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Hon. Martin J. Oberman
Chair
Surface Transportation Board
395 E Street SW
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RE: The American Petroleum Institute's Comments in Response to the Surface Transportation Board request for comments on Alternatives to URCS (Docket No. EP 771) (October 26, 2022)

Dear Chairman Oberman:

The American Petroleum Institute ("API") submits this letter in response to the Surface Transportation Board (STB or Board) October 26, 2022 Notice Inviting Comments (2022 STB Notice) from the shipping community, carriers, and the public concerning the recommendations of the Christensen Associates' report identifying and evaluating alternatives to the Uniform Railroad Costing System (URCS).

API is a national trade association representing nearly 600 member companies involved in all aspects of the oil and natural gas industry. API's members include producers, refiners, suppliers, pipeline operators, marine transporters, as well as service and supply companies that support all segments of the industry. Of interest to the STB, API members also are rail shippers, moving petroleum products across our nation's rail network. As part of its mission, API participates in proceedings before federal agencies, and in litigation in state and federal courts. Given the role of the URCS in rate reasonableness proceedings, API has an interest in any changes to the STB's URCS methodology.

In brief, API supports the conclusions and recommendations of the Christensen Associates' (CA) report *Alternatives to URCS*, namely that the "Hybrid" model is a feasible alternative for costing Class I movements in conjunction with a full Phase I update including empirical capital cost elasticities ("CA2" scenario).

The goal of URCS is to estimate "variable costs" caused by railroad movements and as the CA report argues, these variable costs need to be short-run costs as railroads' prices will typically be set for periods in which some inputs will be fixed (or nearly so) and due to light hand of rail regulatory oversight (p. 37). But the CA report also makes abundantly clear that the current URCS does not do this well. Indeed,

Wilson and Wolak¹ make the case that URCS is incompatible with incremental costs and thus yields, per the CA report, “economically arbitrary costs.”

In contrast, the Hybrid model yields short-run marginal costs that are consistent with RAPB principles. The short-run orientation of the Hybrid model is a departure from the “intermediate run” orientation of URCS, primarily in its empirical treatment of Return on Investment (ROI) and Depreciation, Lease, and Rental (DLR) costs for way and structures, locomotives, and freight cars (consistent with the Causality principle). Additionally, the Hybrid model’s marginal cost calculations are implemented using a cost elasticity methodology that is favored by the RAPB in its discussion of General Purpose Costing System (GPCS) implementation issues.

The Hybrid model is also consistent with the Practicality principle because it minimizes regulatory reporting burdens on the railroads. In particular, it uses or repurposes existing data from the R-1 annual reports and the CWS and can be carried out on personal computers using off-the-shelf data analysis software. In contrast, the STB’s 2010 report to Congress estimated that comprehensively updating the array of cost studies underlying URCS Phase III would be a multi-year, multi-million-dollar endeavor.

The CA report suggests that the Hybrid model is not totally aligned with the Data Integrity principle. However, API would argue that it is much more aligned than the current model and there may be room for improvement. In particular, the Hybrid model avoids the need to specify, via operational studies or analyst judgment, a broad array of URCS cost allocators and other inputs used both to derive generic unit variable costs (Phases I and II) and movement-specific cost differences or efficiency adjustments (Phase III). In particular, the CWS regressions directly produce empirical estimates of movement-specific cost differences. The large and rich CWS datasets allow the NEIO regressions to be estimated using only recent data and thus reflect current railroad operations. While the use of unmasked confidential CWS data in the NEIO regressions does hinder transparency, it would seem that using actual cost data would be far superior to analyst judgments. Additionally, it would seem that some summary statistics of the data could potentially be made public and increase transparency.

API recognizes the Hybrid model’s limited ability to cost movements by Class II and III railroads and limited ability to distinguish commodity-specific effects on costs (Homogeneity principle); however, API holds that the benefits of more accurately estimating short-run marginal costs outweigh these drawbacks.

Conclusion

API understands that even changes to the URCS model can have potentially significant effects on the application of the statutory R/VC threshold test for the STB’s jurisdiction. This is particularly the case with the recommended methodology (Hybrid w/ CA2). However, this should NOT be a reason for not adopting this course of action. Rather, it should argue that the new model will overcome a deficient methodology that shippers have suffered under for way too long.

¹ Wesley W. Wilson and Frank A. Wolak, *Freight Rail Costing and Regulation: The Uniform Rail Costing System* (2016).

API appreciates the Board's efforts to understand these issues more fully from a shipper's perspective. We stand ready to serve as a resource in future policy development in this area and look forward to working with the Board and the carriers towards achieving the mutual goal of timely, efficient, and cost-effective rail freight shipping. Should you have any questions or wish to follow-up on any of these points, please do not hesitate to contact Paul Hartman at HartmanP@api.org.

A handwritten signature in black ink, appearing to read "Robin Rorick". The signature is fluid and cursive, with the first name "Robin" and last name "Rorick" clearly distinguishable.

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Cc: Hon. Patrick J. Fuchs
Hon. Ann D. Begeman
Hon. Michelle A. Schultz
Hon. Robert E. Primus