BEFORE THE

SURFACE TRANSPORTATION BOARD

STB EX PARTE NO. 705

COMPETITION IN THE RAILROAD INDUSTRY

REPLY COMMENTS OF THE U.S. DEPARTMENT OF AGRICULTURE

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AUTHORITY AND INTEREST

The Secretary of Agriculture is charged with the responsibility under the Agricultural Adjustment Act of 1938 and the Agricultural Marketing Act of 1946 to represent the interests of agricultural producers and shippers in improving transportation services and facilities by, among other things, initiating and participating in Surface Transportation Board (Board) proceedings involving rates, charges, tariffs, practices, and services.

INTRODUCTION

The Surface Transportation Board (Board) initiated this proceeding to obtain views on whether it should take steps to facilitate more competition in the railroad industry. In its Notice, the Board requested that parties address the merits of possible regulatory changes, including changes to rules regarding reciprocal switching, terminal trackage rights, and bottleneck pricing, as well as its legal authority to make such changes.

In the comments below, the U.S. Department of Agriculture (USDA) urges the Board to use mandatory reciprocal switching and trackage rights agreements as one means to increase rail-to-rail competition. USDA also urges the Board to review its past "bottleneck" decisions and seek measured ways to support increased competition among railroads through incremental changes. Finally, USDA suggests that the Board consider alternatives for determining rate reasonableness.

After reviewing the comments submitted during this proceeding, USDA has concluded that there is ample legal and factual basis for the Board to consider changes in

railroad regulatory policy. The U.S. railroad industry has changed significantly since the Board's competitive access standards were adopted in the mid-1980s. These changes make it appropriate for the Board to consider means of increasing competitive access in the U.S. railroad industry.

THE BOARD HAS LEGAL AUTHORITY TO MAKE CHANGES

USDA submits that Congress and the Courts have given the Board broad authority to take steps to facilitate more competition in the railroad industry. Congress has expressed the basic goals of national rail transportation policy, including ensuring a sound rail transportation system, effective competition among rail carriers, and reasonable rail rates, in very general terms, entrusting the Board to balance these conflicting goals. The courts also have ruled that the Board has wide discretion in its decisions. [1] Moreover, the specific statutory language pertinent to the regulatory options discussed herein is generally permissive and allows for significant discretion.[2] In these circumstances, the Board may depart from prior precedents and change its existing regulations, provided that it explains the reasons for a change in policy.[3]

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[1] 49 U.S.C. § 10101; Midtec Paper Corp. v. United States, 857 F.2d 1487, 1497 (D.C. Cir. 1988) ("Congress wisely entrusted the administration of national rail transportation policy to the [Board]"); Baltimore Gas & Elec. Co. v. United States, 817 F.2d 108, 115 (D.C. Cir. 1987) (explaining that the Board need only arrive "at a reasonable accommodation of the conflicting policies set out in its governing statute").

[2] *See* 49 U.S.C. §§ 10701(d), 10704(a), 10705, 10707, 11102.

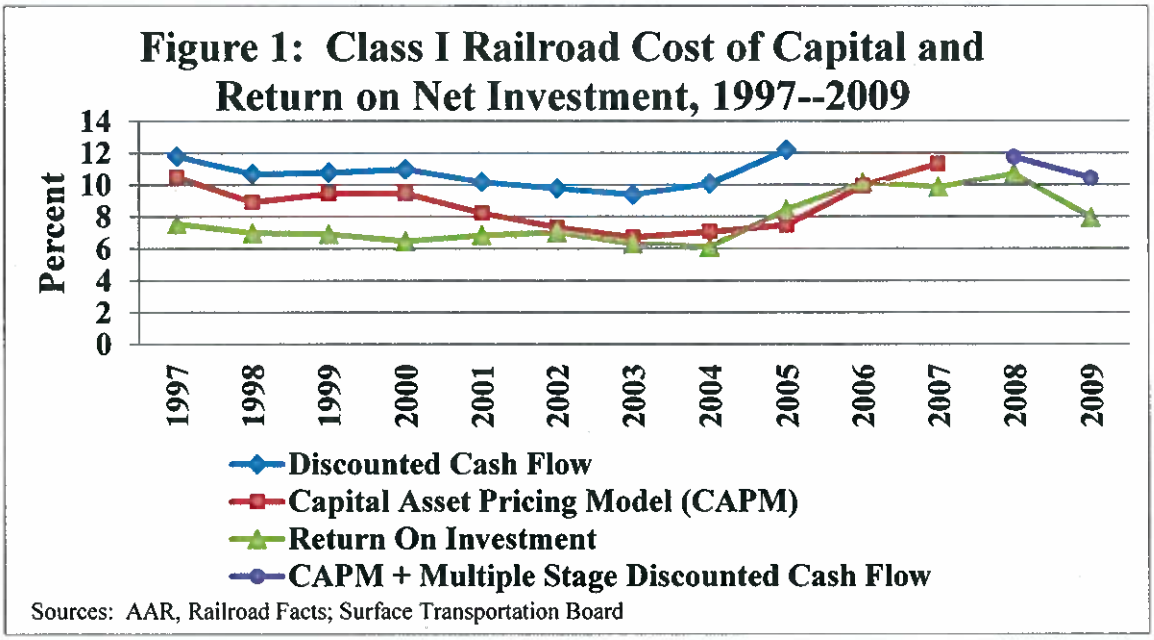
[3] *See generally* FCC v. Fox Television Stations, Inc., 129 S.Ct. 1800, 1811 (2009) ("it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency *believes* it to be better" (emphasis in original)).

