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ADVISORY · OPERATIONS · IN THE FIELD

THE RATE · READ 21 RUN SHEET

The working pages of Read 21, for whoever runs them on the property.
The section numbers are the Read's.

ISSUED BY
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§ 02 THE SEVEN, ON EACH SIDE

RUN THEM ON YOUR OWN SIDE · YOUR SCORE IS THE READING

THE BAND · READ THIS FIRST

	THE NUMBER	WHOSE IT IS	WHAT IT DECIDES
01	THE COST OF RUNNING THE MOVE	The railroad's: crew, fuel, locomotive, car and switching, per car	The floor of the band, for the train
02	THE COST OF THE TRACK IT RUNS ON	The railroad's: maintenance and renewal, spread over the cars that use the line	The floor of the band, for the line
03	THE CUSTOMER'S NEXT BEST WAY	The customer's: truck, transload or another railroad, landed at his door	The ceiling of the band
04	THE RATE	Set by the railroad, under tariff or contract, alone or with its connection	Where in the band the move sits
05	THE SHORT LINE'S SHARE	Set between the railroads, as a division or as its own rate for its own part	Whether the floor is covered where the car is switched
06	THE SERVICE	Written in the contract, in the tariff, or nowhere	What the rate actually buys

RULE Two of the numbers are the railroad's and one is the customer's. The rate is right only between them.

THE RAILROAD'S SEVEN · THE SIDE THAT SETS IT

	THE QUESTION	WHAT YOU ARE LOOKING FOR, AND WHAT A BAD ANSWER MEANS
01	WHAT DOES EACH MOVE COST YOU PER CAR, AND DOES THAT COST INCLUDE THE TRACK IT RUNS OVER?	Take your ten largest moves and cost each one per car: the crew's time, the fuel, the locomotive, the car hire and the switching at each end. Then add what the line under them costs to keep, spread over the cars that use it: ties, rail, surfacing, bridges, inspection. The statute's own measure of an adequate revenue level for a railroad as a whole covers "total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business" (49 U.S.C. 10704(a)(2)); each move's rate carries some share of that. **A rate built on the train's cost and not the track's spends the line a tie at a time.**
02	WHAT DOES EACH CUSTOMER'S FREIGHT COST HIM BY THE NEXT BEST WAY, LANDED AT HIS DOOR, AND WHEN DID YOU LAST ASK HIM?	The ceiling is the customer's number: the truck rate, the transload handling and drayage, or another railroad's rate, with the transit time and inventory each one costs him. The statute calls the absence of that choice market dominance, "an absence of effective competition from other rail carriers or modes of transportation for the transportation to which a rate applies" (49 U.S.C. 10707(a)). Ask the customer; if he has not priced it, The Captive Shipper (Door 4) shows him how. **A railroad that does not know the ceiling learns it when the car goes to the highway.**

