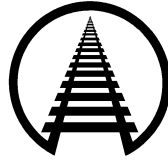


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ASSOCIATION OF AMERICAN RAILROADS
425 3rd Street, SW, Suite 1000
Washington, D.C. 20024

Timothy J. Strafford
Associate General Counsel
& Corporate Secretary

Phone: (202) 639-2506
E-mail: tstrafford@aar.org

October 2, 2019

Via E-mail

Dr. William Brennan
Director
Office of Economics
U.S. Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

Re: Waybill Data Request 19-44

Dear Dr. Brennan:

In a letter dated September 4, 2019, the Southern California Association of Governments (“SCAG”) requested the release of the entire 2017 Carload Waybill Sample. Notice of this request was published in the *Federal Register* on September 18, 2019. The request seeks access to waybill data “for the continued analysis of regional freight flows and upgrades to the regional demand forecast model.” The request is not limited to traffic in California and includes “cost/revenue information.” The request is apparently in addition to previous grants of access to an unspecified number of previous years’ Carload Waybill Sample, though there is no request for continued use of data from the previous years.

By this letter, the Association of American Railroads (“AAR”), on behalf of its freight railroad members, objects to the release of waybill data pursuant to this request. Waybill data is commercially sensitive to railroads and shippers and contains traffic information protected from disclosure by the Interstate Commerce Act under 49 U.S.C. §11904. Although 49 C.F.R. § 1244.9(b)(3) allows states access to “any waybill record pertaining to traffic that was originated, terminated, interchanged in, or that passed through its State subject to the same requirements imposed on federal agencies,” SCAG’s request for other data should be subject to the requirements of 49 C.F.R. 1244.9(c) for “other users” that allow for access to waybill data only in certain circumstances. Such a request must set forth a complete and detailed explanation of the specific information requested and a detailed justification of why release of the Waybill Sample is needed. *See* 49 C.F.R. § 1244(e)(i)-(iii). The agency has previously recognized that

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“maximum effort should be made . . . to ensure that only waybill data essential to a requestors’ purpose is actually released.” *Procedures on Release of Data from the ICC Waybill Sample*, 4 I.C.C.2d 194, 199 (1987).

SCAG’s request should be denied because it does not explain what specific analysis SCAG intends to conduct with the requested data. SCAG states that it “continues to upgrade and improve our regional travel demand model components to reflect multiple transportation modes and systems and recognize the importance of acquiring data to develop state of the art regional demand forecasting tools.” SCAG explains that it “will be managing an integrated passenger and freight rail study focused on identifying freight and passenger mainline funding strategies for needed capacity and operational improvements.” But it then merely states that it can “acknowledge and can attest to the value of the confidential Waybill Sample data as a critical component of the analysis of commodity flow by rail system, in validating model inputs and outputs.”

SCAG has not justified the release of commercially-sensitive information and has in no way explained why there is compelling need for it to have access to rate information. If the overall request is nonetheless granted, the Board should not release any revenue information, especially unmasked contract revenues.

Sincerely,

/s/ Timothy J. Strafford

Timothy J. Strafford
*Counsel for the Association
of American Railroads*