



# Budget Request for FY 2015

## Surface Transportation Board



*March 2014*

**Daniel R. Elliott III, *Chairman***

**Ann D. Begeman, *Vice Chairman***

**Francis P. Mulvey, *Member\****

*\*Board Member Francis P. Mulvey, whose tenure with the Board ended 12/31/13, participated in the September 2013 budget request vote. This Budget Request for FY 2015 has been updated to reflect action on the FY 2014 appropriations measure and to provide other clarifications.*





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# Overview



The Surface Transportation Board (STB) is charged with the economic oversight of the nation's freight rail system. The three-member, bipartisan Board was formed in 1996 as the successor agency to the Interstate Commerce Commission. The Board has regulatory jurisdiction over railroad rate reasonableness, mergers, line acquisitions, new rail-line construction, abandonments of existing rail lines, and the conversion of rail rights-of-way into hiking and biking trails. While the majority of the Board's work involves freight railroads, the STB also performs certain oversight of passenger rail operations and the intercity bus industry, non-energy pipelines, and household goods carriers' tariffs, and rate regulation of non-contiguous domestic water transportation (freight shipping involving United States and Hawaii, Alaska, and Puerto Rico and other U.S. territories).

The Board is decisionally independent, although it is administratively housed within the U.S. Department of Transportation (DOT). Because the economics of freight rail regulation are so important to our national economy and involve a national network, Congress gave the STB sole jurisdiction over rail mergers and consolidations, exempting such transactions from federal antitrust laws and state and municipal laws.

The STB also has exclusive authority to determine whether railroad rates and services are reasonable.

To carry out Congress' charge, the STB has assembled a small but highly experienced staff of economists, lawyers, and experts in rail, shipping, and environmental matters. While the Board participates in more than 1,200 decisions and court-related matters each year, significant resources are consumed by complex rate cases. Much of the Board's staff time is devoted to analyzing the economic and environmental impacts of its decisions, issuing fair decisions, and defending those decisions in court.

The majority of the Board's budget consists of salaries and benefits, rent, security, travel expenses, and costs associated with congressionally mandated activities largely driven by the number and types of cases filed. In the past year, the agency continued to work on a number of large, complex rate and passenger rail matters, but the Board's ability to process these cases has been impacted by limited staffing and resources. The agency anticipates an increase in workload in Fiscal Year (FY) 2015 due to the strong market for freight rail and the continued expansion of the U.S. economy.

# FY 2015 Budget Request

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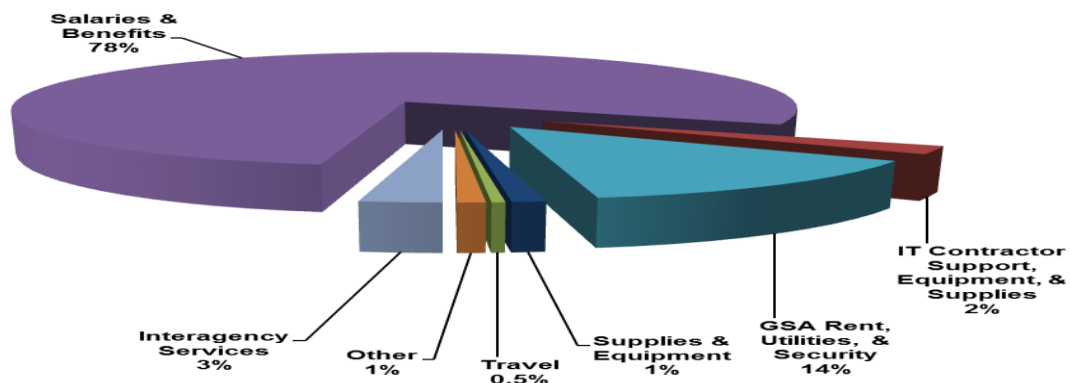
The Board is requesting \$34,411,000 for 170 Full Time Equivalents (FTEs), an increase of \$3,411,000 over the Board's FY 2014 Appropriation. A significant portion of this increase includes funding for additional FTEs over the FY 2014-funded FTEs. The remainder of the request reflects an increase in the agency's share of employee benefits contributions.

Our request is motivated in part by the need to add staff to address the growing workload related to the newly expanded oversight role over passenger rail matters, as directed by the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). Although the provision of PRIIA directing the Federal Railroad Administration (FRA) and Amtrak to jointly develop performance metrics and standards was recently found unconstitutional by a court of appeals, the rest of the statute remains intact.

The Board also requests funding for additional FTEs to bolster staff to process rate reasonableness cases, which have grown in complexity and are consuming an increasing amount of the Board's resources. The Board would also like to add staff to help address newly implemented programs that encourage informal resolution of rail rate and service disputes before the agency, and to enhance the Board's auditing of industry financial filings.

In the passenger rail oversight area, the Board has seen an increase in workload related to monitoring the on-time performance of Amtrak trains and resolving disputes with host railroads over service on routes jointly shared with passenger trains. The Board is also involved in determining cost methodologies for funding Amtrak routes, and in licensing new passenger rail projects. While the Board's staff is already engaged in examining Amtrak's operations

**Allocation of Requested Funds**





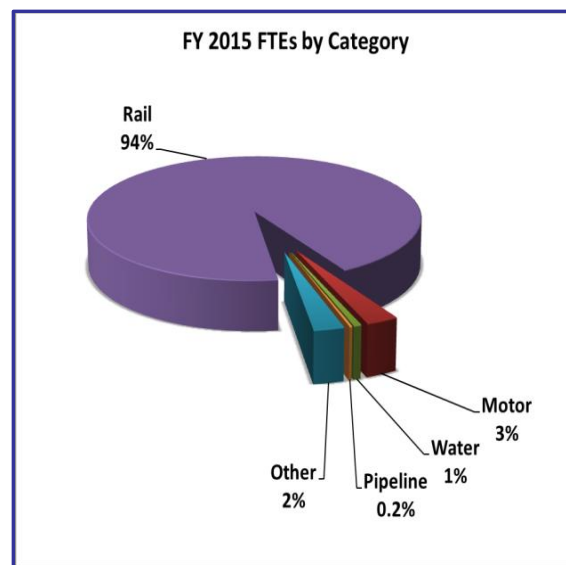
and record-keeping systems and is working on addressing Amtrak delay issues, additional FTEs are needed to fully address the growing workload in this area.

Unlike agencies that are program-based, the STB's responsibilities are driven largely by the number of cases filed by affected parties in a given year. While some matters are relatively simple, such as a routine rail line acquisition license or the recordation of a lien, others, such as rate cases, unreasonable practices complaints, line constructions, some abandonments, and declaratory orders, are more complex and require significant staff time and other resources to adjudicate.

In addition to these time- and labor-intensive matters including preparing decisions in major rate cases, the Board undertakes extensive environmental reviews of proposed new rail lines construction, mergers and acquisitions, rail line abandonments, and other actions that require review under the National Environmental Policy Act (NEPA). The STB also administers the "rail banking" program of the National Trails System Act. This program allows railroad rights-of-way approved for abandonment to be used as recreational trails on an interim basis (until rail service is restored).

The Board has completed several significant rulemakings and has undertaken new rulemakings in FY 2013. The Board issued improvements to its rate case process largely aimed at small and medium-sized rate disputes. The Board has also finalized new mediation and arbitration rules in an effort to encourage carriers and shippers to resolve their disputes informally. The Board adopted

new rules in FY 2013 that would make more information available about contractual clauses known as interchange commitments.



### Cases

The Board issues hundreds of decisions each year in the licensing and complaint cases brought before it and in the rulemaking proceedings that the Board initiates either on petition or on its own initiative. The Board has issued rules reforming its larger rate case process, modifying and clarifying its simplified rate case processes, and changing the interest rate applied to reparations.

As noted, the STB is expecting an increase in workload in the rate area. Additional staff would allow the Board to process these complicated proceedings more quickly.

In FY 2013, in *Rate Regulation Reforms*, Docket No. EP 715, the Board finalized new rules to improve the Board's rate regulation processes, particularly the procedures governing the resolution of smaller rate disputes. The Board removed limitations on relief brought under the Board's Simplified

Stand-Alone Cost (SAC) methodology, a less costly and complex alternative to the Board's full SAC cases. The Board also increased the relief limit available under an even more simplified rate case methodology (the Three-Benchmark methodology).

In FY 2013, the Board issued a decision related to the accounting aspects of Berkshire Hathaway, Inc.'s 2010 purchase of BNSF Railway Company and the valuation of the premium included in the price that Berkshire paid over the book value of the railroad's assets.

Continuing with work extending from FY 2013, the Board initiated a proceeding to address concerns of agricultural shippers with regard to rate reasonableness. Also, the Board announced intentions to institute a proceeding on railroad revenue adequacy. In addition, the Board is evaluating other competitive issues, including competitive access and commodity exemptions.