RAILROAD INDUSTRY IS FINANCIALLY STRONG

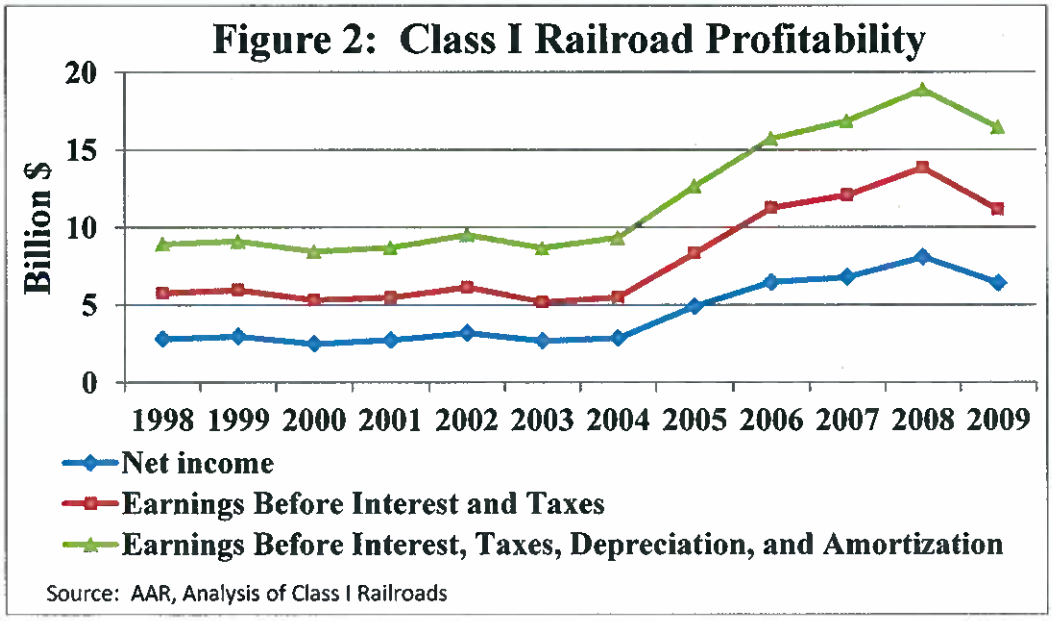
The four Class I railroads that dominate the railroad industry in the United States are achieving returns on revenue and operating ratios that rank them among the most profitable businesses in the country. Unlike other transportation modes, railroads have been able to maintain high profit margins even during the economic downturn of 2008-10. Although the railroad industry has been investing record amounts into much needed capital projects, the Class I railroads have also doubled dividend payments to their stockholders and spent billions more repurchasing their stock. These large expenditures undermine the argument that railroads still lack the income to invest in their long-term capital needs.[4]

Figure 1 shows that the railroad industry earned its cost of capital under the capital asset pricing model (CAPM) methodology during 2005 and 2006 and was very close to earning its cost of capital from 2007 through 2009. In 2009, during the depths of the recession, the railroad industry earned 7.96 percent on its net investment compared to the 10.43 percent cost of capital as determined by the Board.

