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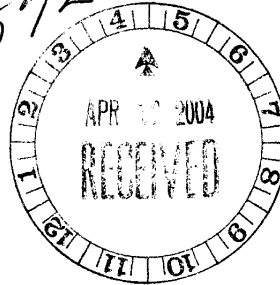
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April 12, 2004

BY HAND DELIVERY

The Honorable Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, N.W. Suite 888
Washington, DC 20423-0001



OUR FILE NUMBER
291,611-087

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**Re: Finance Docket No. 27590 (Sub-No. 3), Application of TTX Company
for Approval of Pooling of Car Service With Respect to Flatcars**

Dear Secretary Williams:

Enclosed please find the original and ten copies of GATX Rail's Comments on TTX Company's "Application for Reauthorization of the TTX Flatcar Pool" and the Verified Statement of James Earl, GATX Rail's Executive Vice President.

Please contact me if you have any questions. Thank you for your assistance with this matter.

Sincerely,

David T. Beddow

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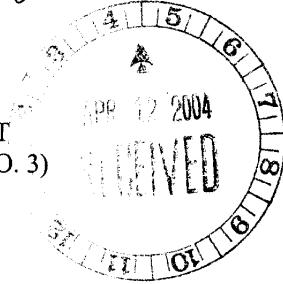
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SURFACE TRANSPORTATION BOARD

210572

TTX COMPANY – APPLICATION FOR)
APPROVAL OF POOLING OF CAR) FINANCE DOCKET
SERVICE WITH RESPECT TO) NO. 27590 (SUB-NO. 3)
FLATCARS)



COMMENTS OF
GATX RAIL

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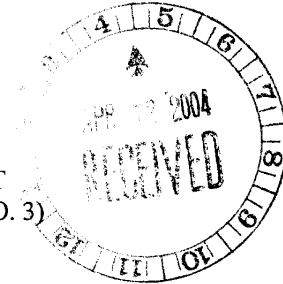
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DUE DATE: April 12, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

TTX COMPANY – APPLICATION FOR)
APPROVAL OF POOLING OF CAR) FINANCE DOCKET
SERVICE WITH RESPECT TO) NO. 27590 (SUB-NO. 3)
FLATCARS)



COMMENTS OF
GATX RAIL

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Overview of GATX Rail

GATX Rail, a division of GATX Financial Corporation, respectfully submits these comments in response to the “Application of TTX Company for Approval of Pooling of Car Service With Respect to Flatcars” (“Application”). GATX Rail is primarily engaged in leasing rail equipment and providing equipment related services to shippers and railroads. GATX Rail owns approximately 110,000 railcars in North America, 5,300 of which are flatcars. GATX Rail competes with TTX in supplying equipment and services to users of flatcars, boxcars, and gondolas.

Verification by GATX Rail’s Executive Vice President

The facts alleged in these comments are verified by James Earl, Executive Vice President, GATX Rail. Mr. Earl’s notarized verification is attached to these comments. Mr. Earl has an extensive background in the railroad industry and is qualified to testify about railroad operations and independent railcar lessors. After gaining experience in railroad operations, first with Southern Pacific Railroad as Terminal Superintendent, and then with Soo Line Railroad as Director of Service Equipment and Planning, Mr. Earl joined GATX Rail in 1988 as Director. In his current position with GATX Rail, Mr. Earl is responsible for the North American

commercial activities of the company, including sales, marketing, fleet management, customer service, and locomotive operations.

Introduction

Over the past three decades, the deregulatory policies of the Interstate Commerce Commission (“ICC”) and its successor the Surface Transportation Board (“STB”) have moved the rail industry forcefully and consistently toward a free market. During this period, the railroad industry has changed in significant ways that bear directly on the Application. Consolidations have reduced the number of major railroads from thirty-one to four, resulting in operational efficiencies and inherent standardization unavailable when the TTX Pool (“Pool”) was originally conceived. Through depreservation, car owners and railroads now routinely negotiate market rates for the provision of railcar service. *See* Car Hire Rates, 49 C.F.R. § 1033.1 (2003). The railcar leasing market has expanded dramatically, providing railroads with more flexibility than ever in structuring low cost acquisitions of all types of railcars. There is every reason to believe the coming years will be similarly dynamic.