### **Mediation Efforts**

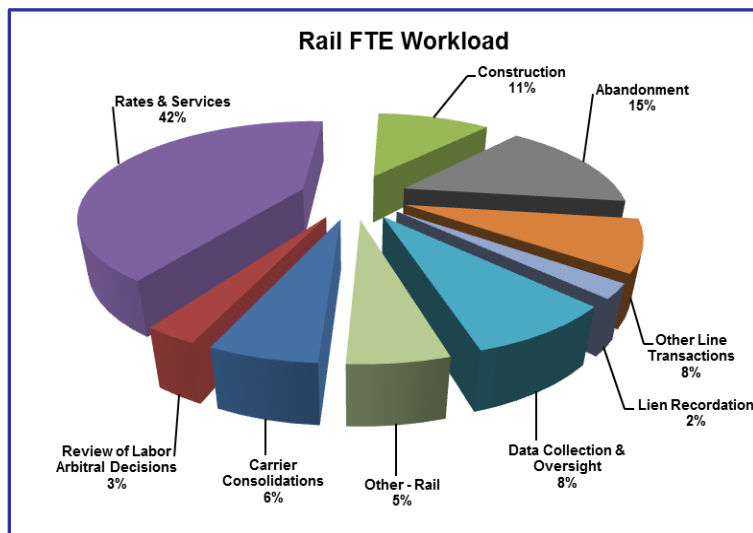
To carry out the Board's regulatory mission at a time of an increased caseload and fewer

resources, the Board encourages use of alternative dispute resolution. These efforts have facilitated the settlement of cases and have satisfactorily addressed other problems before they turned into formal complaints.

Specifically, since the start of FY 2008, the STB has conducted mediation in 25 proceedings. Eight cases were settled due to Board-sponsored mediation: two large rate cases, one small rate case, and five other railroad-related disputes. These settlements resulted in significant savings of litigation expenses to the parties, allowed both sides to reach mutually satisfying agreements, and freed up the Board's limited staff resources to work on other matters. An increase in funding for the mediation program would allow the Board to help settle more cases, thereby reducing the number of formal complaints, providing a more expeditious process for handling rate disputes and resulting in savings to both the Board and parties.

In FY 2013, the Board adopted new rules to further encourage the use of mediation and arbitration. The Board established a new arbitration program under which shippers and railroads may agree in advance to voluntarily arbitrate certain types of disputes with clearly defined liability limits in matters coming before the agency. The new rules also allow the Board to order parties to participate in mediation in certain types of disputes before the Board, on a case-specific basis.

The new arbitration and mediation rules build on the Board's efforts of





recent years to facilitate alternative dispute resolution, whenever possible.

Under the new arbitration rules, the Board specifies types of disputes eligible for the program and establishes limits on monetary awards in those disputes. Parties give their agreement to arbitrate disputes by submitting a letter to the Board. The Board added a “litigation alternatives” page to its web site, [www.stb.dot.gov](http://www.stb.dot.gov), which includes descriptions of the Board’s alternative dispute resolution processes, lists those parties that have agreed to arbitrate disputes and will include arbitral decisions.

The Board’s Rail Customer and Public Assistance program (RCPA), which provides free informal dispute resolution service, continues to be a great success. This program is particularly popular with small shippers, who may lack the resources for litigation before the Board to address service and rate issues with railroads. The program staff also responds to inquiries concerning the Board’s procedures and regulatory requirements, as well as requests for information about the Board’s operation. Since the start of FY 2013, the program staff has handled 1,549 public inquiries and informal complaints, and the Board expects this level of activity to continue.

### **Oversight**

The Board needs additional personnel to strengthen its oversight of the railroad industry, in light of changes in corporate structure and accounting rules and new congressional mandates regarding the reporting of corporate financial information.

This information includes interim financial updates and employment statistics, none of which are audited by the STB due to limited resources. Additional FTEs and resources would facilitate the agency’s ability to provide oversight in these areas.

The Board continues to evaluate the changes in the accounting and reporting area to make information timely and relevant for the users of railroad financial data and in the proceedings before the Board.

The Board adopted final rules requiring large railroads to provide more detailed information in carriers’ annual reports to the Board on capital and operating expenditures for Positive Train Control (PTC), a federally-mandated safety system designed to automatically stop or slow a train before an accident can occur. The Rail Safety Improvement Act of 2008 requires large railroads to implement PTC on routes that carry passengers or toxic by inhalation or poisonous by inhalation materials by the end of 2015.

### **Other Priorities**

The Board completed a report in May 2010 directed by the House and Senate Appropriations Committees on different options to update the Uniform Rail Costing System (URCS).

The Board continues its work to update URCS, including migrating from legacy software programs like FORTRAN, which was the first recommended improvement in its May 2010 report. This modernization will also make URCS more adaptable to future modifications. For example, in *Revision of the General Purpose Costing*

*System*, Docket No. EP 431 (Sub-No. 4), the Board has proposed rules to address concerns with the “make-whole adjustment” used in URCS to reflect operating efficiencies as shipments increase — which was the second recommended improvement in the May 2010 report.

### **Budget Detail**

For personnel compensation and benefits, \$27 million is requested to support the Board’s 170 requested FTEs. This is an increase of \$3.411 million needed to fully staff the Board at 170 FTEs. Also included is \$180,000 for lump-sum leave payments for retiring employees. For many of the past years, Board employees were predominantly CSRS retirement system participants. With their recent retirements and the hiring of their FERS participant replacements, the agency’s retirement and employee benefits costs have increased.

Because many of the Board’s decisions affect the economies and environments of regions across the nation, a travel budget of \$162,000 is requested. The requested travel increase over the FY 2014 travel budget of \$88,000 is designed in part to facilitate the investigation of substandard Amtrak performance matters and the expansion of the Board’s mediation and informal dispute resolution programs. Also, the enhancements to the Board’s rail audit program will require more frequent visits to major railroads’ corporate headquarters to audit and review the railroads’ financial filings and transactional activity relevant to the Board’s regulatory requirements. Additionally, several staff trips will be

required in the Board’s preparation of the Environmental Impact Statement for the Tongue River Railroad rail construction project. Related activity includes scoping meetings; site visits; public involvement and coordination meetings with Federal, state, and local officials; and tribal meetings and consultation. Staff travel also will be required for the environmental review of various other rail construction projects.

It is important to the agency’s mission that the Board physically inspect proposed rail line construction and complex abandonment sites, gather and verify environmental data provided by parties to proceedings, conduct operational reviews, meet with shippers regarding rail service issues, meet with railroads concerning compliance matters, defend the Board’s decisions in courts across the country, and make presentations and hold public meetings on issues within the Board’s jurisdiction and of intense local interest.

Funding to cover other costs is requested at \$7.216 million. This includes rent payments to the General Services Administration, building security payments to the Department of Homeland Security (DHS), and payments for employee training, telephone service, postage, IT systems support and software licenses, services and supplies, and reimbursable services acquired from other Federal agencies. In addition, the Board needs funding to update its IT infrastructure, which is proving to be a barrier not only to the completion of the Board’s new website and case management system, but also on day-to-day operations of the agency

These costs also include the STB's share of e-Gov initiatives and funding for the Chief Information Officers Council and the Chief Financial Officers Council. A payment to the DOT Working Capital Fund of \$241,000 is included in these costs. The Board continues to evaluate its level of physical security in light of the building's security committee and DHS guidelines. The Board's security costs were \$540,000 in FY 2013, or two percent of the Board's total appropriation for the year. The Board has implemented a business continuity plan, along with sheltering-in-place procedures, to provide for the physical security of its employees and the continuity planning and continuance of its statutory mission.

## Surface Transportation Board Organization Chart



The above numbers to the left represent requested FY 2014 FTEs; the numbers to the right represent requested FY 2015 FTEs. The number of Full-Time Permanent positions and FTEs is the same. The total number of FTEs for the Surface Transportation Board is 136 for FY 2014 and 170 for FY 2015.

\*Term ended December 31, 2013



# Accomplishments in FY 2013

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## Rate Cases

The Board has jurisdiction over complaints challenging the reasonableness of common carrier rates only if the railroad has market dominance over the traffic involved. Market dominance refers to an absence of effective competition from other railroads or transportation modes for the movement to which a rate applies. To assess whether a challenged rate is reasonable, the Board uses “constrained market pricing,” which limits a railroad’s rates to levels necessary for an efficient carrier to make a reasonable return on investment.

The Board had four rate cases pending as of September 2013. These proceedings will require significant staff attention and resources, given the substantial efforts required for matters such as motions and discovery resolution in the adjudications and the complex nature of these coal and chemical cases.

As of September 2013, the following rate cases were pending: *Total Petrochemicals & Refining USA, Inc. vs. CSX Transportation*, Docket No. NOR 42121; *E.I. du Pont de Nemours and Company v. Norfolk Southern Railway Company*, Docket No. NOR 42125; *Intermountain Power Agency v. Union Pacific Railroad Company*, Docket Nos. NOR 42136; and *Sunbelt Chlor Alkali Partnership v. Norfolk Southern Railway Company*, Docket No. NOR 42130.

