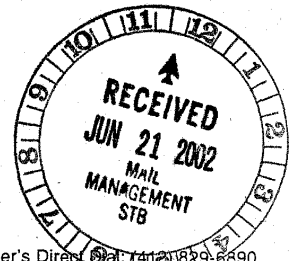


205673

Robert N. Gentile
Vice President-Law
General Counsel
and Secretary



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June 19, 2002

Surface Transportation Board
Office of the Secretary
Case Control Branch
1925 K Street NW
Washington, D.C. 20006-1105

***Re: STB Ex Parte No. 589 – Calculation of Variable Costs in Rate Complaint
Proceedings Involving Non-Class I Railroads***

Dear Sir or Madam:

Enclosed for filing with the Surface Transportation Board are an original and ten (10) copies of the Comments submitted by Transtar, Inc. in the above proceeding.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Robert N. Gentile".

Robert N. Gentile
Vice President – Law
General Counsel & Secretary

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Office of Proceedings

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Public Record

205-673

**Department of Transportation
Surface Transportation Board
STB Ex Parte No. 589**

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Comments by Transtar, Inc. on behalf of its Class II and III Rail Subsidiaries

I. Transtar, Inc. and Its Rail Subsidiaries

Transtar, Inc. (Transtar) is a non-carrier holding company with offices located in Monroeville, Pennsylvania and submits these comments on behalf of its five (5) Non-Class I rail carrier subsidiaries: Birmingham Southern Railroad Company (BSRR), Elgin, Joliet & Eastern Railway Company (EJ&E), The Lake Terminal Railroad Company (LT), Union Railroad Company (URR) and McKeesport Connecting Railroad Company (McK).

BS is a Class III terminal and switching carrier located in the Birmingham, Alabama area. It serves industries in Ensley, Fairfield and Bessemer, Alabama and chiefly transports raw materials, such as export coal and iron ore pellets to iron and steel manufacturing plants. It also transports finished products from the plants to local users, connecting trunk lines and Port Birmingham, and moves general commodities to plants and businesses located on its line. BS has connections with Burlington Northern and Santa Fe Railway Company (BNSF), CSX Transportation, Inc (CSX). and Norfolk Southern Railway Company (NS).

EJ&E is a Class II carrier that owns and operates 575 miles of trackage in and around Chicago in the states of Illinois and Indiana. EJ&E's main-line track runs from Waukegan, Illinois through Joliet, Illinois to Gary, Indiana. Branch lines run out of Joliet

from Plainfield to East Morris and out of Gary to Whiting, East Chicago, Hegewisch and South Chicago. EJ&E connects with BNSF, NS, Canadian National/Illinois Central (CNIC), Canadian Pacific Railway (CP), I&M Rail Link, L.L.C., Iowa Interstate Railroad, Ltd., CSXT, Union Pacific (UP) and Wisconsin Central (WC). EJ&E also maintains connections with the following short lines: Chicago Heights Terminal Transfer Railroad, Chicago Short Line Railroad Company, Chicago Rail Link, L.L.C., Indiana Harbor Belt Railroad, The Belt Railway Company of Chicago, and Chicago, Southshore and South Bend Railroad. EJ&E serves approximately 200 customers, including United States Steel Corporation.

The Lake Terminal Railroad Company is a Class III switching carrier located in Lorain, Ohio. It primarily serves a steel plant owned by Republic Technologies International, Inc and a tubular products plant owned by Lorain Tubular Company, a subsidiary of United States Steel Corporation. Lake Terminal operates approximately 20 miles of yard tracks and sidings adjacent to and within its two industrial customers, and has connections with CSXT and NS. Lake Terminal transports primarily coke, steel bars and pipe.