In stark contrast, TTX’s pooling authority has stood essentially unchanged since its inception in 1974. TTX still serves as central purchaser and operator of all types of flatcars; TTX still establishes Pool-wide railcar service rates; and TTX still receives antitrust immunity for its activities.

While TTX’s pooling authority has remained static, its role in the acquisition and distribution of flatcars has mushroomed. Today, TTX controls a significant share of all intermodal flatcars operating in the United States, including 55% of the industry wide double stack platform capacity. Verified Statement of Thomas F. Wells, Senior Vice President of Fleet Management for TTX (“Wells VS”) at 23. As a consequence of TTX’s dominance in the

intermodal and other flatcar segments, companies such as GATX Rail have channeled their investments elsewhere. This diversion of investment dollars has, contrary to TTX's assertions, greatly reduced the incentive and opportunity to innovate and threatens long-term supply.

Moreover, while the Pool was originally intended for intermodal operations, TTX has substantially broadened its operations to other flatcar types since the approval of the antitrust exemption. Application at 12. At present 78,960 or 68% of TTX's 115,560 flatcars are non-intermodal. *Id.* TTX has unilaterally expanded its role in purchasing and operating these cars, including now controlling over 86% of all autorack flatcars, without first demonstrating that the benefits of pooling apply to non-intermodal flatcars. *2003 Auto Rack Ownership (AAR Equipment Type V)*, UNIVERSAL MACHINE LANGUAGE EQUIPMENT REGISTER, 2003, ULMER File. Allowing TTX to replicate its intermodal dominance in the non-intermodal market, unchecked, will have a chilling effect on investment, supply and innovation in the broader flatcar market.

GATX Rail does not dispute that, in the past, the TTX Pool may have generated certain efficiencies in the management of intermodal flatcars. The TTX Pool likely provided needed coordination in response to the inefficiency and excessive regulation characteristic of the 1960s and 1970s. However, we are in a new era and TTX's current application raises a number of very serious issues. In general, TTX seeks pooling authority that is backwards looking and rooted in antiquated notions of the rail industry. The Application does not account for the numerous industry changes, more specifically described herein, that call into question the present and prospective benefits of the Pool.

TTX has also failed to justify its immunity from the antitrust laws, which apply to every other industry and TTX's competitors in this industry. Antitrust immunity is a rarity in the

United States today and should only be granted where clear and demonstrable efficiencies will be achieved, and then only to the extent necessary to achieve those efficiencies. The Application requests an approval that is broader in scope and length than is necessary to achieve the alleged efficiencies. In addition, TTX provides insufficient evidence of the benefits of the Pool, leaving the STB with little basis to assess the public benefits and competitive impact of the proposed pooling agreement.

GATX Rail thus respectfully requests that the STB closely review this Application and seek additional information from TTX to support the extraordinary relief requested. At a minimum, GATX specifically requests that the STB:

- Limit TTX's pooling authority to intermodal cars, at least until TTX provides sufficient additional evidence of the benefits of pooling non-intermodal flatcars;
- Limit the term of the pooling agreement to five years, with no automatic renewal, to account for the continued dynamism of the rail industry;
- Deny the request for unilateral authority to alter car contracts as improper and unnecessary; and
- Reaffirm the prohibition on assignment and allocation.

The Application Does Not Account for Numerous Industry Changes

The recent and continuing transformation of the rail industry calls into question the ongoing need for the TTX Pool. Through consolidation, rate deregulation and improved access to capital, the rail industry operates more efficiently than ever. As a result, many of the benefits alleged in the Application are achievable by TTX and others without renewal of TTX's broad pooling authority.