In FY 2013, the Board issued market dominance decisions in two cases that had been bifurcated to address that issue prior to examining rate reasonableness. In one of the cases, parties ultimately reached settlement before the case proceeded to the merits phase. In the other case, after the Board issued its market dominance decision, both parties have sought Board reconsideration and litigation continues on a number of technical aspects.

In *M&G Polymers USA, LLC v. CSX Transportation, Inc.*, Docket No. NOR 42123, the Board concluded that in 36 of the 42 challenged rates, the defendant possessed market dominance, but not in the remaining 6 instances. The parties subsequently settled the case.

In the latter case that continues, *Total Petrochemicals & Refining USA, Inc. vs. CSX Transportation*, Docket No. NOR 42121, the Board, in a May 2013 decision, concluded that the defendant possessed market dominance with respect to 51 challenged rates, but not with respect to the other 12. The defendant did not contest its market dominance in 21 of the 84 challenged rates. The Board is now considering the reasonableness of the 72 rates as to which the railroad has market dominance.

In total, of the last 14 rate cases to have reached a conclusion, 12 have ended in settlements. A number of these settlements, *U.S. Magnesium, L.L.C. v. Union Pacific Railroad Company*, Docket Nos. NOR 42115 and NOR 42116; and *NRG Power Marketing LLC v. CSX Transportation, Inc.*, Docket No. NOR 42122 were a direct result of STB-led mediation. The Board also held mediation in other cases in which the parties ultimately negotiated settlements: *Canexus Chemicals Canada, L.P. v. BNSF Railway Company*, Docket No. NOR 42132; and *AEP Texas North Company v. BNSF Railway Company*, Docket No. NOR 41191.

### **Unreasonable Practice Cases, Rulemakings, and Declaratory Order Proceedings**

In FY 2013, the Board initiated several new rulemakings on topics of importance to shippers and railroads.

In *Information Required in Notices and Petitions for Exemption Containing Interchange Commitments*, Docket No. EP 714, the Board increased the amount of information available on interchange commitments, which are contractual clauses that limit the incentive or the ability of the purchaser or lessee of a rail line to interchange traffic with carriers other than the seller or lessor. Under the new approach, parties will be required to provide specific details about the impact the interchange commitments would have on shippers and the purchaser or lessee railroad. The Board's goal is to ensure that both the agency and other interested parties have sufficient information to judge whether the exemption process is appropriate for a transaction.

In *Review of the General Purpose Costing System*, EP 431, the Board proposed changes to URCS. The Board is seeking to adjust how URCS calculates certain system-average unit costs to better reflect railroad operations and to automatically reflect economies of scale as shipment size increases, thus eliminating the need for the separate "make-whole" adjustment described earlier.

In *Western Coal Traffic League — Petition for Declaratory Order*, Docket No. FD 35506, the Board found that because Berkshire Hathaway, Inc., failed to seek and obtain agency authorization for its purchase of BNSF Railway Company, as was required by federal law, the Board ordered BNSF to delay the approximately \$8.1 billion net markup of its rail assets derived from the Berkshire Hathaway's 2010 purchase of BNSF over its book value. The Board also ordered BNSF to transition the revaluation of the assets to reduce the possible impact on captive shippers. In connection with this decision, the Board directed BNSF to refile its annual financial reports with the Board for 2010, 2011 and 2012, and to transition the markup of its rail assets equally over a four-year period beginning in 2013 until full recognition of the markup under the Generally Accepted Accounting Principles (GAAP).

In *Solid Waste Rail Transfer Facilities*, Docket No. EP 684, the Board adopted final rules that govern land-use exemptions permits for solid waste rail transfer facilities.

In *Rate Regulation Reforms*, Docket No. EP 715, the Board took another step to improve the Board's rate regulation process when it

issued final rules to remove the limitation on relief for one of its simplified approaches to rate disputes and to increase the relief available under the other simplified approach. The Board also made certain technical changes to the rate case procedures and increased the interest rate that railroads must pay on reparations if they are found to have charged unreasonable rates.

Separately, in *Petition of the Association of American Railroads to Institute a Rulemaking Proceeding to Reintroduce Indirect Competition as a Factor Considered in Market Dominance Determinations for Coal Transported to Utility Generation Facilities*, Docket No. EP 717, the Board denied the petition to consider indirect competition as a factor in determining the reasonableness of rail rates for coal transportation.

### **Other Rulemakings**

In *Petition for Rulemaking to Adopt Revised Competitive Switching Rules*, Docket No. EP 711, the Board continues to examine a proposal pursuant to which certain shippers located in terminal areas that lack effective competitive transportation alternatives would be granted access to a competing railroad, if there is a working interchange within a reasonable distance. The Board sought empirical information and studies about the impact of the proposal. The Board scheduled a public hearing to further explore the issues raised in the proceeding for March 2014.

In *Reporting Requirements for Positive Train Control Expenses and Investments*, Docket No. EP 706, the Board supplemented

the R-1 reporting requirements so that expenditures for PTC are also reported as separate line items.

In *Demurrage Liability*, Docket No. EP 707, the Board is seeking to address demurrage charges for detaining rail cars bound for loading or unloading. The proposed rules would provide that any person accepting rail cars from a rail carrier who holds the cars beyond a specified period of time may be responsible for paying demurrage charges so long as that person has actual notice of the demurrage terms prior to the cars' delivery by the carrier. The Board is evaluating filed comments on the proposed rule.

In *Improving Regulation & Regulatory Review*, Docket No. EP 712, the Board is reviewing its existing regulations to evaluate their continued validity and determine whether they are crafted effectively to solve current problems facing shippers and railroads. The Board sought public input on suggested ways of improving the Board's regulations and processes.

### **Rail Practice Cases**

In *CF Industries, Inc. v. Indiana & Ohio Railway—Petition for Declaratory Order*, Docket No. FD 35517, the Board reviewed a request from several chemical shippers and trade associations to evaluate railroad practices related to Toxic-by-Inhalation Hazardous materials and Poison-by-Inhalation Hazardous materials. The Board found that RailAmerica, Inc. and its subsidiaries' practice of operating trains at an appropriate speed for safe operations based on current weather conditions was reasonable. The Board, however, also

directed the railroads not to enforce a blanket lower speed limit, specific to certain hazardous commodities that applied at all times and in all locations. Following Genesee & Wyoming's acquisition of RailAmerica in December 2012, the carriers withdrew several other practices still at issue in the proceeding, and the Board agreed to dismiss the petition to review those practices.

*In Union Pacific Railroad Company — Petition for Declaratory Order*, Docket No. FD 35504, the Board declined to find reasonable Union Pacific Railroad Company's tariff provisions that require shippers to indemnify the railroad against future liabilities related to transportation of Toxic-by-Inhalation Hazardous commodities (TIH), other than those resulting from UP's negligence or fault. The Board found that the language of the UP tariff provisions was overly broad and that UP had not provided adequate support for the tariff requirements, and that the tariff language could subject shippers to a wide range of liability that is not related to the presence of the TIH commodities.

*In State of Montana v. BNSF Railway Co.*, Docket No. NOR 42124, the Board found that the practice of replacing a 52-car tariff for wheat from Montana to the Pacific Northwest with a tariff that allegedly limits such medium-sized movements to 48 cars was not unreasonable. The Board advised BNSF that it may not justify a refusal to provide requested 52-car service simply by citing to its preferred 48-car rate structure.

*In Union Electric Company D/B/A/ Ameren Missouri and Missouri Central Railroad*

*Company v. Union Pacific Railroad Company*, Docket No. 42126, the Board denied a request to restructure the terms of a sale transaction that would remove an existing service restriction that was put in place when Missouri Central Railroad Company purchased a rail line from Union Pacific Railroad in 1999. The service restriction prevents Missouri Central from serving an electric generating station owned by Ameren Missouri. Missouri Central and Ameren asked the Board to remove the service restriction in the sales agreement so that Missouri Central could provide rail service to Ameren Missouri, which already receives service from two other railroads. The Board found no basis to partially revoke its prior approval to restructure the terms of sale between the parties, largely because Ameren and Missouri Central had entered into the 1999 transaction with knowledge of the service restriction.

*In Allegheny Valley Railroad Company — Petition for Declaratory Order*, Docket No. FD 35239, the Board reversed its prior decision that found the Allegheny Valley Railroad Company possessed an active railroad easement on property owned by the Buncher Company in Pittsburgh, Pa. The Board concluded that the record in the proceeding, as supplemented, supported the conclusion that the portion of the rail line was abandoned pursuant to authority granted by the Board's predecessor agency in 1984.

