

Railroad-Shipper Transportation Advisory Council

Washington DC

October 6, 2014

Comments on Rail Rate Cases before the STB

Under the Interstate Commerce Commission Termination Act of 1995, Congress created the Railroad-Shipper Transportation Advisory Council (RSTAC) for the purpose of advising Congress, the U.S. Department of Transportation and the Surface Transportation Board (STB) on rail issues. RSTAC is a 15 member council made up of small shippers and small railroads, large shippers and large railroads and representing a balanced cross section of industries which use rail services.

One purpose of RSTAC is to provide a forum for the development of common ground and the advancement of industry-wide interests. While the shipper and rail representatives are not able to agree on every aspect of how these cases are processed and decided, there are some common areas of agreement and concerns.

The Shipper and Railroad members of RSTAC agree on the following recommendations/items:

- **Expedite the Rate Case Process**

In some rate reasonableness cases substantial delays in reaching decisions at the STB have occurred. While some rate reasonableness cases may be very complex and thus time consuming, the STB, shippers, and railroads should work together to determine ways to make the process more expeditious without sacrificing fairness to both parties or the economic soundness of outcomes.

- **Abuses of the Discovery process**

In particular, shippers and railroads should work together to propose solutions to any abuses of the discovery process that unnecessarily delay cases whether by a complainant or defendant in a rate case.

- **Predictability (Consistent application of rules and precedent).**

Shippers and railroads do not want to pay huge sums of money to attorneys and consultants to prosecute rate cases, and prefer to the extent possible, to rely on negotiations between the parties to arrive at a mutually acceptable solution. Shippers and railroads desire consistent application of STB rules and precedent, to provide predictability in the rate case process to enhance the ability of both parties to reach a negotiated solution. Filing a formal proceeding before the STB should only be a last resort. Predictability should result in fewer cases being filed with consistent application of STB rules and precedent.

- **Enhanced clarity around SAC**

The Board should continue to provide clarity around elements of SAC, with a focus on ensuring fair, economically sound, and expeditious handling of rate cases, to encourage the private resolution of rate negotiations between railroads and customers. The Board should also continue to explore ways that balance the complexity of a case with the amounts in dispute, while staying true to sound economics.

- **Communication between STB members**

Ways should be explored by Congress, to make it easier for the STB members to communicate more effectively with one another about pending cases and on other STB business.

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- **Resources needed if STB is to fulfill its mission**
The STB should have adequate resources to fulfill its statutory mission and the members of RSTAC strongly urge Congress to provide those resources.
- **Revenue adequacy determination review**
It is worth considering whether the annual revenue adequacy determination has outlived its usefulness and should be discontinued.

This paper is the work product of RSTAC only, and it was not done in conjunction with or shared with the STB Board Members.

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