

***Surface Transportation Board***  
***Washington, D.C. 20423-0001***

***Office of Economics***

March 26, 2019

Mr. Jason Tutrone  
Thompson Hine LLP  
1919 M. Street, N.W.  
Suite 700  
Washington, D.C. 20036-3537

**Re: Waybill Request WB17-44**

Dear Mr. Tutrone:

The Surface Transportation Board (STB) has received your extension request of March 22, 2019 for continued access to the confidential Carload Waybill Sample (CCWS) with masked revenues for 2006-2013. The request states that the extension is necessary to enable you to continue the development, evaluation, and proposal of alternatives to SAC. The request also explained that these particular data are being used to develop an econometric model as part of a rate benchmarking standard that could become the alternatives to SAC.

I will grant your extension request allowing access to the CCWS, with masked revenues, for the period 2006-2013 for an additional year. This data may only be used for the purpose detailed in your request. ***This approval becomes effective when signed agreements from the individuals listed below are received by the STB:***

- a) *Jeffrey O. Moreno – Thompson Hine*
- b) *Jason D. Tutrone – Thompson Hine*
- c) *Kevin W. Caves – Economists, Inc.*
- d) *Kathryn Karasek – Economists, Inc.*
- e) *Augustus Urschel – Economists, Inc.*
- f) *Thomas D. Crowley – L.E. Peabody*
- g) *Timothy D. Crowley – L.E. Peabody*
- h) *Daniel L. Fapp – L.E. Peabody*
- i) *Ray H. Thibault – L.E. Peabody*
- j) *Christopher A. Gomez – L.E. Peabody*
- k) *Ian M. Anderson – L.E. Peabody*

The new expiration date for this agreement is April 30, 2020. Unless you seek and obtain a renewal from the STB, this agreement upon expiration obligates you to return or destroy all copies of the data (see item 6 of the agreement).

Several aspects of the CCWS limit the conclusions that may be drawn from analysis of the CCWS: 1) the CCWS is a sample, and 2) the CCWS is based on terminating shipments from

**Waybill Agreement WB17-44**

relatively large carriers. Only those railroads with more than 4,500 annual terminating carloads are included in the sample. The limited sampling of small railroads may have a substantial effect on studies covering areas served predominately by non-sampled railroads. For additional information on the CCWS, *see Reference Guide @ [www.stb.gov/stb/industry/econ\\_waybill.html](http://www.stb.gov/stb/industry/econ_waybill.html)* on the Board's website.

The rules for release of waybill data are codified at 49 C.F.R. § 1244.9. The CCWS contains confidential shipper and railroad data. As a result, the CCWS is commercially sensitive and has the potential to cause competitive harm to shippers and railroads if disclosed. Therefore, the following agreement must be signed, and a copy of the signature pages returned to the STB, before any waybill data can be used.

Your signature acknowledges your agreement to comply with the following:

1. You will use the CCWS data released to you solely for the purpose requested.
2. Absent permission from the STB, you shall make the information contained in the CCWS (including work product and analyses derived from the CCWS) available only to the individuals identified above. The STB may approve access for additional individuals within your entity working on the particular project or study requiring the waybill data. Each such additional individual must review and sign this agreement, and return a copy of the signature page to the STB.
3. You will not release any CCWS data (including work product and analyses derived from the CCWS) to anyone who has not signed this agreement and been approved for access by the STB until the STB has had the opportunity to review the materials proposed for disclosure to ensure confidentiality.
4. You acknowledge that, in addition to the restrictions described in paragraphs 2 and 3 above, you are bound by the STB's rules governing use and disclosure of CCWS data. These include the confidentiality provisions of 49 C.F.R. §§ 1244.9(f)(1)-(3), which require that "[a]ny shipper data obtained from the Waybill Sample shall not be publicly released unless the data are aggregated to include at least three shippers." In addition, you agree not to disclose CCWS data that permits identification of an individual railroad.
5. You will refer any requests for CCWS data in your possession (including work product and analyses derived from the CCWS) to the STB for processing and will inform the requesting party of such referral to the STB. If you are compelled by law or order of a governmental or judicial body to release CCWS data, you shall notify the Board in writing within three days of any determination that CCWS data must be released, and in no event later than five days before the CCWS data is scheduled to be released.