*In City of Milwaukee — Petition for Declaratory Order*, Docket No. FD 35625, the Board was asked to address the question of federal preemption in a dispute between the City of Milwaukee, Oregon, and the



Oregon Pacific Railway Company, regarding the City's proposed enforcement against the railroad of two municipal regulations. The Board provided guidance on federal preemption as it relates to railroads, but it concluded that there are outstanding state property law issues that must be decided first before the Board can address the preemption question.

In *Cargill, Incorporated v. BNSF Railway Company*, Docket No. NOR 42120, the Board denied Cargill Inc.'s request to find BNSF Railway's mileage-based fuel surcharge as an unreasonable practice. The Board found that Cargill did not show that BNSF's fuel surcharge constitutes an unreasonable practice under current Board fuel surcharge rules. The Board is planning to start a proceeding to obtain public comments on the Board's "safe harbor" rule, which allows rail carriers to rely on a Board-approved index to measure changes in fuel prices for purposes of their fuel surcharge programs.

### **Revision of Environmental Rules**

The Board is working on updating and streamlining its environmental rules, which were last revised in 1991. The goal of this revision is to clarify and simplify some of our existing environmental regulations, which would improve the efficiency and quality of the Board's environmental analyses, particularly in rail abandonment cases, where the agency relies on information initially supplied by the applicant in its environmental and historic reports. By clarifying the information required under NEPA and Section 106 of the National Historic Preservation Act, the

Board hopes to reduce delays by limiting the need to impose environmental mitigation conditions, such as Section 106 historic preservation conditions, that prevent railroads from salvaging rail lines that have been approved for abandonment.

### **Construction Cases and Environmental Studies**

In *California High-Speed Rail Authority — Construction Exemption — in Merced, Madera and Fresno Counties, Cal.*, Docket No. FD 35724, the Board issued a decision authorizing the proposed construction with environmental mitigation conditions. The Merced to Fresno High-Speed Train (HST) section would be the first of nine sections of the planned California HST system, which would provide intercity, high-speed passenger rail service over more than 800 miles throughout California. The Board reviewed the Final EIS prepared by the FRA and the California High-Speed Rail Authority and adopted the Final Environmental Impact Statement (EIS).

In *California High-Speed Rail Authority — Construction Exemption — in Fresno, Kings, Tulare and Kern Counties, Cal.*, Docket No. FD 35724-1, the Board continues to work with the Federal Railroad Administration and the California High-Speed Rail Authority to complete the environmental review for the second of nine sections of the planned Californian High-Speed Train (HST) system. This second HST section extends approximately 114 miles from Fresno to Bakersfield, CA. The Board's environmental staff is currently reviewing the administrative draft of the Final EIS.

The STB worked on nine EISs as well as four major Environmental Assessments (EAs) during FY 2013. These EISs and EAs involved a number of complex and controversial environmental issues, including wetlands impacts; greenhouse gas analysis; historic preservation compliance, including tribal consultations; hazardous materials; potential coal dust impacts on human health and the environment; and endangered species. Several of these environmental reviews require ongoing monitoring and oversight for purposes of implementing environmental and National Historic Preservation Act conditions imposed by the Board.

The Board has implemented a construction monitoring and oversight program over Alaska Railroad Corporation's project to build and operate about 35 miles of new rail line connecting Port MacKenzie in south-central Alaska to a point on ARRC's existing main line between Wasilla and an area north of Willow, Alaska, (*Alaska Railroad Corporation, Construction and Operation of a Rail Line Extension to Port Mackenzie, Alaska*, Docket No. FD 35095). The Board is reviewing quarterly construction reports submitted by the railroad for compliance with the environmental conditions imposed as a condition of the Board's approval of the project.

The Board held a number of site visits, scoping meetings and tribal meetings related to Tongue River Railroad's revised application to construct and operate a rail line in southeast Montana (*Tongue River Railroad Company, Inc. — Rail*

*Construction and Operation—in Custer, Powder River and Rosebud Counties, Mont.*, Docket No. FD 30186). The Board has completed the field season surveys for all resource areas (wetlands, biological resources, cultural resources, noise and vibration). The Board continues to evaluate and analyze the information collected.

The Board is also conducting a supplemental environmental review of a proposal for the joint use of 106.5 miles of track between Louisville, Kentucky, and Indianapolis, Indiana (*CSX Transportation, Inc. — Joint Use—Louisville & Indiana Railroad Company*, Docket No. FD 35523). The track, which is owned by Louisville & Indiana Railroad Company, would be shared with CSX Transportation. The Supplemental Environmental Assessment will address issues raised in comments on the Draft Environmental Assessment.

In *Six County Association of Governments, Construction and Operation Exemption of Rail Line between Levan and Salina Utah*, Docket No. FD 34075, the Board is preparing a Supplemental Draft EIS (SDEIS) for this 43-mile construction to evaluate wetland impacts. Developing alternatives to avoid or reduce impacts to wetlands in central Utah is the primary focus of the SDEIS.

### **Merger Cases and Oversight**

As part of the STB's ongoing monitoring of the 2008 acquisition of the Elgin, Joliet and Eastern Railway Company (EJ&E) by Canadian National Railway Company (CN), the Board directed an audit of CN's compliance with STB reporting

requirements included in its merger decision in *Canadian National Railway Company and Grand Trunk Corporation—Control—EJ&E West Company*, Docket No. FD 35087.

In FY 2013, RCPA continued to monitor the monthly operating reports that are filed by CN as a condition for approval of its purchase, and has asked CN to begin including additional information in these reports to provide RCPA staff with a better understanding of the nature of these operations. In addition, the Board continues to monitor the implementation of the overall environmental mitigation as part of a six-year oversight. The Board reviews the quarterly environmental reports and posts the reports on the project's web site for public information.

In December 2012, the Board gave final approval to Genesee & Wyoming, Inc. (GWI) to acquire RailAmerica, Inc. (*Genesee & Wyoming Inc. – Control—RailAmerica Inc.*, Docket No. FD 35654). The acquisition brought about the largest collection of shortline railroads under single ownership in the country.

In February 2013, the Board approved a swap of rail operating easements by CSX Transportation, Inc., (CSXT) and Grand Trunk Western Railroad Company (GTW) over part of a CSXT line in Tennessee and part of a GTW line in Illinois and Indiana. The Board imposed a number of mitigation measures as a condition of approving the transaction, and required CSXT to provide quarterly reporting for three years to help the agency monitor compliance with the those measures (*Grand Trunk Western*

*Railroad Company – Acquisition of Operating Easement—CSX Transportation, Inc.*, Docket Number FD 35661, and *CSX Transportation, Inc.—Acquisition of Operating Easement—Grand Trunk Western Railroad Company*, Docket No. FD 35522).

### **Oral Arguments and Public Hearings**

The Board holds public hearings and oral arguments on issues and cases of particular interest. The Board's oral arguments give parties in individual cases an opportunity to address the Board directly and allow Board members an opportunity to ask questions before making a decision. In FY 2013, the Board held an oral argument in a case involving competitive access via reciprocal switching to a shipper's facility in Modesto, California (*Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and the Denver and Rio Grande Western Railroad Company*, Docket No. FD 32760).

### **Public Outreach**

Through its RCPA, the Board continues to provide shippers and members of the public with an informal venue for resolving disputes with rail carriers on an informal basis. While the program is particularly helpful in resolving small, individualized disputes that do not rise to the level of bringing a formal complaint, many of the complaints handled by the program would

likely have resulted in formal proceedings but for RCPA's assistance.

In FY 2013, RCPA has handled to date nearly 900 inquiries and informal requests for dispute resolution. Some notable successes include resolving railroad service issues involving congestion on the interstate network and addressing numerous complaints involving lack of equipment and track maintenance issues. RCPA also has helped a number of shippers resolve demurrage disputes with rail carriers and has provided guidance to a number of facilities having difficulty negotiating crossing licenses with rail carriers.

RCPA has also seen an increase in complaints involving household goods (HHG) movers, which are generally subject to regulation by the Federal Motor Carrier Safety Administration.

In addition to its dispute resolution function, RCPA also serves as a liaison between the public and the Board. In particular, RCPA fields inquiries from Board practitioners as well as from members of the general public, to provide those parties with a better understanding of Board regulations, rules, and procedures. Through these efforts, RCPA provides agency stakeholders with helpful information and reduces the agency workload by ensuring that filings are made correctly. In addition, the three Board members play an important role in the agency's public outreach through their speeches and presentations to stakeholder groups and conferences.

## **Website Redesign**

Because of the need to conserve resources in FY 2013, the Board had to postpone some work related to the redesign of its website. The project is a major effort to make the work of the STB more accessible and transparent through an improved, intuitive user experience and comprehensive search function. The redesign will make it possible to file cases electronically and pay for fees by credit card through pay.gov. The redesign also includes a powerful search engine to permit keyword searches in all documents filed with the Board and to allow members of the public to more easily comment on Board activities.