	THE QUESTION	WHAT YOU ARE LOOKING FOR, AND WHAT A BAD ANSWER MEANS
03	WHICH OF YOUR RATES ARE TARIFF, WHICH ARE CONTRACT AND WHICH ARE EXEMPT, AND WHO IS OWED NOTICE BEFORE EACH ONE CHANGES?	A common carrier rate cannot rise, nor its service terms change (other than by a change equivalent to a rate reduction), until 20 days after written or electronic notice to anyone who formally asked for it, or arranged a future shipment under it, in the past 12 months (49 U.S.C. 11101(c); 49 CFR 1300.4(a)), and the notice "must clearly identify the increases in rates or charges or the changes in service terms" (49 CFR 1300.4(d)). Contract traffic is outside those rules (1300.1(c)), and so is traffic the Board has exempted from them, which takes in, among others, boxcar traffic, intermodal traffic, farm products other than grain, soybeans and sunflower seeds, and a list of other commodities (1300.1(d); 1039.10, 1039.11, 1039.13, 1039.14). **A railroad that cannot say which rule governs each rate cannot say whom it owes a letter.**
04	WHAT IS YOUR SHARE OF EACH THROUGH RATE, HOW WAS IT SET, AND WHEN WAS IT LAST READ?	For each interline move, write the through rate, your share of it and how the share is set: a division of one joint rate, or your own rate for your own part, billed separately under the industry's Rule 11. Then write the date it was set, and the date anyone last read it against your cost. Divisions must be reasonable, and a railroad may not discriminate in its rates against a connecting line (49 U.S.C. 10701(a), (b)). **A division set when the line was sold and never reopened is a price nobody has read.**
05	DOES ANYTHING IN YOUR LEASE, PURCHASE OR INTERCHANGE AGREEMENT LIMIT WHERE YOUR TRAFFIC CAN GO, OR WHAT YOU EARN IF IT GOES ELSEWHERE?	Look for what the Board calls an interchange commitment, a provision that "may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means" (49 CFR 1150.43(h)(1)). A filing under the Board's exemptions for acquiring or leasing a line must say whether one exists, and where one does, the filer must notify the shippers that used the line in the past two years (1150.33(h), 1150.43(h)). **A line that can reach only one connection takes its through rate from that connection.**
06	WHEN A RATE RISES, WHO IS TOLD, HOW FAR AHEAD, AND WHAT DOES THE SAME LETTER SAY ABOUT SERVICE?	Pull the last three rate letters. Each should name the move, the old rate and the new, the date it takes effect and the reason, and it should reach every customer owed notice at least 20 days ahead (1300.4(a)). Then read what each one says about service: the window, the car supply, the track. The customer reads the rise and the service in the same letter, or he reads only the rise. **A rate letter with no service line in it reads as a bill.**
07	WHICH CUSTOMERS WOULD THE NEXT INCREASE COST YOU, AND WHAT WAS THEIR TRAFFIC PAYING TOWARD THE TRACK?	For each customer, set the rate you plan beside the ceiling from question 02. Where the new rate crosses it, the car goes, and what that car paid toward the line lands on every customer who stays. Not every lever is the rate: a short line may assign miles of its track, for the track maintenance credit, to a shipper on its line, once a year, and the shipper can then claim the credit on qualified maintenance it pays for or incurs (26 U.S.C. 45G(a), (b)(2), (c)(2)). **A rate that prices a customer off the line raises the cost of the line for everyone left on it.**
RULE		The floor is yours to know and the ceiling is the customer's to tell. Price between them, or price the line away.

THE CUSTOMER'S SEVEN · THE SIDE THAT PAYS IT

	THE QUESTION	WHAT YOU ARE LOOKING FOR, AND WHAT A BAD ANSWER MEANS
01	WHAT DO YOU PAY PER CAR, ALL IN, AND DOES EVERY CHARGE ON THE BILL TRACE TO A RATE OR A TERM YOU WERE GIVEN?	Take a year of freight bills and put every line on one page per car: the base rate, the fuel surcharge, switching, demurrage and storage, and anything else. On a formal request a railroad must disclose "the specific rate(s) requested (or the basis for calculating the specific rate(s)), as well as all charges and service terms that may be applicable" (49 CFR 1300.2(a)), and service terms take in all the classifications, rules and practices that affect the rates, the charges or the level of service (1300.1(e)). **A charge you cannot trace to something you were given is a question, not a cost.**
02	HAVE YOU MADE A FORMAL REQUEST FOR EVERY RATE YOU SHIP ON, SO THAT YOU ARE TOLD BEFORE IT RISES?	A formal request is one that "clearly notifies the railroad that the requester seeks not only immediate information but also notification of any future increases in the rate(s) involved or changes in pertinent service terms" (49 CFR 1300.2(a)). It puts you among those owed 20 days' notice before the rate rises, for the 12 months after you make it (1300.4(a)(1)), as does a future shipment arranged under the rate (1300.4(a)(2)). Make it in writing, and make it again each year. For agricultural products, grain and its products included, and for fertilizer, the railroad must also publish its rates and any proposed and actual changes, open to public inspection (49 U.S.C. 11101(d); 49 CFR 1300.5). **Off the list, and outside the published agricultural and fertilizer rates, a shipper learns of the rise from the bill.**
03	WHICH OF YOUR MOVES ARE UNDER A TARIFF, WHICH UNDER A CONTRACT AND WHICH EXEMPT, AND WHAT DOES EACH LEAVE YOU?	Under a tariff you are owed the rates on request, notice before they rise, and transportation on the rates and terms as published or made available (49 U.S.C. 11101(b), (c), (e)). Under a contract the railroad owes only what the contract says, and the remedy for a breach is a suit in court unless the contract says otherwise (10709(b), (c)). On exempt traffic, boxcar traffic among it, the notice rules do not apply (49 CFR 1300.1(d); 1039.14). The Captive Shipper (Door 4) reads the contract. **Know which one you are on for every move, and what moving between them would cost you.**
04	WHERE DOES YOUR RATE SIT BETWEEN WHAT THE MOVE COSTS THE RAILROAD AND WHAT IT WOULD COST YOU BY THE NEXT BEST WAY?	Your landed alternative is the ceiling of the band, the most the rate can be before the car goes; The Captive Shipper (Door 4) prices it and builds your whole position on it. The floor is the railroad's cost of running the move and keeping the track under it. You will not see its books, but you can ask the short line what the line under your cars needs, and that is your question as much as its own. **A rate near your ceiling is the railroad pricing your alternative; a rate below its floor is paid for by the track under your cars.**