[4] United States Senate, Committee on Commerce, Science, and Transportation, *The Current Financial State of the Class I Freight Rail Industry,* September 15, 2010.



Since 2004, Class I railroad industry profitability has increased rapidly, peaking during 2008 (Figure 2). Although Class I railroad total operating revenue in 2009 was more than $4.3 billion less than during 2006, the level of net income decreased only $0.059 billion from 2006 levels. This reflects the ability of railroads to exercise market power, even during the recession, by raising rail rates.



As a result of decades of efficiency improvements and recent but consistent rate increases, the railroads are now earning approximately their cost of capital and maybe more. There can be no doubt that the rail industry is in far better financial health today than it was in the immediate post-deregulation period. For example, in the first quarter of 2011, the Class I railroads announced record earnings, despite rising fuel prices, service disruptions caused by severe winter weather, and a still sluggish economy.[5]

USDA RECOMMENDATIONS

USDA asserts that there is ample legal and factual basis for the Board to explore changes in regulatory policy. We urge the Board to consider first those options that hold the greatest prospect for facilitating greater rail competition and protecting shippers from a lack of competition without jeopardizing the financial ability or incentive of the rail industry to make appropriate capital investments. We outline these below.[6]

One policy option would be to increase the rail competition enjoyed by captive shippers through enhancing competitive access. Although some shippers have reported that even access to a second railroad may not produce competitive results, actual competition should result in rates that more accurately reflect the actual costs of service, encourage better service quality, and give shippers a choice of carriers.

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[5] Union Pacific Reports Record First Quarter, http://www.uprr.com/newsinfo/releases/financial/2011/0420_1qearnings.shtml; CSX Announces Record First Quarter Results, http://investors.csx.com/phoenix.zhtml?c=92932&p=irol-newsArticle&ID=1552332&highlight=; Norfolk Southern Reports First Quarter 2011 Results, http://www.nscorp.com/nscportal/nscorp/Media/News%20Releases/2011/1q_2011_results.html

[6] To the extent Class III railroads do not enjoy the financial health of the Class I railroads, the Board should consider whether it is appropriate to pursue these options with the smaller carriers.

Parties have proposed three different regulatory mechanisms for competitive access – mandatory reciprocal switching, mandatory terminal trackage rights, and a requirement that railroads quote separate rates for "bottleneck" segments.[7] USDA submits that mandatory reciprocal switching, which we proposed in our initial comments, and mandatory terminal trackage rights offer some potential to provide real competitive alternatives to captive shippers without unduly burdening the railroads. Changes to bottleneck policies, however, could have a larger effect upon the rail industry. Thus, changes to bottleneck policies may best be done incrementally.

Reciprocal Switching

Through the mandatory reciprocal switching proposal, a shipper captive to one railroad (A) but within a certain short distance of a competing railroad (B) would be able to ship its cargo for the long haul on railroad B and then require A to switch the cargo to A's own trains at the point of the AB intersection and deliver the cargo to the captive shipper itself, subject to a regulatory rate ceiling. As we pointed out in our initial comments, Canada uses this type of system to protect its captive shippers, requiring reciprocal switching when the connection to railroad B is within 30 km (about 18 miles) from the captive shipper. A number of shippers with facilities in Canada report using this mechanism to obtain competitive rates.[8]

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[7] To the extent that carriers decline to compete for traffic made available through the competitive access rules, the benefits of such reforms will not be realized.

[8] *See, e.g.,* Comments of the National Industrial Transportation League at 12 ("League members with facilities in Canada have benefited from that country's inter-switching provisions and found the Canadian rules to offer a simpler and more cost-effective approach to establishing switching arrangements."); Comments of The Fertilizer Institute at 11 (stating that several members "unequivocally report positive experiences in Canada where they believe inter-switching has made their Canadian facilities more competitive than their captive U.S. facilities" and that Canadian railroads "have thrived in that environment

USDA urges the Board to adopt its proposal for mandatory reciprocal switching, as this mechanism potentially could enhance railway competition without unduly burdening the Board, shippers, and railroads and without imperiling the financial health of the railroad industry. The Christensen Report concluded that this measure likely would have a small effect on railroad investment incentives and profitability.[9] It should be relatively straightforward for the Board to impose a ceiling on railroad A regarding both the fixed charge for switching and the variable cost for hauling over such a short distance.[10]

The most appropriate distance to be chosen for such a regulatory mechanism is inherently a difficult decision. Because the costs for switching should not be significant to the total cost of the movement, USDA believes the distance should not be greater than about 30 miles. If substantially greater than 30 miles, the issue could become more of a line haul situation and could have unintended consequences for railroad profitability and investment incentives.