The website redesign also provides the Board an opportunity to develop new ways to interact with the public and to share its extensive knowledge about the surface transportation sector. The Board is also working on creating a database containing digitized railroad maps associated with past and present rail line merger, construction, and abandonment projects. The project will allow STB staff to independently prepare detailed maps of rail lines from STB transactions and allow the public to see the existing or proposed rail line projects in relationship to homes and businesses.

The Board hopes to complete its website redesign soon.

## **Uniform Rail Costing System Update**

Responding to a request from Congress in 2010, the STB prepared a report outlining options for updating URCS, the methodology the STB uses to determine a railroad's variable costs of providing rail



transportation service for regulatory purposes. The Board uses URCS costs to determine whether it has jurisdiction in rate reasonableness cases and to establish the maximum rate. URCS is also used in other cases such as proposed abandonments and disputes over trackage rights.

Congress requires the Board to periodically review its costing system. URCS had not undergone a comprehensive update since it was first adopted in 1989. As a result, it continues to rely on less than modern computer programs and techniques. The improvements described in the May 2010 report would update URCS to reflect changes in rail operations that have occurred since the existing URCS was put in place.

The report laid out three alternatives ranging from a basic update to a few aspects of URCS (e.g., the outdated computer programs) to a complete revamping of the current system that could cost \$10 million or more. The Board has recommended a less costly option that would upgrade the legacy computer programs used in URCS, modify the existing system to account for the many changes in the railroad industry since URCS was first adopted in 1989, and make URCS more accurate.

In February 2013, the STB released a notice of proposed rulemaking to adjust how URCS calculates certain system-average unit costs to better reflect railroad operations and to automatically reflect economies of scale as shipment size increases, thus eliminating the need for the separate “make-whole adjustment” described earlier. The Board is also proposing to make a number of

other related changes to URCS that will result in more accurate movement costs. The Board continues to address the additional priorities identified in the May 2010 report to Congress.

### **Court Actions**

The Office of the General Counsel is responsible for defending the Board’s decisions in the federal appellate courts.

Texas Municipal Power Agency and BNSF settled their rate litigation arising out of the Board’s decision in *Texas Municipal Power Agency v. Burlington Northern Santa Fe Railway Company*, Docket No. NOR 42056 after the Board filed its brief in court. In that decision, the Board found that an expired rate prescription did not apply to the defendant railroad.

Cargill, Inc. voluntarily dismissed the appeal it had filed in court challenging the Board’s decision in *Cargill, Inc. v. BNSF Railway Co.*, Docket No. NOR 42120, finding that a shipper had failed to show that a carrier’s fuel surcharge constituted an unreasonable practice.

The Board successfully defended its decision in *Alaska Railroad Corporation—Construction and Operation Exemption—A Rail Line Extension to Port MacKenzie, Alaska*, Docket No. FD 3509. In FY 2012, the Board gave approval to Alaska Railroad Corporation (ARRC, a state-owned railroad) to build and operate about 35 miles of new rail line in Alaska, but the decision was challenged in court. Early on, the court stayed the Board’s decision, which meant that construction could not begin on the

project. After hearing oral argument, the court lifted the stay in November 2012, allowing the project to move forward, and it later affirmed the Board's decision authorizing the construction.

The Board also successfully defended its decision in *Chesapeake RR—Certificate of Interim Trail Use and Termination of Modified Rail Certificate*, Docket No. FD 32609. In that decision, the Board denied Maryland Transit Administration's attempt to convert a dormant railroad line into a recreational trail. The court held that the Board properly concluded that MTA's agreements with prospective trail sponsors did not satisfy the National Trails System Act's requirement that sponsors assume full responsibility for any liability or else indemnify MTA for any potential liability arising out of the use of the line as a recreational trail.

The Board successfully defended its decisions in *Norfolk S. Ry—Petition for Exemption—In Baltimore City & Baltimore County, MD*, Docket No. AB 290, in which the Board authorized abandonment of a freight rail line and exempted the line from the "offer of financial assistance" process, and in *Conrail—Abandonment Exemption—Philadelphia, PA*, Docket No. AB 167, in which the Board rejected late-filed and incomplete offers of financial assistance pertaining to a long defunct line of railroad in Philadelphia, PA.

The Board's decision in *Western Fuels Ass'n. v. BNSF Railway Company*, Docket No. NOR. 42088 (served June 15, 2012), declining to adopt a newly presented

revenue allocation approach, was set aside by a 3-judge court.

The Board is defending its decision in *Canadian National Ry. Co. and Grand Trunk Corp.—Control—E.J.&E West Co.*, Docket No. FD 35087, denying the town of Barrington's request that the merger parties be required to fund the construction of an additional grade separation as an additional merger mitigation term. That case has been briefed and argued and is awaiting a court decision.

The Board is defending the modifications to its rate regulation processes in *Rate Regulation Reforms*, Docket No. EP 715, described in more detail earlier.

The Board is defending its decisions in *Arizona Electric Power Cooperative, Inc. v. BNSF Railway Company and Union Pacific Railroad Company*, Docket No. NOR. 42113 (served Nov. 22, 2011), and *Arizona Electric Power Cooperative, Inc. v. BNSF Railway Company and Union Pacific Railroad Company*, Docket No. NOR. 42113 (served May 22, 2012), in which the agency found that a rate charged jointly by two rail carriers was unlawfully high, but that the carriers could charge separate "proportional" rates in the future as long as the total charges do not exceed the prescribed rate.

The Board is defending its decision in *Total Petrochemicals & Refining USA, Inc. vs. CSX Transportation*, Docket No. NOR 42121, concluding that the defendant railroad possessed market dominance with respect to certain of the challenged rates.

## **Amtrak and Passenger Rail**

During FY 2013, the Board continued work on implementing its passenger rail responsibilities.

The Board's staff made seven inspection trips on various Amtrak routes in FY 2013. The Board monitored Amtrak delays in Orlando caused by construction of the SunRail commuter rail system, which led to subsequent improvement in Amtrak's on-time performance metrics. The Board is also monitoring Amtrak delays on all railroads that host Amtrak.

The Board's staff also met with five of the six Class I railroads that host Amtrak to conduct fact-finding on their relationships with Amtrak and on the sources of Amtrak train delays. The Board's staff reviewed carrier practices and related reporting as part of an effort to obtain understanding of the data flow processes and communications between Amtrak and its host railroads.

STB staff monitored Amtrak performance through publicly available information, and responded to informal inquiries about Amtrak and PRIIA as needed. Board staff also met monthly with Amtrak staff to discuss Amtrak's publicly available monthly on-time performance operating statistics.

In FY 2013, the Board continued to be a forum for advice on implementation of the cost allocation formula for Amtrak's state-sponsored routes, which the Board approved in FY 2012 (*Amtrak Petition for Determination of PRIIA Section 209 Cost Methodology*, Docket No. FD 35571). One state agency and Amtrak have since brought

a dispute to the Board, for resolution of one cost item under the approved methodology. (*Capital Corridor Joint Powers Authority And National Railroad Passenger Corporation--Petitions For Declaratory Order--PRIIA Section 209 Cost Allocation Methodology Implementation*, Docket No. FD 35790).

The Board mediated another case filed under PRIIA (*National Railroad Passenger Corporation—Section 213 Investigation of Substandard Performance on Rail Lines of Canadian National Railway Company*, Docket No. NOR 42134). Here, Amtrak filed a complaint seeking Board action on alleged substandard performance on routes over CN. Amtrak and CN conducted discovery, engaged in Board-sponsored mediation, and engaged in private settlement negotiations.

The Board utilized its existing staff to address its Amtrak responsibilities, but it has had to restrict its oversight because of limited financial resources.

PRIIA authorized the STB to hire 15 people to handle the agency's PRIIA responsibilities, but the Board received no annualized appropriated funds for this program since it was enacted in 2008.

## **Advisory Committees**

The Board hosted meetings for three transportation advisory councils, of which the three Board members are ex-officio members.

Established in 1996 by Congress, the Railroad-Shipper Transportation Advisory Council (RSTAC) comprises rail

stakeholders with the common goal of strengthening the national rail industry, improving service levels, and fostering mutually beneficial relations between large and small railroads and shippers across all commodity groups. The RSTAC advises the STB, the Secretary of Transportation, and congressional committees on rail transportation policy and also makes recommendations for improvements in the transportation system. The RSTAC comprises 14 private-sector senior executives representing large and small railroads and rail customers. In addition, one member-at-large sits on the council.

The Board created the Rail Energy Transportation Advisory Committee (RETAC) in 2007 to provide advice and guidance to the agency. RETAC serves as a forum for discussing emerging issues concerning the rail transportation of energy resources such as coal, ethanol, and other biofuels. The 23 voting members of RETAC represent a balance of stakeholders, including large and small railroads, coal producers, electric utilities, the biofuels industry, and the private railcar industry.

The National Grain Car Council (NGCC) assists the Board in addressing problems concerning grain transportation by fostering communication among railroads, shippers, rail-car manufacturers, and government. The NGCC consists of 14 representatives from Class I railroads, 7 from Class II and Class III railroads, 14 from grain shippers and receivers, and five from private rail car owners and manufacturers.