	THE QUESTION	WHAT YOU ARE LOOKING FOR, AND WHAT A BAD ANSWER MEANS
05	WHAT SERVICE DOES THE RATE BUY, AND IS ANY OF IT WRITTEN DOWN?	List what you need with the rate: the switch window and cut-off, car supply, transit time, demurrage free time, and what happens when the railroad misses. Under a contract each can be written. The summary of an agricultural contract filed with the Board shows whether the contract carries such features, though not their terms, among them "transit-time commitments, credit terms, discounts, switching, special demurrage, guaranteed or minimum percentages" (49 CFR 1313.6(a)(9)). First Mile, Last Mile, Every Mile (Door 16) counts what arrives. **A rate with no service written beside it buys whatever arrives.**
06	ON A MOVE OVER TWO RAILROADS, WHAT DOES THE SHORT LINE THAT SWITCHES YOU RECEIVE FROM YOUR RATE, AND DOES IT KNOW WHAT YOU PAY?	You may pay one through rate and never see the split: one joint rate whose revenue the railroads divide, or each railroad's own rate for its own part, on separate bills under Rule 11. Ask the short line what its part pays, and where your contract allows, tell it what you pay in all. A short line underpaid for your switch cannot afford to keep the window. **The railroad at your gate does the switching at your end of the trip, and it may be paid the least for it.**
07	IF THE RATE IS WRONG, WHAT CAN YOU PROVE, AND WHERE?	Before the Board can find a rate unreasonable it must find the railroad holds market dominance over the move (49 U.S.C. 10707(b), (c)), and it must find none where the railroad shows the rate brings in less than 180 percent of its variable cost (10707(d)(1)(A)). The Board must keep one or more simplified and expedited methods for cases where a full stand-alone cost presentation is too costly, given the value of the case (10701(d)(3)). An accessorial charge, a rule or a practice is another matter: the railroad must keep its rules and practices reasonable (10702(2)), and a challenge to one does not wait on a finding of market dominance, unless the charge is in substance a rate. Under a contract none of that applies (10709(c)). The same records carry a negotiation, which is where the work starts. **The case is made of your own records, the alternative, the bills and the service, and they are worth more kept now than gathered later.**
RULE		The rate is the railroad's to set and yours to read. Read it against your alternative and the service it buys.

ONE TABLE · THE CUSTOMER, THE SHORT LINE AND THE CONNECTION

	AT THE TABLE	WHAT EACH BRINGS	WHAT EACH LEAVES WITH, IF THE RATE IS RIGHT
01	THE CUSTOMER	His volume, his landed alternative, the service he needs and the term he can commit to	A rate inside the band, the service written beside it, and notice before either changes
02	THE SHORT LINE	Its cost per car, what its track needs, and its share of the through rate	A share that covers its part of the move, and volume it can plan crews and track around
03	THE CONNECTING RAILROAD	The through rate, its own cost and its routing	The traffic kept on rail, and on its line
04	THE PUBLIC OWNER, WHERE THERE IS ONE	The lease, and what the line must carry to be kept	A line whose traffic pays toward its keep
RULE		A rate that keeps one of them and loses another loses the car.	

Several shippers, one table. A rail contract may have one or more railroads on one side and one or more purchasers of rail service on the other (49 U.S.C. 10709(a)). How competing shippers come to that table together is a question for antitrust counsel before the first joint meeting: the rail statute's antitrust exemption for shippers reaches only agreements on what railroads pay for using shipper-owned or leased cars, and only with the Board's approval (10706(a)(5)), and farmers acting together in a qualifying association have a statute of their own (7 U.S.C. 291). A short line and its own shipper are not competitors, and a through rate is their common ground.