URR originates at its connection with Bessemer and Lake Erie Railroad Company (B&LE) in North Bessemer, Pennsylvania and runs southwest through East Pittsburgh/Braddock, Pennsylvania to Duquesne/Homestead, Pennsylvania and on to Clairton Junction, Pennsylvania, where it divides, with the main line going south through Irvin to Clairton, where it ends, and with a branch line going west to Mifflin Junction,

Pennsylvania. A Class III carrier, URR maintains interchanges with B&LE, McK, NS, CSXT and the Wheeling and Lake Erie Railroad Company. URR serves a number of customers including various United States Steel Corporation plants.

McK is a Class III switching carrier that operates eight miles of track at McKeesport, Pennsylvania. Its principal function is to serve one customer, Camp Hill Corporation. McK maintains connections with URR and CSXT.

In October 2000, Transtar and its two shareholders, United States Steel Corporation (formerly USX) and Transtar Holdings, L.P., petitioned the Surface Transportation Board for, and in early 2001 received, exemption from the prior approval requirements of 49 U.S.C. Sections 11323-11325 of a transaction involving the acquisition by United States Steel Corporation of control of Transtar and the five Board-regulated Non-Class I rail carriers identified above. The acquisition, which was completed in March 2001, left control of a former Transtar subsidiary, Duluth, Missabe and Iron Range Railway Company (DM&IR) in Transtar Holdings, L.P., (now Great Lakes Transportation Holdings, L.P.).

II. Historical Involvement in and Significance of *Minnesota Power v. DM&IR*

Transtar submits that its comments in this proceeding are especially significant, not only because of its ownership of five Non-Class I rail carriers, but also because of its former ownership of DM&IR, which itself was party to a rate complaint proceeding

before the Board, *Minnesota Power, Inc. v. Duluth, M. & I. R. Ry.*, STB Docket No. 42038. It was this long and costly case that precipitated the need for the instant *Ex Parte* 589 proceeding. While Transtar no longer owns DM&IR, we believe that many of the arguments raised by DM&IR in *Minnesota Power* that address Uniform Regional Cost System (URCS) data collection and development requirements as well as their use in rate complaint cases remain valid.

III. Transtar's Position in the Ex Parte 589 Proceeding

As the Board noted in the instant proceeding, DM&IR contended "that the [URCS] accounting/record-keeping requirements...would be unduly burdensome and that the added costs associated with collecting the data would far outweigh the potential value of the case." DM&IR argued that "the added costs would include setting up a new, separate financial accounting system for this one time use, reprogramming its computers and training its personnel to use that new accounting system, and devoting personnel time to collect and record the data that would be required for the operating statistics."

Transtar endorses both the truth and relevance of these statements. The accounting systems in place on DM&IR described and referenced in *Minnesota Power* are also currently used for all of Transtar's Non-Class I rail carrier subsidiaries. Any attempt to impose URCS data collection/development on these companies would be extremely cost prohibitive. We applaud the Board for acknowledging that the cost to a Non-Class I rail carrier to develop URCS type data for the single use of defending a rate complaint "would be substantial."

We agree with and endorse the Board's proposal to use regional URCS data (Eastern of Western United States) as a less costly foundation for estimating the variable costs of Non-Class I rail carriers. However, we believe that the methodology for adjusting those estimates to more closely approximate the operations of Non-Class I rail carriers becomes more problematic. No two carrier operations will be identical. Indeed, at last count there are over 500 regional and short line railroads, with highly individualized operations. Few, if any, of these carriers will have the same operating practices or tendencies. Few, if any, will handle the same freight in the same way. Our experience is that the type of freight handled often dictates many of the characteristics (and costs) of the operating movements. In essence, the use of regional URCS costing is laudable, but adjustment of such data to more closely approximate Non-Class I rail carrier costs requires some sort of identifiable mechanism that can be employed cheaply and expeditiously.

Since this issue is of critical importance to Transtar and its Non-Class I rail carrier subsidiaries, we offer to work with the Board to help develop an acceptable alternative costing methodology for Non-Class I rail carriers.

Respectfully submitted,



John A. Yokim
Vice President – Finance and Treasurer
Transtar, Inc.
June 19, 2002