# Exhibits



**FY 2015 OMB Budget Justification  
Workload Summary<sup>1</sup>**

<b>Workload Category</b>	<b>Actual<sup>1</sup> FY 2013 Board Decisions and Court-related Work</b>	<b>Estimated<sup>2</sup> FY 2014 Board Decisions and Court-related Work</b>	<b>Estimated<sup>2</sup> FY 2015 Board Decisions and Court-related Work</b>
Rail Carrier Control Cases	38	57	57
Rail Rates and Service	53	82	82
Rail Abandonments and Constructions	295	401	401
Other Line Transactions	137	157	157
Other Rail Activities	45	64	64
Non-Rail Activities	22	24	24
Activities Under Non-Transportation Statutes <sup>2</sup>	581	581	581
<b>Total</b>	<b>1,171</b>	<b>1,366</b>	<b>1,366</b>

<sup>1</sup> The Table reports the number of decisions, court-related work, and activities to comply with non-transportation-related statutes as the measure of workload at the Board. Certain activities performed at the Board that provide direct and indirect support for rulemakings and decisions in specific cases are not reflected in these workload numbers. Such activities not reflected include: enforcement activities; rail audits and rail carrier reporting oversight; administration of the rail waybill sample and development of the Uniform Railroad Costing System; and case-related correspondence and informal public assistance.

<sup>2</sup> In recent years, these activities, involving statutes such as the Freedom of Information Act and the laws governing ethical conduct of Federal employees, were included in this Summary as Non-Rail Activities.

## SURFACE TRANSPORTATION BOARD

## SALARIES AND EXPENSES

OBJECT CLASSIFICATIONS  
(in thousands of dollars)

OBJECT CLASS	FY 2013 ACTUAL	FY 2014 APPROPRIATION	FY 2015 REQUEST
PERSONNEL COMPENSATION			
11.10 FULL TIME PERMANENT APPT.	15,383.0	15,527.0	18,916.0
11.30 OTHER THAN FULL-TIME PERMANENT	547.0	753.0	753.0
11.50 OTHER PERSONNEL COMPENSATION	52.0	262.0	689.0
11.90 TOTAL PERSONNEL COMPENSATION	15,982.0	16,542.0	20,358.0
12.10 CIVILIAN PERSONNEL BENEFITS	4,427.0	4,435.0	5,426.0
13.00 BENEFITS FOR FORMER PERSONNEL	0.0	0.0	0.0
21.00 TRAVEL AND TRANSPORTATION OF PERSONS	59.0	92.0	162.0
22.00 TRANSPORTATION OF THINGS	6.0	6.0	11.0
23.10 RENTAL PAYMENTS TO GSA	3,592.0	3,676.0	3,870.0
23.30 COMMUNICATIONS, UTILITIES, MISCELLANEOUS CHARGES	175.0	174.0	234.0
24.00 PRINTING AND PRODUCTION	0.0	0.0	8.0
25.20 OTHER SERVICES	351.0	2,411.0	564.0
25.30 PURCHASES OF GOODS FROM GOVERNMENT ACCOUNTS	1,349.0	1,543.0	1,623.0
26.00 SUPPLIES AND MATERIALS	382.0	347.0	391.0
31.00 EQUIPMENT	625.0	524.0	514.0
42.00 INDEMNITIES-OTHER PAYMENTS	0.0	0.0	0.0
99.00 SUBTOTAL, DIRECT OBLIGATIONS:	26,948.0	29,750.0	33,161.0
REIMBURSABLE OBLIGATIONS:			
11.10 REIMBURSABLE FULL TIME PERMANENT APPT.	584.0	969.0	989.0
12.10 REIMBURSABLE PERSONNEL BENEFITS	156.0	281.0	261.0
99.00 SUBTOTAL, REIMBURSABLE OBLIGATIONS	740.0	1,250.0	1,250.0
99.90 TOTAL OBLIGATIONS	27,688.0	31,000.0	34,411.0

## SURFACE TRANSPORTATION BOARD

## SALARIES AND EXPENSES

## PERSONNEL SUMMARY

Object Class	FY 2013 ACTUAL	FY 2014 APPROPRIATION	FY 2015 REQUEST
1001 FULL-TIME EQUIVALENT-DIRECT	128	147	161
2001 FULL-TIME EQUIVALENT-REIMBURSABLE	8	9	9
FULL-TIME EQUIVALENT (FTE) TOTAL	136	156	170

**Surface Transportation Board  
Strategic Goals and Annual Performance Measures**

<b>Strategic Goal</b>	<b>Performance Goal</b>	<b>Performance Measure</b>	<b>2013 Actual</b>	<b>2014 Target</b>	<b>2015 Target</b>
Protect Public Interest	Ensure that all alternatives to formal litigation are pursued and ensure that Board decisions are fair and reasonable.	1. 5% or less of Board's decisions are challenged in court; 2. 75% or more of Board's decisions are upheld when subjected to court challenge; 3. All decisions, notices, and other documents are published and served promptly and copies made available to the public the same day; and 4. Congressional and public e-mail and telephone inquiries are fully answered within 14 days.	5.5% 100% 100% 99%	<5% >75% 90% 90%	<5% >75% 90% 90%
Foster Economic Efficiencies	Economic Oversight: Provide timely, accurate, and useful financial and operational data and decisions.	5. Cost of capital, rail revenue adjustments, and revenue adequacy decisions are released according to schedule, and 6. Requests for waybill data are handled within 7 days of requests.	100% 100%	100% 100%	100% 100%
Provide Timely, Efficient, and Decisive Regulatory Process	Ensure Board decisions comport with statutes, precedents, and policies.	7. Board's decisions on railroad abandonments are issued within 110 days of initial filing; 8. Statutory deadlines imposed on all cases are met at least 90% of the time; and 9. Met dispute resolution deadlines 90% of time; 10. Docket management – percentage of cases completed relative to number of cases filed the prior year.	100% 100% 100% 95%	90% 90% 90% 100%	90% 90% 90% 100%
Ensure Necessary Organization/ Management Structure is Available to Carry Out First Three Goals	Operation Oversight/Enforcement: Monitoring rail operations, resolving complaints, and contracts.	11. 90% of informal complaints are handled within 30 days of receipt; 12. Data is collected and processed within 24 hours; 13. 90% of requestors are given correct information and complaint resolved; and 14. Requests for certified copies of documents are handled within 5 business days.	99% 98% 99% 2.5 days	90% 90% 90% 5 days	90% 90% 90% 5 days



SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109 ~~\$31,000,000~~ \$34,411,000: *Provided*, That notwithstanding any other provision of law, not to exceed \$1,250,000 from fees established by the Chairman of the Surface Transportation Board shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further*, That the sum herein appropriated from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year ~~2014~~ 2015, to result in a final appropriation from the general fund estimated at no more than ~~\$29,750,000~~ \$33,161,000.

**SURFACE TRANSPORTATION BOARD  
SALARIES AND EXPENSES  
10-YEAR TABLE**

ESTIMATES			APPROPRIATIONS		
2005.....	<sup>1</sup>	21,283,000	2005.....	<sup>2</sup>	21,069,400
2006.....	<sup>1</sup>	26,622,000	2006.....	<sup>3</sup>	26,198,000
2007.....	<sup>1</sup>	25,618,000	2007.....	<sup>1</sup>	26,324,501
2008.....	<sup>1</sup>	26,495,000	2008.....	<sup>1</sup>	26,324,500
2009.....	<sup>1</sup>	26,847,000	2009.....	<sup>1</sup>	26,847,000
2010.....	<sup>4</sup>	29,800,000	2010.....	<sup>1</sup>	29,066,000
2011.....	<sup>5</sup>	33,749,000	2011.....	<sup>6</sup>	29,010,368
2012.....	<sup>7</sup>	34,708,000	2012.....	<sup>1</sup>	29,310,000
2013.....	<sup>8</sup>	34,592,000	2013.....	<sup>10</sup>	27,779,794
2014.....	<sup>9</sup>	34,284,000	2014.....	<sup>1</sup>	31,000,000
2015.....	<sup>9</sup>	34,411,000			

<sup>1</sup> Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>2</sup> Reflects reduction of \$19,000 for TASC (P.L. 108-447, Div. H, Title I, sec.197) and reduction of \$161,600 for across-the-board rescission (P.L. 108-447, Div. J, Title I, sec. 122). Includes \$1,050,000 from offsetting collections as a credit to the appropriation.

