

AMENDMENT TO RAILROAD INDUSTRY AGREEMENT

The American Short Line and Regional Railroad Association ("ASLRRA"), on behalf of the Small Railroads, and the Association of American Railroads, on behalf of the Large Railroads, entered into the Railroad Industry Agreement ("Agreement") on September 10, 1998. The ASLRRA hereby further agree as follows:

1. The Agreement is hereby amended as follows:

a. The section of the Agreement entitled "Paper Barriers" on page 2 is amended by adding, at the end thereof, the following sentence:

"See Exhibit F for interpretation of this principle."

b. Section VII of the Agreement is stricken in its entirety and the following is inserted in its place:

"VII. RAIL INDUSTRY WORKING GROUP

(a) A joint "Rail Industry Working Group" ("RIWG") shall be created to address all policy aspects and issues relating to the application and effects of this Agreement. It shall also provide a forum for the discussion of opportunities and concerns relating to issues between the Large Railroads and Small Railroads and to assure that the expectations of this Agreement are attained by having the terms of this Agreement consistently interpreted and applied throughout the railroad industry. The RIWG shall be comprised of Large Railroad managers who are responsible for the development of business with the Small Railroads and of Small Railroad operators who have first-hand knowledge of relevant rail transportation problems, issues, and opportunities. It shall consist of 16 members. There shall be one member designated from each of the seven Large railroad subscribers to this Agreement, seven members from Small Railroads who are subscribers to this Agreement (to be designated by the ASLRRA), and one member each from the AAR and the ASLRRA. (The AAR and ASLRRA representatives shall be non-voting members.)

(b) The RIWG shall meet at least quarterly and, in addition, at any time upon the request of any member of the RIWG or upon notification from a party of its intent to withdraw from the Agreement pursuant to Section VIII(b). RIWG members may participate in meetings either in person or by conference call. Counsel from the AAR and/or the ASLRRA shall attend RIWG meetings. Unless an objection is raised by any member, technical and other issue-specific experts and advisors may be invited to attend portions of RIWG meetings relevant to their respective interests.

(c) The RIWG may, from time to time, issue opinions or interpretations regarding the provisions of this Agreement. Any such opinion or interpretation must be in writing and by unanimous vote of the RIWG.

(d) The RIWG shall not, in any circumstance, have authority to set rates or charges or reach any agreement respecting rate-related matters."

c. Section VIII of the Agreement is amended by: (1) deleting the term "Senior Policy Committee" in subsection (b) and inserting, in its place, the term "RIWG"; and (2) adding a new subsection VIII(c) at the end thereof as follows:

"Opinions and interpretations adopted by the RIWG in accordance with the requirements of subsection VII(c) of this Agreement shall be delivered to each then current subscriber by the AAR (to the Large Railroads) and the ASLRRRA (to the Small Railroads). Each such opinion or interpretation shall be deemed to be a part of this Agreement and shall be binding upon all subscribers hereto; provided, however, that if, within 30 days of receipt of an opinion or interpretation, a subscriber gives notice pursuant to subsection VIII(b) of its intent to withdraw from this Agreement and withdraws from the Agreement 90 days thereafter, such subscriber shall not be bound by the interpretation or opinion."

d. Attachment 1 hereto is incorporated into the Agreement after Appendix E (page 25) as a new Appendix F (pages 26 and 27) and made a part of the Agreement.

e. The "LIST OF EXHIBITS" on page 8 of the Agreement is amended by inserting, at the end of thereof, the following:

"Exhibit F: *Interpretation Relating to Paper Barriers*
(applies to all participating Class I, II and III Railroads)"

2. Individual Large and Small Railroads who are current subscribers to the Agreement shall indicate their acceptance of this Amendment by executing a separate document ("Acceptance Agreement") indicating their agreement to subscribe to and be bound by the terms and conditions of the Agreement, as amended by this Amendment.
3. Notwithstanding any provisions of Section VIII(b) of the Agreement to the contrary, the delivery by a subscriber of an Acceptance Agreement as described in Section 2 of this Amendment shall also be considered giving notice to the AAR, ASLRRRA, and the Senior Policy Committee, pursuant to Section VIII(b) of the current Agreement, of such subscriber's withdrawal from such original unamended Agreement 90 days after such subscriber's delivery of the Acceptance Agreement.
4. Capitalized terms not otherwise defined in this Amendment shall be as defined in the Agreement.
5. Except as amended hereby, all other terms and conditions in the Agreement shall remain in full force and effect between and among the subscribers thereto.

For the Large Railroads:

For the Small Railroads:

Edward R. Hamberger (AAR)

Richard F. Timmons (ASLRRRA)

Date: _____

Date: _____

RAILROAD INDUSTRY AGREEMENT

I. BACKGROUND

On April 2 and 3, 1998, the Surface Transportation Board ("STB") conducted two days of informational hearings to examine issues of rail access and competition in today's railroad industry.