When the TTX pool was first authorized in 1974, the rail industry was highly fragmented. The TTX Pool was designed to protect against inefficient car purchase and operating decisions and the lack of standardization that jeopardized railroads' ability to compete with other modes of transportation. At that time, it was reasonable to believe that the functions of the Pool could not be replicated by requiring the nearly three dozen railroads to enter into and enforce myriad bilateral contracts.

Today, after a series of consolidations, there are only four major U.S. railroads. The large scale networks of these railroads each span diverse geographic markets and encompass multiple maintenance facilities. As a result, substantial efficiencies can be realized within a single company without the need to participate in the Pool. These large merged companies are just beginning to integrate operations to take advantage of larger network synergies and economies of scale. In the coming years this will lead to higher railcar utilization through reduced empty car miles and ultimately will lower the overall cost of railroad transportation. Moreover, due to the limited number of participants and their operational efficiency, the four major railroads can now engage in bilateral transactions with each other to reap the benefits claimed by TTX.

Consolidation has also occurred in the railcar manufacturing market, reducing reliance on the Pool for standard setting and research and development. With fewer manufacturers, there is less unnecessary variance in railcar design. As manufacturing companies grow in size and scope, they are increasingly gaining the capability and incentive to invest in research and development. Moreover, TTX is not uniquely capable of driving innovation on the buy-side. As the railcar leasing industry expands and the scope of the Pool is appropriately reduced, lessors seeking to succeed in this highly competitive market will increasingly demand low cost, efficient

and innovative railcars. This demand will further drive manufacturers' investment in research and development.

Just fifteen months ago, the STB's depreservation policy was fully implemented, with railroads now individually negotiating market rates for car service. 49 C.F.R. § 1033.1 (2003). In the future, this policy will lead to optimal supply and operation of railcars by reducing the harmful practices of the past. Market rates will penalize railcar hoarding and suboptimal supply decisions by railroads. Market rates will also reward efficiency and innovation. Thus, depreservation will ultimately further diminish the justifications for the TTX Pool.

The financing market has also undergone substantial change. When the TTX Pool was first authorized, railroads were faced with just a few high cost options for acquiring railcars. Today the leasing market has expanded these options and lowered costs dramatically. There are many companies such as GATX Rail that provide flexible full service (maintenance included) and net lease options. These companies are capable of achieving car in service time performance that compares favorably to TTX without the cloak of antitrust immunity.

Another important industry change in the last ten years is TTX's unanticipated transformation into the dominant flatcar supplier, a change not discussed by the applicants and one that should give the STB particular pause in reviewing the Application. In originally authorizing the Pool, "the Commission emphasized that its approval of the terms of the pooling arrangement was in significant measure based on the fact that pool cars are intended to **supplement** the railroads' existing fleets." *Trailer Train Co. – Pooling of Car Service with Respect to Flatcars*, 5 I.C.C.2d 552, at 556 (1989) ("1989 Decision") (emphasis added). The pooling authorization was intended to merely "supplement' and increase the existing fleets of flatcars..." *Trailer Train Co. – Pooling of Car Service with Respect to Box Cars*, 347 I.C.C.

862, at 893 (1974) (“1974 Decision”), not to produce and then prop up a monopoly. However, TTX received 69.6% of all deliveries of new flatcars between 1985-2002, Verified Statement of Joseph P. Kalt, Ford Foundation Professor of International Political Economy at the John F. Kennedy School of Government, Harvard University (“Kalt VS”), Figure 5, and now owns over 60% of all intermodal cars and platforms. *2003 Intermodal Flatcar Summary: Spine, Stack and Conventional Intermodal*, UNIVERSAL MACHINE LANGUAGE EQUIPMENT REGISTER, 2003, ULMER File. This is far beyond the “supplementation” intended by the ICC three decades ago. In essence, pooling authority has made TTX the dominant player in what has become the key segment of the rail transportation market.¹

TTX’s ascendance to this position has come at considerable cost. TTX’s dominance has discouraged investment in intermodal and other flatcars by key players such as GATX Rail, who view themselves as unfairly disadvantaged when competing against TTX. Less than 5% of GATX Rail railcars are flatcars and less than 3% are intermodal. This reduced investment seriously threatens the long-term supply of flatcars and greatly reduces the incentive to innovate. It would indeed be rare for the level of supply and innovation to be optimal in a market where one participant controls such a disproportionate share of output. These anticompetitive effects are becoming more pronounced as TTX expands aggressively outside of the intermodal segment.