<sup>3</sup> Reflects reduction of \$252,000 for across-the-board rescission (P.L. 109-148, Title III, Chap. 8, sec. 3801). Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>4</sup> Includes \$500,000 for the update of URCS and \$746,000 to implement the Board's expanded jurisdiction with respect to regulation of passenger rail service under the Passenger Rail Investment and Improvement Act of 2008, P.L. 110-432. Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>5</sup> Includes \$1,000,000 to continue the multi-year review of URCS, \$500,000 to overhaul the Board's information technology and decade-old docket management systems, and \$2,000,000 for an additional 10 FTEs to staff the Board's Rail Consumer and Public Assistance Program. Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>6</sup> Reflects reduction of \$55,632 for across-the-board rescission (P.L. 112-10, Div. B, Title I, 1119 (a)). Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>7</sup> Includes funding for 15 FTEs to carry out the statutory responsibilities of PRIIA, funding for 6 FTEs to increase mediation efforts and enhance the auditing of industry financial filings, and \$743,000 to overhaul the Board's information technology system and upgrade outdated equipment. Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>8</sup> Includes funding for 15 FTEs to carry out the statutory responsibilities of PRIIA and funding for 6 FTEs to increase mediation efforts and enhance the auditing of industry financial filings. Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>9</sup> Includes funding for 15 FTEs to carry out the statutory responsibilities of PRIIA and funding for 6 FTEs to increase mediation efforts, enhance the auditing of industry financial filings, and help process rate reasonableness cases. Includes \$1,250,000 from offsetting collections as a credit to the appropriation.

<sup>10</sup> Reflects reduction of \$56,120 for across-the-board rescission (P.L. 113-6, Division G, Sec. 304 ( c ) (1), as supplemented by OMB BDR 13-19, Attachment J). Also reflects permanent reduction of funds in accordance with Presidential Sequestration Order dated March 1, 2013. The FY 2013 sequestration resulted in reduction of \$1,411,586 in spending authority and additional reduction from offsetting collections of \$62,500. Includes \$1,187,500 from offsetting collections as a credit to the appropriation.

**SURFACE TRANSPORTATION BOARD  
FY 2015 COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY**

*(in thousands of dollars)*

ACCOUNT NAME	FY 2013 ACTUAL	FY 2014 APPROPRIATION	FY 2015 TOTAL REQUEST
<b>SALARIES &amp; EXPENSES</b>	\$26,948	\$29,750	\$33,161
<b>OFFSETTING COLLECTIONS</b>	\$740	\$1,250	\$1,250
<b>TOTAL - APPROPRIATIONS</b>	\$27,688	\$31,000	\$34,411

**EXPLANATION**

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The Board seeks to bolster its staff to process its rate case docket, which has grown in recent years. The Board needs additional staff to carry out its statutory obligations under the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), including PRIIA cases that come to the agency. The Board also needs additional staff to more closely review the data that are submitted by the railroads, particularly given the increasingly complex corporate structure of railroads. For example, recently, BNSF, one of the nation's largest railroads, was acquired and is no longer publicly traded. The Board needs to be able to scrutinize and verify the data it collects from all railroads, given that these data form the basis of several important regulatory determinations. In addition, the Board sees increasing its mediation efforts as a lower-cost way of dealing with the increasing number and complexity of cases filed each year. Settling disputes through mediation saves stakeholders time and money and allows Board staff to focus on the most difficult cases.

The FY 2014 and FY 2015 request does not include any future legislative changes that could vest the Board with additional statutory responsibilities.

**SURFACE TRANSPORTATION BOARD  
FY 2015 TOTAL BUDGETARY RESOURCES BY APPROPRIATION ACCOUNT**

**Appropriations, Obligation Limitations, and Exempt Obligations  
(in thousands of dollars)**

	<b>FY 2013 ACTUAL</b>	<b>FY 2014 APPROPRIATION</b>	<b>FY 2015 PROGRAM CHANGES</b>	<b>TOTAL REQUEST</b>
<b>SALARIES &amp; EXPENSES</b>	\$26,948	\$29,750	\$3,411	\$33,161
<b>OFFSETTING COLLECTIONS</b>				
Users Fees Credited to Appropriation	\$740	\$1,250	\$0	\$1,250
<b>TOTAL</b>	\$27,688	\$31,000	\$3,411	\$34,411

**EXPLANATION**

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The Board seeks to bolster its staff to process its rate case docket, which has grown in recent years. The Board needs additional staff to carry out its statutory obligations under the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), including PRIIA cases that come to the agency. The Board also needs additional staff to more closely review the data that are submitted by the railroads, particularly given the increasingly complex corporate structure of railroads. For example, recently, BNSF, one of the nation's largest railroads, was acquired and is no longer publicly traded. The Board needs to be able to scrutinize and verify the data it collects from all railroads, given that these data form the basis of several important regulatory determinations. In addition, the Board sees increasing its mediation efforts as a lower-cost way of dealing with the increasing number and complexity of cases filed each year. Settling disputes through mediation saves stakeholders time and money and allows Board staff to focus on the most difficult cases.

The FY 2014 and FY 2015 request does not include any future legislative changes that could vest the Board with additional statutory responsibilities.

**SURFACE TRANSPORTATION BOARD**  
**FY 2015 BUDGET REQUEST BY STRATEGIC GOAL AND PERFORMANCE GOAL**  
**Appropriations, Obligations Limitations, and Exempt Obligations**  
*(in thousands of dollars)*

DOT Outcome-Strategic & Performance Goals by Performance Measure	FY 2013 ACTUAL	FY 2014 APPROPRIATION	TOTAL FY 2015 REQUEST
1. SAFETY STRATEGIC GOAL A.			
<b>Total - Safety Strategic Goal</b>	\$0	\$0	\$0
2. STATE OF GOOD REPAIR A.			
<b>Total - State of Good Repair</b>	\$0	\$0	\$0
3. ECONOMIC COMPETITIVENESS Salaries and Expenses	\$26,948	\$29,750	\$33,161
Offsetting Collections	\$740	\$1,250	\$1,250
<b>Total - Economic Competitiveness</b>	\$27,688	\$31,000	\$34,411
4. LIVABLE COMMUNITIES A.			
<b>Total - Livable Communities</b>	\$0	\$0	\$0
5. ENVIRONMENTAL SUSTAINABILITY A.			
<b>Total - Environmental Sustainability</b>	\$0	\$0	\$0
6. ORGANIZATIONAL EXCELLENCE A.			
<b>Total - Organizational Excellence</b>	\$0	\$0	\$0
<b>GRAND TOTAL</b>	<b>\$27,688</b>	<b>\$31,000</b>	<b>\$34,411</b>



**SURFACE TRANSPORTATION BORD**  
**FY 2015 BUDGET REQUEST BY DOT OUTCOMES**  
*(in thousands of dollars)*

DOT Outcome	Program	FY 2015 Request
<b>SAFETY</b>		
<b>STATE OF GOOD REPAIR</b>		
<b>ECONOMIC COMPETITIVENESS</b>		
Maximize economic returns	Salaries and Expenses	\$33,161
Competitive transportation system		
Advance U.S. transportation interests around the world	Offsetting Collections	\$1,250
Expanded opportunities for businesses		
Other		
<b>LIVABLE COMMUNITIES</b>		
<b>ENVIRONMENTAL SUSTAINABILITY</b>		
<b>ORGANIZATIONAL EXCELLENCE</b>		
<b>OVERHEAD PROGRAMS/FUNCTIONS</b>		
<b>DISTRIBUTED TO PROGRAMS</b>		
<b>TOTAL</b>		<b>\$34,411</b>

**SURFACE TRANSPORTATION BOARD  
FY 2015 BUDGET AUTHORITY**

*(in thousands of dollars)*

ACCOUNT NAME	FY 2013 ACTUAL	FY 2014 APPROPRIATIONS	FY 2015 PROGRAM CHANGES	FY 2015 TOTAL REQUEST
<b>SALARIES &amp; EXPENSES</b>	\$26,948	\$29,750	\$3,411	\$33,161
<b>OFFSETTING COLLECTIONS</b>				
Users Fees Credited to Appropriation	\$740	\$1,250	\$0	\$1,250
<b>TOTAL</b>	\$27,688	\$31,000	\$3,411	\$34,411

**EXPLANATION**

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The Board seeks to bolster its staff to process its rate case docket, which has grown in recent years. The Board needs additional staff to carry out its statutory obligations under the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), including PRIIA cases that come to the agency. The Board also needs additional staff to more closely review the data that are submitted by the railroads, particularly given the increasingly complex corporate structure of railroads. For example, recently, BNSF, one of the nation's largest railroads, was acquired and is no longer publicly traded. The Board needs to be able to scrutinize and verify the data it collects from all railroads, given that these data form the basis of several important regulatory determinations. In addition, the Board sees increasing its mediation efforts as a lower-cost way of dealing with the increasing number and complexity of cases filed each year. Settling disputes through mediation saves stakeholders time and money and allows Board staff to focus on the most difficult cases.

The FY 2014 and FY 2015 request does not include any future legislative changes that could vest the Board with additional statutory responsibilities.

