

BEFORE THE
SURFACE TRANSPORTATION BOARD

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March 16, 2017
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Public Record

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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William L. Slover
Robert D. Rosenberg
Slover & Loftus LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Its Attorneys

Dated: March 16, 2017

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OPENING COMMENTS OF THE WESTERN COAL TRAFFIC LEAGUE

In response to the decision that the Surface Transportation Board (“Board” or “STB”) served in the above-captioned proceeding on February 14, 2017, as corrected February 24, 2017, the Western Coal Traffic League (“WCTL”)¹ submits the following comments regarding the Board’s proposed calculation of railroad industry productivity for 2015 for use in the Rail Cost Adjustment Factor (“RCAF”) productivity adjustment.

The Board seeks comment on the use of a linking factor to account for the change in method for calculating Class I railroad mileage for the movements reflected in the Board’s Waybill Sample for the purpose of measuring railroad output. The Board’s decision states that Railinc Corporation (“Railinc”), which is a wholly-owned subsidiary

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.

of the Association of American Railroads (“AAR”), performs this analysis under contract to the Federal Railroad Administration (“FRA”). Railinc’s 2014 analysis utilized route mileages calculated by ALK Technologies Inc. (“ALK”), using ALK’s predictive railroad routing model. In contrast, Railinc’s 2015 analysis utilized Railinc’s own routing mileages compiled from data collected from electronic signals along actual routes of movements. The 2015 analysis showed a significant 5.2% reduction in mileage compared to 2014 based on a comparison of matched waybill movements from the two years. The Board proposes to use a linking factor of 1.0549 [$1 \div (1 - 5.2\%)$] to adjust the 2014 mileage to account for the mileage reduction resulting from use of the Railinc data.

The Board utilizes linking factors in other contexts to account for a change in methods or inputs, such as the switch from Rail Form A to URCS and the annual reweighting of index components in the RCAF. The use of a linking factor is thus not objectionable *per se*. The Board’s explanations at the technical conference held March 1, 2017, indicate that the Board’s staff did the best it could with the information and resources it has available to develop the linking factor.

Nonetheless, the better approach, to the extent available, would be to calculate the mileages for 2014 and 2015 using the same method. It is unclear, at least to WCTL, why this could not be done here, *i.e.*, determining mileage for individual 2014 waybill movements using Railinc data, as was done for the 2015 waybill movements. Questions may inevitably arise as to how quickly can it be done and who would pay for

it. WCTL presumes that Railinc made the decision, and was not compelled by the FRA, to use its own analysis rather than ALK's to determine the mileage for 2015. To the extent there is any perceived upwards distortion in the productivity adjustment due to use of the linking factor, it is appropriate for the Class I railroads, who own Railinc, to bear that burden. Alternatively, the Class I railroads could consider rerunning the 2014 Waybill Sample using Railinc data, at their own expense, assuming adequate assurances of independence and reliability can be provided. Otherwise, use of the linking factor appears to be reasonable and appropriate under the circumstances.

The apparent overstatement of mileage calculations using the ALK methodology has additional ramifications of considerable significance. The railroads generally purport to rely on ALK, particularly its PC*Miler product, for calculation of mileages on their websites.² Fuel surcharges are also typically based on such mileages. Using overstated mileages thus results in overstated surcharges relative to changes in the cost of the underlying fuel since actual fuel consumption reflects actual mileage. Such overstatement contravenes the Board's stated policies that fuel surcharges are to reflect changes in underlying costs and nothing more.

The use of overstated mileages will also tend to overstate the cost of a movement, making railroad rates appear more reasonable than they actually are in terms

² The use of ALK's PC*Miler is explicit in the case of BNSF and UP.
<http://www.bnsf.com/bnsf.was6/RailMiles/RMCentralController>;
<https://www.up.com/customers/surcharge/>.

of their relationship to the underlying costs. A movement costed under URCS will have a lower revenue to variable cost (“R/VC”) ratio if the mileage and associated costs are overstated. The same flaw will extend to analyses that rely on R/VC ratios, such as the various forms of the costed waybill sample. One such example is the Revenue Shortfall Allocation Method (“RSAM”) ratio, which the Board utilizes to assess market dominance under its limit price methodology.

These issues are consequential on their own, but become even more serious to the extent that the Class I railroads and/or the AAR had any awareness that the ALK analysis tends to overstate route mileage on a systematic basis.

Absent a reasonable explanation from the railroads as to their knowledge of such matters, these issues are of sufficient importance and scope to warrant Board consideration of whether to exercise its investigatory authority.

Respectfully submitted,

WESTERN COAL TRAFFIC LEAGUE

William L. Slover
/s/ Robert D. Rosenberg
Slover & Loftus LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: March 16, 2017

Its Attorneys

Certificate of Service

I hereby certify that today, March 16, 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