The Pooling Authority Sought is Excessive

The STB may approve a pooling agreement only if it finds that it “1) will be in the interest of better service to the public or of economy of operation; and 2) will not unreasonably restrain competition.” 49 U.S.C.A. § 11322(a). The STB’s approval of a pooling agreement automatically bestows antitrust immunity, 49 U.S.C.A. § 11321(a), a rarity in today’s regulatory

¹ *Intermodal Set to Become Railroads’ Biggest Source of Revenue Growth*, U.S. RAIL NEWS, October 9, 2002.

environment. Recognizing the significance of its consent, the Board is "inclined to approve only the narrowest proposal that is consistent both with achievement of...[its potential service and efficiency] benefits and compliance with the statute." 1989 Decision at 560. It is therefore critical for the STB to closely examine the benefits alleged by TTX and determine whether each aspect of the authority sought is necessary for the achievement of those benefits. From this exacting perspective, it is clear that many of the powers TTX seeks are excessive.

The Pool Should be Limited to Intermodal Cars

TTX provides evidentiary support for the benefits of pooling intermodal cars and concludes that reauthorization of the pool will be in the public interest. The TTX fleet, however, consists of 49,100 autorack flatcars, 13,800 bulkhead and centerbeam flatcars, and 16,000 other non-intermodal flatcars. Application at 12-13. In total, these non-intermodal cars constitute 68% of the TTX's fleet. And although TTX also seeks to continue pooling these non-intermodal flatcars, the STB will recognize that TTX has produced no facts to support its conclusion that the benefits of pooling non-intermodal flatcars would be in the public interest.

While TTX's application and supporting statements contain numerous statistics, this evidence primarily highlights the benefits of pooling intermodal cars. For example, Thomas F. Wells, TTX's Vice President of Fleet Management, stresses in his verifying statement that "[n]owhere have TTX's car acquisition activities been more important than with respect to intermodal traffic." Wells VS at 6; *see also* Wells VS at 13 "TTX *intermodal* cars operated empty only seven miles for every 100 miles they traveled ... [and] the TTX *intermodal* fleet generated 29 percent more loaded miles per platform than did non-TTX intermodal cars." (emphasis added). TTX did not provide similar statistics on its non-intermodal fleet of railcars. In fact, none of the statistics referenced in the Application or its supporting statements provides

insight into TTX's performance in operating the two-thirds of its fleet that is non-intermodal. This alone should limit the scope of TTX's pooling authority as it prohibits the STB from concluding that pooling non-intermodal cars "will be in the interest of better service to the public or of economy of operation; and ... will not unreasonably restrain competition." 49 U.S.C.A. 11322(a).

TTX's focus on intermodal cars may reflect the reality that pooling benefits do not flow equally to other flatcar types. TTX appears to recognize this, admitting that "[o]f course, utilization of intermodal flatcars is not directly comparable to utilization of other equipment types..." Wells VS at 13. In fact, the utilization benefits TTX trumpets are generally attainable only with free-flowing cars that travel in multiple directions. Through coordination these cars can be diverted from empty return trips and loaded by other railroads. Non-intermodal flatcars do not share the same characteristics as intermodal flatcars. Non-intermodal flatcars can typically move only in one direction and as a result cannot take advantage of the multi-directional reload opportunities that intermodal cars can. These types of flatcars operate in well-defined corridors handling the movement of commodities such as automobiles, lumber, and steel. For non-intermodal cars that typically are used for one-way trips, such as centerbeam and bulkhead cars, empty return miles are much more difficult to avoid. To the extent TTX is unable to demonstrate significant pooling benefits in the non-intermodal segment, the Pool should be limited, under 49 U.S.C.A. 11322(a), to intermodal cars.