**Waybill Agreement WB17-44**

6. In order to retain access to the CCWS beyond the expiration date specified above, you must submit a written request for an annual extension of the agreement no later than thirty days prior to the expiration date and the renewal request must be approved by the Office of Economics. **If an annual agreement is not signed and approved, you must certify by no later than the expiration date that all CCWS data (including all work product and analyses derived from the CCWS) obtained under this agreement has been destroyed or returned to the STB.**
7. Failure to request an extension (if necessary), or destroy or return CCWS data when required, may prevent any future release of CCWS data to you. Violations of this agreement may subject you to sanctions by the Board.

After all parties have signed and returned this agreement, the extension will be granted.

Sincerely,

A handwritten signature in blue ink that reads "William Brennan". The signature is fluid and cursive, with the first name "William" and last name "Brennan" clearly distinguishable.

William Brennan  
Director  
Office of Economics

March 27, 2019

Mr. William Brennan  
Director, Office of Economics  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423

RE: WB17-44; Signed Agreements for Extended Access

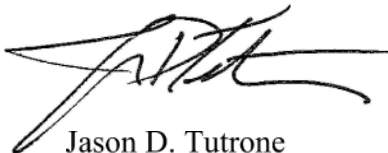
Dear Director Brennan:

On March 26, 2019, the Office of Economics approved a request from Thompson Hine LLP, EconOne Research, and L.E. Peabody & Associates, Inc. (collectively "Requestors") for a one-year extension of access to the confidential Carload Waybill Sample (CCWS) with masked revenues for 2006-2013. Per the approval, I have attached signed agreements for each individual who will have access to the CCWS.

Please note that the approval continues to list Kevin Caves, Kathryn Karasek, and Augustus Urschel as from Economists, Inc., but they have moved to EconOne Research. This appears to be an inadvertent error, because the Board was advised of this on September 10, 2018, and unless otherwise advised, we will treat the approval as applying to these individuals while at EconOne.

Please contact me if you have any questions.

Best regards,

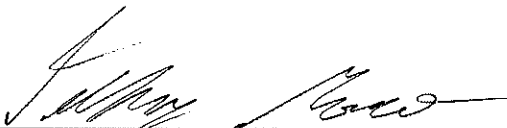


Jason D. Tutrone

**Waybill Agreement WB17-44**

I have read and understand the conditions for release of the CCWS data. I agree to comply fully with these conditions and the provisions of this confidentiality agreement. No later than thirty days before the agreement expires, I will request an extension of this agreement, if necessary. If no extension is requested, I will return or destroy all CCWS data and certify that I have done so. I have the authority to sign this agreement.

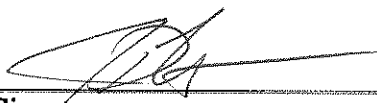
By:

  
SignatureJeffray Moreno  
Name - Please PrintPartner  
Title3-27-19  
Date

**Waybill Agreement WB17-44**

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By:

  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Name - Please Print  
\_\_\_\_\_  
Title  
\_\_\_\_\_  
Date

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By:

*Kevin Caves*

Signature

Kevin Caves

Name - Please Print

Senior Economist

Title

March 27, 2019

Date

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By:

*Kathryn Karasek*\_\_\_\_\_  
Signature

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\_\_\_\_\_  
Name - Please Print

Economist

\_\_\_\_\_  
Title

27 March 2019

\_\_\_\_\_  
Date

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By:

Augustus Urschel

Signature

Augustus Urschel

Name - Please Print

Economist

Title

3/27/2019

Date

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By:

Thomas D Crowley  
Signature

THOMAS D CROWLEY  
Name - Please Print

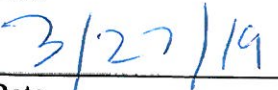
President  
Title

3/27/19  
Date

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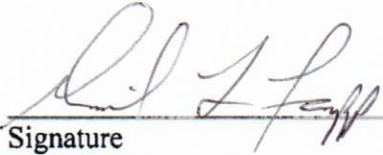
By:

  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Name - Please Print  
\_\_\_\_\_  
Title  
\_\_\_\_\_  
Date

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By:

  
Signature

Daniel L. Fapp  
Name - Please Print

Senior Vice President  
Title

3/26/2019  
Date

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By:

  
SignatureRAY THIBAUT  
Name - Please PrintPROJECT MANAGER  
Title3/26/2019  
Date

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By:

Christopher Gómez  
Signature

Christopher Gómez  
Name - Please Print

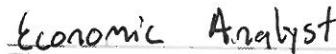
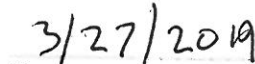
Economic Analyst  
Title

3/26/19  
Date

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By:

  
Signature  
Name - Please Print  
Title  
Date