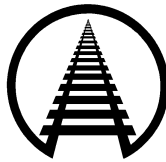


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ASSOCIATION OF AMERICAN RAILROADS
425 3rd Street, SW, Suite 1000
Washington, D.C. 20024

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Timothy J. Strafford
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& Corporate Secretary

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July 18, 2018

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 18-19

Dear Dr. Brennan:

In a letter dated June 20, 2018, the Port Authority of New York and New Jersey ("Port Authority") requested access to the Surface Transportation Board's Carload Waybill Sample for 2016 (and 2017, if available). Notice of this request was published in the *Federal Register* on July 3, 2018. The request seeks access to waybill data to be "used to support analysis of rail freight traffic in the metropolitan region." The request states that it seeks access every record for traffic originating, terminating, or traveling through the states of New York, New Jersey, Pennsylvania, and Connecticut, including revenue information with contract revenues masked.

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 (c) allows "other users" like the Port Authority access to waybill data in certain circumstances, 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 ICC has recognized that "maximum effort should be made by the [agency] 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).

The Port Authority request should be denied because it does not provide any explanation as to what analysis the Port Authority intends to conduct with the requested data, let alone demonstrate a compelling need. Moreover, the Port Authority is a commercial entity engaged in transportation activities. According to its website, the Port Authority sets “fees and charges for dockage, wharfage, demurrage, and related services.” See <https://www.panynj.gov/port/tariffs.html>. Moreover, “[in 2016, the Port of New York and New Jersey handled 3,602,508 cargo containers, valued at nearly \$200 billion. These volumes allowed the port to maintain its position as the busiest on the East Coast with nearly 30 percent of the total market share.” See <https://www.panynj.gov/port/about-port.html>. As such, release of commercially sensitive information, including rate information, would be particularly inappropriate based on this unsupported request. If the request is nonetheless granted, the Board should not release any revenue information.

Thank you for considering the views of the AAR and its members.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Timothy J. Strafford', with a stylized, flowing script.

Timothy J. Strafford
Counsel for the Association
of American Railroads