At the very least, prior to reaching a decision, the STB should require TTX to submit the following information related to its ownership and operation of non-intermodal cars:

- Percentage of non-intermodal flatcars, by type, owned by TTX in the United States for each year since 1994.

- TTX's percentage of total United States purchases of non-intermodal flatcars, by type, for each year since 1994.
- TTX and non-TTX car utilization rates for each TTX non-intermodal flatcar type for each year since 1994.
- TTX and non-TTX car rates for each TTX non-intermodal flatcar type for each year since 1994.

GATX Rail recognizes that, in addition to prohibiting future purchasing and management, limiting the Pool to intermodal cars will require disposition of TTX's existing non-intermodal fleet. Many options for such disposition exist, including: requiring the sale of all or some of the cars in the open market; requiring TTX to lease all or some of the cars at freely-negotiated market rates; or allowing TTX to retain and manage the cars but requiring individual arms-length negotiations between TTX and the railroads to establish market-based car hire rates. GATX Rail recommends that the STB solicit comments from industry participants and perhaps hold hearings to identify the approach that will best promote free competition and innovation in the non-intermodal segment.

The Term Requested is Longer Than Necessary

The ICC and the STB have twice rejected TTX's requests for fifteen-year terms. In 1989, the ICC limited the term to five years, stating:

We have also decided that on expiration of the current agreement and car contract on October 1, 1989, Trailer Train's pooling authority and antitrust immunity should be extended for an additional five years, rather than the 15 years requested by Trailer Train. We believe the term should be reduced to five years because the current market and regulatory climate in which Trailer Train operates is so dynamic. The uncertainties in these areas require a substantially shorter extension term.

1989 Decision at 603. The ICC was no doubt also influenced by the many objections raised by

the Department of Justice and private parties. *TTX Co. et al. – Application for Approval of Pooling of Car Service with Respect to Flatcars*, Finance Dkt. No. 27590 (Sub-No 2), 1994 WL 467250 (I.C.C.), (1994) (“1994 Decision”) at 4) (referring to the controversy of the 1989 proceeding). Moreover, even in 1994’s relatively uncontested application the term was limited to ten years in light of the “dynamic and changing” nature of the railcar market. There the STB concluded:

We believe that a 10-year term will be more appropriate than the applicant’s requested 15-year term. TTX has been successful in receiving external funds during its latest extension period despite its brevity and the controversy surrounding the proceeding in which it was adopted. Thus, we do not believe that TTX’s ability to raise capital at a reasonable cost would be hampered by a 10-year renewal period. The 10-year term is also warranted by TTX’s large market presence in a market and regulatory climate that are still, as they were 5 years ago, dynamic and changing. Finally, a review of TTX’s pooling authority 10 years hence seems appropriate in light of the antitrust immunity provided by Commission approval of the pooling agreement.

1994 Decision at 4.

Here, as in 1989 and 1994, TTX makes no showing of why the fifteen-year term it seeks is required or even reasonable. TTX’s Application alleges numerous successes in the financing, operating and innovation of railcars during the prior ten and five-year terms. Moreover, TTX demonstrates that it has been able and willing to raise and invest billions of dollars despite the alleged uncertainty of shorter approval periods. Application at 33. Thus, by its own admission TTX has been able to function effectively with far less than a fifteen-year term.

More importantly, as evidenced by what has transpired over the past decade, fifteen years is a lifetime in this dynamic and changing industry. The industry is still digesting the substantial consolidations of the past decade and the full implementation of depreservation, which is less than two years old. These two changes alone will continue to reduce the relative benefits of the Pool. Moreover, the rapid pace of technological change and the continued evolution of the lessor

market also suggest that fifteen years is far too long to wait before the next critical evaluation of TTX's pooling authority.