Terminal Trackage Rights

A somewhat similar mechanism would be mandatory terminal trackage rights. This system would work in a way similar to mandatory reciprocal switching, except that instead of switching the traffic to railroad A at the point of AB intersection, railroad B

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and are just as financially healthy as the U.S. carriers, if not more so");Submission of Written Testimony, Total Petrochemicals USA, Inc. at 5; *see also*. USDA Comments at 6.

[9] Christensen Report at 22-13.

[10] *See, e.g.*, USDA Comments at 6 (recommending a fee of up to 180 percent of variable cost "because fees in recent trackage rights cases have been set as low as 130 to 145 percent of variable costs"); *see also* 49 U.S.C. § 11102(c).

would carry the freight itself to the captive shipper, using trackage rights over the infrastructure of railroad A between the AB intersection and the shipper's location. In some cases, the rates paid for trackage rights are negotiated voluntarily by the two railroads; in others, the two railroads may provide each other with trackage rights over different sections of infrastructure, and no money changes hands; in others, the Board may set rates. A number of shippers support a mandatory trackage rights mechanism.[11]

USDA believes that the Board should give further consideration to proposals for mandatory terminal trackage rights. Mandatory terminal trackage rights, like mandatory reciprocal switching, would be imposed over only limited distances, as disruptions for a railroad to have the trains of another railroad running on its track likely increase more than proportionately with distance.[12] However, there is no reason to believe that the most appropriate "regulation-triggering" distance would be the same for the reciprocal switching and terminal trackage rights. In particular, the two would differ in the structure of costs that they impose on the railways.

For reciprocal switching, there would be a significant fixed cost of changing locomotives (including the possibility of the shipment waiting for the new locomotive to arrive), followed by a variable cost likely not much different from the variable cost of running any other train on that section of track. For terminal trackage rights, the cost of physically switching the traffic would be eliminated, but both fixed and variable costs of

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[11] *See, e.g.,* Comments of Concerned Captive Coal Shippers at 92; Comments of the National Industrial Transportation League at 3. The Christensen Report also found that mandatory terminal agreements would, like mandatory reciprocal switching, likely have a small effect on railroad investment incentives and profitability. Christensen Report at 21-7-9, 22-13.

[12] Christensen Report, op. cit.; *see also* 49 U.S.C. § 11102(a).

trackage rights – especially the additional administrative, scheduling, and monitoring costs of hosting another company's trains on the track – would be incurred.

Bottleneck Pricing

A third option would be for the Board to revise its "bottleneck decisions,"[13] and thus to force railroads to "untie" or "decouple" their services by quoting separate rates for each component of a freight movement, with the individual rate charged for a segment for which the railroad faces no competition to be regulated. Some would even place the burden of proof on the railroads to show the reasonableness of such "bottleneck" rates when challenged.[14]

A complete reversal in the Board's bottleneck policies could have a potentially large effect on railroad profitability and ability to invest. Additionally, it could increase costs and sacrifice operational and cost efficiencies, which could offset the effects of increased competition depending on how movements are segmented.[15]

Thus, should the Board decide to revise its bottleneck policies, the ability of shippers to request bottleneck rates should be limited to a fixed regulatory distance, which could increase incrementally over time to a distance of up to 150 miles. Increasing the regulatory distance over time offers the advantage of allowing the railroad industry to

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[13] *Central Power & Light Co. v. Southern Pacific Transportation Co., et al.*, 1 STB 1059 (1996) ("Bottleneck I"), modified in part, 2 STB 235 (1997) ("Bottleneck II"), aff'd *sub nom. MidAmerican Energy Co. v. STB*, 169 F.3d 1099 (8th Cir. 1999), cert. denied, 528 U.S. 950.

[14] See, e.g., Michael Nelson, *Review and Analysis of Public Interest Considerations Associated with Rail "Bottleneck" Issues,* Prepared for Consumers United for Rail Equity (CURE), March 12, 2008.

[15] Christensen Report at ES-39. ("length-of-haul economies are diminished as interchange between two railroads . . . occurs further from an endpoint of a movement").

adjust to financial effects over time, and would also allow the Board to monitor those effects.