§ 13 THE RATE, MOVE BY MOVE

PRINT IT, FILL IT, NAME THE OFFICER AND THE DATE

Answers held in somebody's head are not answers, and in this subject they tend to sit with whoever priced the move last. *Write each one down with its source and date it.*

	THE ITEM	SOURCE	THE ANSWER, IN WRITING	CHECKED BY · DATE
01	LAST YEAR'S MOVES — ORIGIN, DESTINATION, ROUTE, CARLOADS			
02	THE COST PER CAR OF EACH MOVE, WITH THE TRACK UNDER IT			

	THE ITEM	SOURCE	THE ANSWER, IN WRITING	CHECKED BY · DATE
03	THE CUSTOMER'S NEXT BEST WAY FOR EACH MOVE, LANDED			
04	THE RATE FOR EACH MOVE, ALL IN, PER CAR			
05	TARIFF, CONTRACT OR EXEMPT; THE FORMAL REQUESTS ON FILE			
06	THE SHORT LINE'S SHARE OF EACH THROUGH RATE — HOW SET, WHEN LAST READ			
07	LIMITS ON INTERCHANGE IN THE LEASE OR THE SALE			
08	THE SERVICE EACH RATE BUYS, IN WRITING			
09	WHO BELONGS AT THE TABLE FOR EACH MOVE			
10	THE FINDING — WHICH MOVES SIT OUTSIDE THE BAND, AND ON WHICH SIDE			
11	FOR EACH INTERLINE MOVE: RULE 11 OR THROUGH; WHO BILLS; WHO PAYS			
12	THE INSTRUMENT FOR EACH MOVE — TARIFF PUBLISHED, CONTRACT WRITTEN, OR STILL ONLY A QUOTE — AND WHO SAT AT THE TABLE			

Answered from our own records, of your seven in § 02: held in writing _____ · known but not written _____ · not held _____

run by _____ · date _____ · signed _____

Row 02 is the one that decides the others. Every other row describes the rate; row 02 says whether it can last. Row 06 is the one nobody has read since the day it was set. A share read against nothing has already been agreed to. Row 11 is the fact the rest of an interline conversation starts from.

THE BAND · ONE ROW PER MOVE

MOVE	CARLOADS	COST PER CAR	TRACK PER CAR	NEXT BEST WAY, LANDED	RATE PER CAR	INSIDE THE BAND?

The count: the moves inside the band, out of all of them. The ones outside, and on which side, are the agenda for the table.

§ 14 THE RATE'S CLOCKS

EVERY ONE OF THEM A TIME SOMEBODY CAN CHECK

THE ACT	THE CLOCK	THE RULE
Rates and service terms, on a formal request	Immediately: within hours, or by the next business day in most situations	49 CFR 1300.2(b)
A new rate, on request	No later than 10 business days, or 10 business days from any further information the railroad asks for, unless the parties agree otherwise	49 CFR 1300.3
A common carrier rate raised, or a service term changed (other than a change equivalent to a rate reduction)	20 days after written or electronic notice to those owed it	49 U.S.C. 11101(c); 49 CFR 1300.4(a)
A formal request, for notice	Counts for the 12 months after it is made	49 CFR 1300.4(a)(1)
A notice sent by mail	Provided on the date it is postmarked	49 CFR 1300.4(c)
The summary of an agricultural contract	Filed with the Board no more than 7 days after the date of the contract	49 CFR 1313.4(a)(1)
A complaint against an agricultural contract	Filed by the 18th day after its summary is filed, on the grounds the rule lists, which do not include the level of the rate	49 CFR 1313.10(a)(1); 49 CFR 1313.9
Review of an agricultural contract, on complaint	The Board may begin it no later than 30 days after the summary is filed, and decides within 30 days after it begins	49 U.S.C. 10709(g)(1), (3)(A)
A decision on a rate's reasonableness	Within 9 months after the record closes on stand-alone cost, 6 months on a simplified method	49 U.S.C. 10704(c)
Credit miles assigned to a shipper or supplier	Once in the railroad's taxable year, treated as made at its close	26 U.S.C. 45G(b)(2)(A)
Your own: the cost per car, refreshed	Once a year at least, from your books	Yours
Your own: a share of a through rate, last read	Years, from the division sheet	Yours
Your own: a customer's ceiling, last asked	Months, from your file	Yours
A challenge to a Rule 11 parent waybill in the Interline Settlement System	A five-day waiting period	Freight Mandatory Rule 64(B)(1)
A settled Rule 11 waybill resubmitted as a through waybill	Only if no funds have transferred, and the through waybill must reference the prior identification number	Freight Mandatory Rule 160

NOTES FROM THE WALK

STEELWHEELS.CO · POINT OF CONTACT *Where the Wheels meet the Steel*

Write and say what you found, or call 928.605.7984 and say it. Not an impression: your score, and the move whose rate sat outside the band. That move is the finding. You will have a reply within one business day, from the principal and not from a form. Writing puts you on no list. If what comes back says you have no problem, you will be told so, in so many words. What comes back sets the next stage, or the work stops there.

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FIND IT. NAME IT. DISSOLVE IT. · READ ON THE BALLAST, NOT THE CHART.

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