TTX's request for automatic renewals at the end of the pooling term is also inappropriate, as the ongoing changes in the rail industry continue to undercut the justifications for the Pool. In this environment it is more critical than ever for TTX to demonstrate on a regular basis that the pooling agreement provides "service to the public" and "will not unreasonably restrain competition." 49 U.S.C.A. § 11322(a). TTX's request for automatic renewals essentially seeks a presumption that the Pool is justifiable when in fact the opposite should be true; the Pool should be presumed unnecessary unless TTX can show otherwise.

Moreover, automatic renewals would place an unreasonable burden on non-beneficiaries of the Pool to monitor and object. In view of the extremely rare antitrust immunity conferred with pooling authority, it is better public policy for that burden to remain with TTX.

TTX's Request for Unilateral Authority Should Be Denied

In 1974, the ICC decided that "all changes in either the pooling agreements or the car contracts, including ... changes in rates" must be submitted to the Commission. 1974 Decision at 883. If the Commission determined a proposed change affected "the substance of the pooling arrangement or a car contract," Commission approval was required prior to implementation of the change. *Id.* And although the ICC recognized the need to ensure TTX's ability to make rate changes remained flexible, all proposed changes still required submission to the Commission for review before implementation. The ICC found justification for its position in the language of prior Commission decisions. 1974 Decision at 882, citing *Increased Express Rates and Changes*, 1946, 266 I.C.C. 369, 381 (where the ICC decided that even though a proposed plan for apportionment of revenues did not affect the basic form of the pooling arrangement, it still

required Commission approval prior to implementation); *Pooling of Railroad Earnings and Service, Pullman Co.*, 276 I.C.C. 5 (where the Commission concluded that an entirely new service contract governing the Pullman service to railroads was a substantive change in the previously approved pooling agreement requiring authorization.) TTX did not request approval for unilateral modifications to the pooling agreement or car contracts subsequent to the 1974 application and the STB's policy remains in effect today.

TTX has offered no reasonable justification to alter this long-standing policy. Permitting TTX to make substantive changes to the pooling agreement that were not identified at the time the agreement was authorized would infringe upon the Board's jurisdiction over amendments and modifications to existing pooling plans. Moreover, TTX's requested unilateral authority to alter its car contracts is plainly unnecessary. The Application presents not one concrete example of how the existing approval process has reduced the benefits of the Pool and, instead, relies on hypotheticals throughout. *See, e.g.*, Application at 44 ("potentially beneficial adjustments in the way TTX operates the flatcar pool *may* be chilled ...") (emphasis added).

TTX's request is a clear attempt to shift the burden of enforcing limitations on its pooling authority to third parties while TTX reaps the benefits of antitrust immunity. In view of the substantial privileges TTX and its owners receive from the Pool it certainly is not too burdensome to request the STB approval prior to contract changes. Furthermore, even if the STB were to entertain such a proposal, TTX's "within the scope" standard does not provide a sufficiently clear safeguard against inadvertent or intentional overreaching by TTX.

The Prohibition Against Assignment and Allocation Should be Reaffirmed

In its 1989 decision, the ICC considered assignment and allocation of pooled flatcars by TTX and correctly condemned the practices as not being in the public interest. When TTX

assigned a specific flatcar to a railroad for its exclusive use, it was in effect providing a method of “equipment financing and leasing.” 1989 Decision at 603. The assignment of railcars does not involve the sharing of benefits or burdens of providing a transportation service among pool participants and is more “appropriately the function of individual railroads or third party lessors operating outside the pool.” *Id.* The ICC excluded assignment authority from the pooling agreement and also eliminated TTX’s purchasing authority for allocation to “prevent any tendency toward de facto assignment and to open entry to the market by third party lessors.” *Id.*