Alternatives for Determining Rate Reasonableness

Rail deregulation, while ending rate regulation for most shippers, retained the requirement that rates remaining within the Board's jurisdiction be "reasonable," and preserved federal authority to prescribe rates for shippers that do not have "effective competition."[16] Congress did not define what is "reasonable," and left its interpretation to the Board and its predecessor agency, the Interstate Commerce Commission. The authority to prescribe rates for shippers that do not have access to "effective competition" has been interpreted to limit the availability of relief from unreasonable rates to "captive shippers," *i.e.*, shippers served by only one railroad and without practical options for transportation by truck or barge.[17]

Captive shippers have long expressed dissatisfaction with the protections offered by existing Board procedures. Rate proceedings conducted under the "stand-alone cost" standard described below are considered to be extremely costly and time consuming for all parties involved. The Board has twice sought to address this issue by crafting less complex procedures for use in rate cases where the volume of commerce in dispute is not

[16] 49 U.S.C. §§ 10701(d)(1), 10707.

[17] *Market Dominance Determinations,* 365 I.C.C. 118 (1981). Shippers with access to two railroads have been treated as *per se* non-captive. A number of shippers have contended, however, that even those with access to two railroads may lack effective competition because the railroads decline to compete for each others' traffic. *See, e.g.,* Comments of Ameren Corporation at 4-5; Joint Initial Comments of Omaha Public Power District, *et al.* at 9-14; Initial Comments of Consumers United for Rail Equity at 14. If so, such shippers may thus face unconstrained rail rates but lack any ability to seek relief at the Board. The Board should consider whether it may be necessary to extend rate relief to shippers that can demonstrate such a refusal to compete.

large.[18] However, the procedures revised in 1996 were rarely used by shippers, and the efficacy of those adopted in 2007 has yet to be determined.

It is in everyone's interest for the railroads to earn sufficient returns on their investments to be able to maintain, improve, expand, and safely operate their extensive and expensive infrastructure and rolling stock. While shippers have a short-run interest in lower rates, they may accept higher rates, if those rates are invested in rail infrastructure that ensures service over the long term, provides better quality service, or enables lower pricing in the future.[19]

When the railroads were in poor financial health, it was arguably appropriate that captive shippers seeking regulatory redress for high rates faced a heavy burden. However, as a result of decades of efficiency improvements and recent but consistent rate increases, the railroads are now earning approximately their cost of capital.[20] There can be no doubt that the rail industry is in far better financial health today than it was in the immediate post-deregulation period. For example, in the first quarter of 2011, the Class I railroads announced record earnings, despite rising fuel prices, service disruptions caused by severe winter weather, and a still sluggish economy.[21]

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[18] *Rate Guidelines – Non-Coal Proceedings*, 1 S.T.B. 1004 (1996) (*Simplified Guidelines*); *Simplified Standards for Rail Rate Cases*, STB Ex parte No. 646 (Sub-No. 1), September 4, 2007.

[19] Shippers have expressed concern that some of the revenues from higher rates have been used to repurchase the railroads' own stock rather than being used to improve railroad infrastructure.

[20] Laurits R. Christensen Associates, Inc., *A Study of Competition in the U.S. Freight Railroad Industry and Analysis of Proposals that Might Enhance Competition*, November 2008 ("Christensen Report").

[21] Union Pacific Reports Record First Quarter, http://www.uprr.com/newsinfo/releases/financial/2011/0420_1qearnings.shtml; CSX Announces Record First Quarter Results, http://investors.csx.some/phoenix.zhtml?c=92932&p=irol-newsArticle&ID=1552332&highlight=; Norfolk Southern Reports First Quarter 2011 Results, http://www.nscorp.com/nscportal/nscorp/Media/News%20Releases/2011/1q_2011_results.html

As rail revenues become persistently adequate, the tradeoff between the short-run interests of shippers (in lower rates) and the long-run interests of shippers (in rail revenues that are high enough to ensure adequate investment) begins to shift in favor of lower rates. In particular, though the high rates paid by captive shippers may be considered "reasonable" so long as a railroad is earning less overall than the cost of maintaining and improving the railroad network, as discussed below even current policy recognizes that the same rates may be judged "unreasonable" when the railroad is earning more overall than this cost.