**SURFACE TRANSPORTATION BOARD  
FY 2015 OUTLAYS**

*(in thousands of dollars)*

ACCOUNT NAME	FY 2013 ACTUAL	FY 2014 APPROPRIATIONS	FY 2015 REQUEST
<b>SALARIES &amp; EXPENSES</b>	\$28,012	\$29,470	\$33,148
<b>OFFSETTING COLLECTIONS</b>			
Users Fees Credited to Appropriation	\$740	\$1,250	\$1,250
<b>TOTALS</b>	\$28,752	\$30,720	\$34,398

**EXPLANATION**

Past fiscal years' appropriation acts have included a provision allowing user fee collections to be credited to the appropriation as offsetting collections thereby reducing the amount appropriated and the budget authority.

The Board seeks to bolster its staff to process its rate case docket, which has grown in recent years. The Board needs additional staff to carry out its statutory obligations under the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), including PRIIA cases that come to the agency. The Board also needs additional staff to more closely review the data that are submitted by the railroads, particularly given the increasingly complex corporate structure of railroads. For example, recently, BNSF, one of the nation's largest railroads, was acquired and is no longer publicly traded. The Board needs to be able to scrutinize and verify the data it collects from all railroads, given that these data form the basis of several important regulatory determinations. In addition, the Board sees increasing its mediation efforts as a lower-cost way of dealing with the increasing number and complexity of cases filed each year. Settling disputes through mediation saves stakeholders time and money and allows Board staff to focus on the most difficult cases.

The FY 2014 and FY 2015 request does not include any future legislative changes that could vest the Board with additional statutory responsibilities.

**SURFACE TRANSPORTATION BOARD  
SUMMARY OF REQUESTED FUNDING CHANGES FROM BASE**

Appropriations, Obligation Limitations, and Exempt Obligations  
(in thousands of dollars)

**SALARIES AND EXPENSES**

	FY 2014 Appropriation	Baseline Changes							FY 2015 Baseline Estimate	Program Increases/ Decreases	FY 2015 Request
		Annualization of 2014 Pay Raises	Annualization of 2014 FTE	2015 Pay Raises	One Additional Compensable Day	GSA Rent	WCF Increase/ Decrease	Inflation/ Deflation			
<b>DIRECT</b>											
<u>Personnel Resources</u>	147								0	0	0
Direct FTE	9								0		0
<u>Financial Resources</u>											
Salaries and Benefits	\$20,978	\$173		\$175					\$21,326	\$3,173	\$24,499
Travel	\$92								\$92		\$92
Transportation	\$6								\$6		\$6
GSA Rent	\$3,676							\$3	\$3,679		\$3,679
Communications & Utilities	\$174							\$8	\$182	\$0	\$182
Printing	\$0								\$0		\$0
Other Services:											
WCF	\$241						\$0		\$241		\$241
Other	\$3,712								\$3,712	-\$226	\$3,486
Supplies	\$347							\$8	\$355		\$355
Equipment	\$524								\$524	\$97	\$621
<b>Total</b>	\$29,750	\$173	\$0	\$175	\$0	\$0	\$0	\$19	\$30,117	\$3,044	\$33,161
<b>REIMBURSABLE</b>											
<u>Personnel Resources</u>	9										9
Reimbursable FTE	9										9
<u>Financial Resources</u>											
Salaries and Benefits	\$1,250								\$1,250		\$1,250
<b>TOTALS</b>											
FTE	156								156	14	170
Budgetary Resources	\$31,000	\$173	\$0	\$175	\$0	\$0	\$0	\$19	\$31,367	\$3,044	\$34,411

**SURFACE TRANSPORTATION BOARD  
WORKING CAPITAL FUND**

*(in thousands of dollars)*

ACCOUNT NAME	FY 2014 APPROPRIATION	FY 2015 REQUEST	CHANGE
<b>DIRECT</b>			
<b>SALARIES &amp; EXPENSES</b>	\$241	\$241	\$0
<b>TOTALS</b>	\$241	\$241	\$0



**SURFACE TRANSPORTATION BOARD  
PERSONNEL RESOURCE - SUMMARY  
TOTAL FULL-TIME EQUIVALENTS**

	<b>FY 2013 ACTUAL</b>	<b>FY 2014 APPROPRIATION</b>	<b>FY 2015 REQUEST</b>
<b><u>DIRECT FUNDED BY APPROPRIATION</u></b>			
SALARIES & EXPENSES			
Civilian	128	147	161
<b>SUBTOTAL, DIRECT FUNDED</b>	128	147	161
<b><u>REIMBURSEMENTS/ALLOCATIONS/OTHER</u></b>			
OFFSETTING COLLECTIONS			
Civilian	8	9	9
<b>SUBTOTAL, REIMBURSEMENTS/OFFSETTING COLLECTIONS</b>	8	9	9
<b>TOTAL FTEs</b>	136	156	170

**EXPLANATION**

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**SURFACE TRANSPORTATION BOARD  
RESOURCE SUMMARY - STAFFING  
FULL-TIME PERMANENT POSITIONS**

	<b>FY 2013 ACTUAL</b>	<b>FY 2014 APPROPRIATION</b>	<b>FY 2015 REQUEST</b>
<b><u>DIRECT FUNDED BY APPROPRIATION</u></b>			
SALARIES & EXPENSES			
Civilian	128	147	161
<b>SUBTOTAL, DIRECT FUNDED</b>	128	147	161
<b><u>REIMBURSEMENTS/ALLOCATIONS/OTHER</u></b>			
OFFSETTING COLLECTIONS			
Civilian	8	9	9
<b>SUBTOTAL, REIMBURSEMENTS/OFFSETTING COLLECTIONS</b>	8	9	9
<b>TOTAL POSITIONS</b>	136	156	170

**EXPLANATION**

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**SURFACE TRANSPORTATION BOARD  
SUMMARY BY PROGRAM ACTIVITY**

**Appropriations, Obligation Limitations, and Exempt Obligations  
(in thousands of dollars)**

<b>PROGRAM ACTIVITIES</b>	<b>FY 2013 ACTUAL</b>	<b>FY 2014 APPROPRIATION</b>	<b>FY 2015 REQUEST</b>	<b>CHANGES FY 2014-2015</b>
<b>SALARIES &amp; EXPENSES</b>	\$26,948	\$29,750	\$33,161	\$3,411
<b>OFFSETTING COLLECTIONS</b>	\$740	\$1,250	\$1,250	\$0
<b>TOTAL</b>	\$27,688	\$31,000	\$34,411	\$3,411
<b>FTE (direct funded only)</b>	128	147	161	14
<b>FTE (reimbursable funded only)</b>	8	9	9	0
<b>TOTAL</b>	136	156	170	14

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**SURFACE TRANSPORTATION BOARD**  
**SUMMARY ANALYSIS OF CHANGE FROM FY 2014 TO FY 2015**  
**Appropriations, Obligation Limitations, and Exempt Obligations**

(in thousands of dollars)

	Change from FY 2014 to FY 2015 DOLLARS	Change from FY 2014 to FY 2015 FTE
<b>FY 2014 Base (Board's Budget Request)</b>		
Salaries and Expenses	\$29,750	147
<b>Adjustments to Base</b>		
Pay Raise	\$348	
Inflation	\$19	
Working Capital Fund	\$0	
<b>Subtotal, Adjustments to Base</b>	\$367	
<b>Program Increase</b>	\$3,044	
<b>Subtotal, Program Increase</b>	\$3,411	14
<b>Reimbursable-Offset Collections</b>	\$1,250	9
<b>TOTAL FY 2015 REQUEST</b>	<b>\$34,411</b>	<b>170</b>

**EXPLANATION**

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# **STB Board Members' Statements**





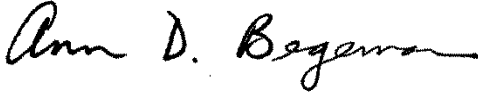
**DISSENT OF VICE CHAIRMAN BEGEMAN  
ON PROPOSED STB BUDGET  
FOR FISCAL YEAR 2015**

I dissent from the Board's Fiscal Year 2015 Budget Request.

I continue to believe the Board must dedicate more attention and resources to improve the timeliness of its adjudication processes. Unfortunately, the vast majority of this requested budget increase would not be directed toward what I view should be the Board's top priorities. Instead, it largely repeats the same requests for increased staffing and travel as the Board has sought in the past several years, although this time seeks to double its travel budget.

While I do not dispute the need to fulfill the Board's obligations under PRIIA, we must recognize that the extent of those duties has been called into question by ongoing litigation. Yet, here we are repeating the same request for 15 additional FTEs for PRIIA alone, when we have so many other responsibilities in need of greater attention, including processing our rate docket and resolving pending cases and rulemakings in a more timely manner.

Given the nation's growing national debt, slow economic recovery, and other significant fiscal challenges, including an unprecedented budget sequestration, the Board needs to reorder its priorities here to ensure that its resources are directed in the areas of most pressing need.



Vice Chairman  
September 5, 2013