 Coke from Coal
Percent Potentially Captive
By Revenue
1988-2017

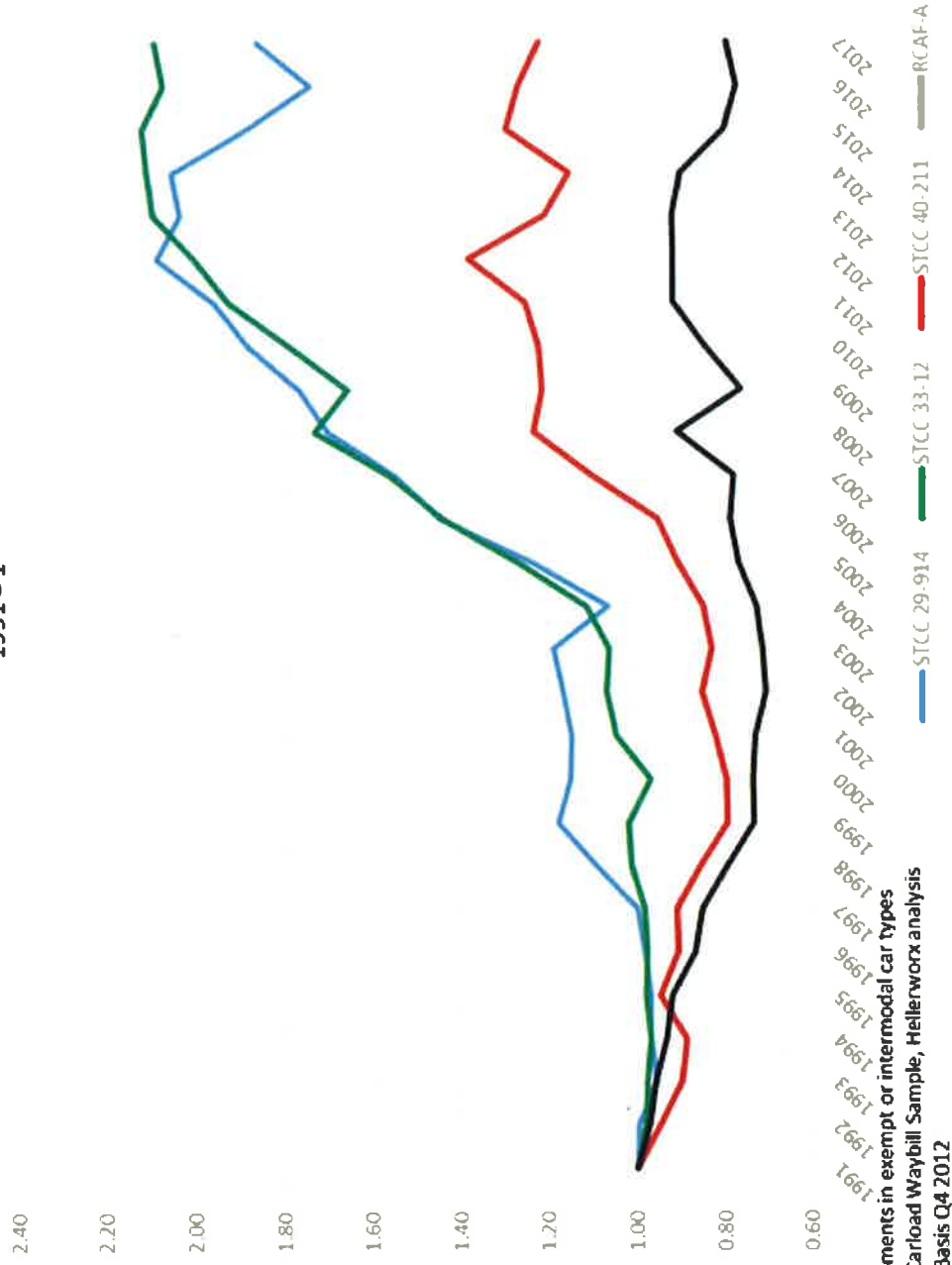


Excludes shipments in exempt or intermodal car types
Source: STB Carload Waybill Sample, Hellerworx analysis
Potentially captive shipments = Rev/LRVC >= 180%
Change in Percent of potentially captive by revenue: 1988 - 2017: 47.5%

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