

**STB ISSUES ADVANCE NOTICE OF PROPOSED RULEMAKING ON STREAMLINED
RATE REASONABLENESS PROCESS FOR SHIPPERS OF ALL COMMODITIES IN
SMALL RATE DISPUTES**

The Surface Transportation Board is announcing today the release of an Advance Notice of Proposed Rulemaking (ANPR), which considers a new, streamlined procedure to resolve small rate disputes between shippers of all commodities and Class I railroads. The rules are an outgrowth of the Board's effort to make its rate case procedures more fair and accessible to grain shippers, and the concerns expressed by the agricultural community have been instrumental in informing the Board of the need for a new approach. But the Board also recognizes that for small rate disputes, regardless of commodity, the litigation costs required to bring a case under the Board's existing rate reasonableness methodologies can quickly exceed the value of the case.

Under the procedures outlined in the ANPR, the Board would design a "comparison group" of similar rail shipments against which to judge the reasonableness of the rate being challenged. Having the Board design the comparison group, rather than the parties, would streamline this procedure as compared to the Board's existing Three-Benchmark methodology. And, rather than receiving rebuttal submissions and closing briefs – as in some of the rate case procedures available now – the ANPR envisions a final evidentiary hearing before Board staff (either in person or via conference call).

The new procedure may also include further streamlining measures such as mandatory initial disclosures by the parties, elimination of discovery or limits on discovery, and limits on the length of evidentiary submissions (for example, a maximum of 1,000 words). These measures also would reduce litigation expenses and improve the pace of the rate challenge.

The Board is considering a preliminary screen to ensure that the challenged traffic meets threshold criteria for review, which could allow for more streamlined market dominance and rate reasonableness presentations than in other rate case methodologies. Also, due to the abbreviated nature of the process, the Board would limit the amount of relief available.

"The new approach described in today's decision is intended to create a cost-effective pathway to resolve small rate disputes. It has been a key objective of my tenure as Chairman to re-invent the rate case process, and today's decision is a significant part of that effort," said Chairman Daniel R. Elliott. "I would like to thank the agricultural community for focusing attention on this important issue, and also recognize the contributions of STB staff."

The Board's ANPR in [Docket No. EP 665 \(Sub-No. 2\)](#), may be viewed and downloaded at the Board's website, www.stb.gov, under "E-LIBRARY / Decisions & Notices / 08 / 31 / 2016". Comments are due by November 14, 2016 and reply comments are due by December 19, 2016.

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