The prohibition against assignment and allocation of pooled flatcars is still justified. In its application, TTX correctly points out that “robust third-party leasing alternatives” have emerged and currently provide railroads with an alternative source for railcar financing and acquisition. Application at 51. However, this ability of independent lessors to provide a competitive alternative for railcar financing and acquisition depends on the exclusion of assignment and allocation from the TTX pooling agreement. The lessors operate “within the umbrella of the antitrust laws ...” 1989 Decision at 595. If TTX were permitted to lease railcars in competition with independent lessors while maintaining antitrust immunity, this competitive market of third party lessors would quickly disappear. Railroads would rely on TTX for virtually all of their flatcar needs. Prohibiting assignment and allocation also decreases the risk that TTX could exercise market power as a purchaser of flatcars. The STB should reaffirm the prohibition on assignment and allocation.

In 1994, TTX requested limited assignment authority for the purpose of facilitating technological innovation in the railroad industry. TTX sought to utilize this authority to assign “new, untested, and innovative car types” to member railroads for up to three years. 1994 Decision at 4. TTX justified this request by claiming that the authority would “reduce ... the

risks that might otherwise inhibit its acquisition of innovative equipment.” *Id.* The ICC granted TTX’s request with respect to research and development with little discussion on the Commission’s previous concerns about assignment in general.

In its recent application, TTX makes no mention of this limited authority in its discussion of fostering innovation through its car acquisition program. TTX did not credit its limited assignment authority as a factor in any of the flatcar innovations it alleges. Thus, based on TTX’s own assertions of flourishing technological innovation and robust research and development within the railcar industry, the limited authority to assign cars for research and development purposes apparently serves little purpose today. This unnecessary authority should therefore be rescinded.

Moreover, the STB should require an accounting from TTX of all assignments and allocations of railcars to railroads over the past ten years and the specific uses to which those cars were put.

Conclusion

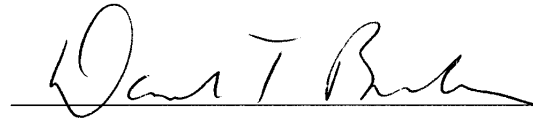
As it stands, TTX’s Application does not support the broad authority it seeks. The Application makes no attempt to account for the numerous industry changes that have substantially lessened the need for the Pool. Moreover, the length and scope of the pooling authority requested is far greater than necessary to achieve the benefits of the Pool. Prior to conferring the remarkable relief of antitrust immunity, TTX should be required to come forward with specific evidence to support each element of its proposed pooling agreement. The STB should craft procedures, oral or otherwise, by which TTX can present a complete record of its performance and by which the real need for the Pool can be judged. At the very least, GATX Rail respectfully requests the STB to:

- Limit TTX's pooling authority to intermodal cars, at least until TTX provides sufficient additional evidence of the benefits of pooling non-intermodal flatcars;
- Limit the term of the pooling agreement to five years, with no automatic renewal, to account for the continued dynamism of the rail industry;
- Deny the request for unilateral authority to alter car contracts as improper and unnecessary; and
- Reaffirm the prohibition on assignment and allocation.

Respectfully submitted,

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Commentor

A handwritten signature in black ink, appearing to read "David T. Beddow", written over a horizontal line.

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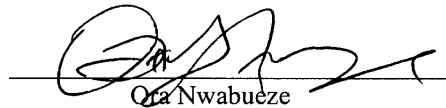
CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2004, I served the foregoing document, Comments of
GATX Rail, by hand delivery on:

David L. Meyer
Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, DC 20004

I further hereby certify that on April 12, 2004, I served the foregoing document,
Comments of GATX Rail, by FedEx overnight mail on:

Patrick B. Loftus
General Counsel & Corporation Secretary
TTX Company
101 North Wacker Drive
Chicago, IL 60606


Ora Nwabueze

VERIFICATION

I, James Earl, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification of the Comments of GATX Rail.

Executed on April 9, 2004.

James Earl

Subscribed and sworn to or affirmed before me this

9th day of April, 2004.

Nichollette Maris
Notary Public
(Affix seal or stamp.)