There is general agreement that, in order for the railroads to efficiently recover high fixed costs, it is necessary and appropriate that shippers without competitive options pay a higher share of these fixed costs than other shippers.[22] However, it is neither appropriate nor the law that the degree to which these captive shippers are discriminated against be unlimited.[23] Under Constrained Market Pricing precedent, a captive shipper is not to be "required to continue to pay differentially higher rates than other shippers when some or all of that differential is no longer necessary to ensure a financially sound carrier capable of meeting its current and future service needs."[24] This principle is called the "revenue adequacy constraint" on differential pricing to captive shippers, yet no shipper has chosen to use this avenue in a rail rate case, and there is great uncertainty about its application.[25]

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[22] This approach is known as Ramsey pricing or 3rd degree price discrimination. *Coal Rate Guidelines, Nationwide,* 1 I.C.C. 2d 520 (1985).

[23] *Coal Rate Guidelines, Nationwide*, 1 I.C.C. 2d 520 (1985).

[24] *Major Issues in Rail Rate Cases*, STB Ex Parte No. 657 (Sub-No. 1), October 30, 2006, at 7.

[25] The revenue adequacy constraint has been applied, however, in a pipeline case decided by the Board in 2000. STB Dkt. No. 41685, CF Industries, Inc. v. Koch Pipeline Co. LP (served May 9, 2000).

The historical basis for almost all rate challenges before the Board is the "stand-alone cost test" (SAC). Under this test, a shipper or group of shippers builds a model of an efficient hypothetical "stand-alone" railroad, serving that shipper but assumed to carry and benefit from additional traffic from other existing shippers, and calculates the rates that would be charged to meet just the cost of constructing and operating that railroad, including a return on capital.[26] If the existing rates exceed that level, they may be judged by the Board to be unreasonably high, and the Board may both impose a fine and order a rate reduction.[27] As the record in this proceeding and elsewhere clearly shows, the SAC test is considered by most shippers to be too expensive and complex to serve as a useful check on the railroads.[28] Efforts by both Congress and the Board to create simplified versions of the SAC test for small- and medium-sized disputes have not proved successful.

A potential policy avenue for providing more effective protection to captive shippers is the adoption of an alternative to the SAC test.[29] One option is to set a ceiling

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[26] *BNSF Railway v. STB*, U.S.C.A. (D.C. Circuit) No. 06-1372, May 20, 2008.

[27] *See, e.g., Western Fuels Association and Basin Electric Power Cooperative v. BNSF Railway*, Decision, STB Docket No. 42088, February 17, 2009.

[28] *See, e.g.,* Russell Pittman, *Against the Stand-Alone-Cost Test in U.S. Freight Rail Regulation*, 38 J. REG. ECON. 313 (2010).

[29] From an economic standpoint, there are serious questions about whether the use of the SAC test is even appropriate in the context of 21st century U.S. railroads. In particular, it is clear from both the original scholarly sources and subsequent discussions in the literature that the primary rationale for the test – that if one group of customers pays more than SAC for their service, it necessarily follows that this allows other customers to pay less than the incremental cost for their service, and hence there is direct evidence of cross subsidies from the former customers to the latter – applies only in the context of a rate-of-return constrained public utility, a setting that clearly does not characterize the U.S. freight railroads. *See, e.g.,* Gerald Faulhaber, *Cross-Subsidization: Pricing in Public Enterprises*, 65 AMER. ECON.R. 966 (1975); William Baumol, John Panzar, and Robert Willig, Contestable Markets and the Theory of Industry Structure (1982); Mark Meitzen and Alexander Larson, *The uses and abuses of stand-alone costs*, 2 UTILITIES POL. 135, 143 (1992) ("Only when economic profits are constrained to zero … does the duality between stand-alone and incremental costs hold."); Leigh Hancher and Jose-Luis Buendia Sierra,

on the revenue-to-variable cost (R/VC) ratio that may be charged to any captive shipper. Variable cost (VC) is measured using a standard (though admittedly imperfect) methodology, the Uniform Rail Costing System ("URCS"), and the R/VC ratio already provides both a minimum screen that must be met for captive shipper rate complaints to be considered by the Board and a floor for orders of rate relief.[30] A corresponding R/VC ratio adopted as a rate ceiling (or a rebuttable presumption of a maximum reasonable rate) would seem to be just as straightforward to calculate and not require the devotion of significant resources by all parties that has been characteristic of rate cases under the SAC tests.

In this proceeding, a number of parties have urged the adoption of a ceiling on the R/VC ratio as superior to the SAC test.[31] Furthermore, the Board relies on R/VC measures in its application of the *Simplified Standards for Rail Rate Cases*.[32] Finally, the Board has already imposed R/VC ceilings as remedies in four previous rate cases: twice at 180 percent,[33] once at 229-267 percent,[34] and once, most recently, at 346-356 percent.[35]

Cross-Subsidization and EC Law, 35 COMMON MARKET L.R. 901, 908 (1998) ("Critics of this approach have pointed out that it is based on the assumption that the regulated firm in question makes no long-term excess profits."); Faulhaber, *Cross-Subsidy Analysis with More than Two Services*, 1 J. COMP. L. & ECON. 441 (2005) ("The SAC tests are not helpful under conditions of positive economic profits"); Pittman, *Against the Stand-Alone-Cost Test* ("If the lack of a zero-profit constraint on the firm breaks the link between SAC and IC [incremental cost], then failure to satisfy SAC for one set of products does not imply cross subsidization of a second set").

[30] *Burlington N. R.R. v. STB*, 114 F.3d 206, 210 (D.C. Cir. 1997); *US Magnesium v. U.P.R.R.*, STB Docket No. 42114, January 27, 2010.

[31] *See, e.g.*, Comments of Concerned Captive Coal Shippers; Comments of Olin Corporation; Comments of the Western Coal Traffic League (including the statement of economists Frederick Warren-Boulton and Kenneth Baseman); Comments of Westlake Chemicals.

[32] *US Magnesium v. U.P.R.R.*, S.T.B. Docket No. 42114, Jan. 27, 2010.

[33] *West Texas Utilities v. BN Railroad*, 1 S.T.B. 638 [1996]; *Kansas City Power & Light v. Union Pacific Railroad*, STB Docket No. 42095 [2008].

Moreover, an R/VC ceiling has at least one advantage over the types of competitive access options discussed above: a relatively high level of certainty about its effects. It is relatively easy to estimate what the effect of such a ceiling would be on the revenues of the railroad industry, and the level of the ceiling can be calibrated to achieve whatever balance between rate relief and revenue adequacy is considered desirable from a rail competition policy standpoint. By contrast, new regulatory policies with uncertain effects tend to discourage investment, both by investors in railroads and by railroads in capital projects. An R/VC ceiling has the additional benefit of focusing a remedy on the most egregious cases of high rates caused by lack of competition, and does not depend on the competitive response of a second carrier (which, as already noted, some parties have alleged to be less than might be expected).

However, the effectiveness of an R/VC ceiling in eliminating the most uncompetitive rates rests on the reliability of the URCS as an indicator of where competition is most absent. The Christensen Report has raised serious questions about the reliability of URCS for this purpose, and others have urged the Board in prior proceedings to update URCS.[36] USDA is pleased that the Board has begun to refine this critical regulatory tool, for the Board would clearly need to remedy URCS's

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[34] *Western Fuels Association and Basin Electric Power Cooperative v. BNSF Railway*, STB Docket No. 42088 [2009].

[35] *US Magnesium v. U.P.R.R*, S.T.B. Docket No. 42114, Jan. 27, 2010. Remedying URCS's shortcomings is important regardless of the outcome of this proceeding, and we are pleased that the Board has begun to refine this critical regulatory tool.

[36] *See* DOT Comments in Ex Parte No. 680, Study of Competition in the Freight Railroad Industry, and Christensen Report, Vol. 2 at 11-25, respectively.

shortcomings before it could be confident that an R/VC ceiling would achieve its intended goal.

CONCLUSION

USDA believes that the record in this proceeding provides persuasive evidence that captive shippers are not adequately protected from the lack of a competitive marketplace by the current regulatory regime, and that further moves in the direction of increasing competition and limiting the rates charged to some captive shippers that do not jeopardize the financial health of the rail industry would be appropriate. The details of any new procedures for rate reasonableness proceedings or any changes to competitive access rules are obviously critically important to the effectiveness of such regulatory reforms. Therefore, these new policies should be the subject of future rule-making proceedings before the Board.

USDA appreciates this opportunity to offer its views to the Board, and looks forward to continuing participation as the Board addresses these important issues.

Respectfully submitted,

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