In Ex Parte No. 575, the STB described the areas of concern expressed by the Short Line Railroads:

"Paper Barriers"-Contractual obligations incurred when Short Line carriers acquired lines from larger, connecting carriers;

Inadequate car supply; and

Lack of alternative routings.

The STB noted that private-sector negotiations were already underway and urged the parties to resolve these issues expeditiously.

In order to promote a stronger rail industry, this Railroad Industry Agreement ("Agreement") is entered into by the Association of American Railroads ("AAR") on behalf of participating Large Railroads (Class I carriers as defined by the regulations of the STB who subscribe to this Agreement) and by the American Short Line and Regional Railroad Association ("ASLRRA") on behalf of participating Small Railroads (Class II and III rail carriers as defined by the regulations of the STB who subscribe to this Agreement).

II. DEFINITIONS AND OTHER NOTES

For purposes of this Agreement and accompanying attachments, the following apply:

"Access" means interchange, intermediate switching, or haulage (or trackage rights at grantor's option);

No new Access to industries, shippers or receivers not now served is granted or created; all Access is Railroad to Railroad;

Carrier providing interchange, switching, haulage, trackage rights, or other service will be entitled to fair compensation for use of its facilities and/or services;

"New Traffic" means traffic that (1) is not now moving by rail (except for reasons of seasonality or unusual disruptions of shipping patterns outside the control of the Large Railroad, such as plant shutdowns) and (2) does not unreasonably negatively impact the Large Railroad.

"Congestion Problem" means that Access to or through a terminal, or to or via a track segment, need not be granted because incremental traffic caused by the New Traffic cannot be handled without causing unreasonable interference with the owner's operations. If the interference can be reasonably remedied by additional facilities and/or services, the carrier seeking Access is entitled to such facilities and/or services, provided it pays fair compensation;

"Short Line" ("SL") is a Class III railroad;

"Small Railroad" ("SRR") is a Class II or III railroad;

"Large Railroad" ("LRR") is a Class I railroad;

"Non-Short Line" ("Non-SL") is a Class I or II railroad.

"Railroad" ("RR") is a Class I, II or III railroad.

III. PRINCIPLES OF RELATIONSHIP

The parties agree that this Agreement shall be guided by the following public policy principles:

General

Laws and regulations must be consistent with the fundamentals of rail economics. That was the genius of Staggers reforms such as permitting differential pricing, authorizing contracts and allowing most rates to be set by the market led to a rail renaissance.

Private sector solutions are best. Railroads and shippers are better served with market based solutions. Parties should turn to government only when the market cannot operate effectively and then only when private negotiations fail.

U.S. freight railroads are the most efficient in the world and wholesale changes in how they are regulated should not be made in the absence of compelling evidence of significant problems. American railroads form the world's most efficient rail system and contribute to the international growth and competitiveness of U.S. industry. It is not sound public policy to mandate major changes unless there are serious problems and proven alternatives.

Large and Small Railroads are integral to the provision of rail service in the U.S. The business common to each is a collective effort for the benefit of both Large and Small Railroads and the railroad shipping public, made possible by the unique contributions of each.

Small Railroads deserve fair and workable solutions. When a Small Railroad has a legitimate grievance, the available remedy should be as fair, quick and inexpensive as possible, particularly for minor disputes. Arbitration should be available to settle most matters.

Paper Barriers

Only legitimate "paper barriers" should be enforceable. Paper barriers are restrictions on interchange imposed by contract at the time of the creation of the Short Line. Legitimate paper barriers are those that are designed as fair payment for the sale or rental value of the line that created the Short Line. Such barriers should not restrict the Short Line's ability to develop New Traffic with another carrier if the selling or leasing Large Railroad cannot or will not participate in the New Traffic. Excessive per car charges or other penalties imposed if a car is interchanged to another Large Railroad (other than legitimate paper barriers) are unreasonable and should not be permitted.

See Exhibit F for interpretation of this principle.

Routing Alternatives and Access

Rail networks should be operated to maximize the efficiency of the network for ALL its users. A law or regulation that requires a Railroad to put the needs of the few ahead of the overall needs of the network is not sound public policy. Both Large and Small Railroads are dependent on interchanges and manifest train schedules.

A Large Railroad seller/lessor should not be able to block a Short Line's reasonable attempts to gain New Traffic that the Large Railroad cannot handle or for which it cannot offer a competitive package. The Short Line's attempt to gain New Traffic is not reasonable, however, if (1) the incremental traffic caused by the new business cannot be handled without causing unreasonable interference with the Large Railroad's operations; or (2) the Large Railroad is not adequately compensated for use of its tracks, yards and other facilities necessary to accommodate the traffic between the Short Line and another Railroad; or (3) the traffic of the Large Railroad is negatively impacted by such action.

Rail revenues, service and routing choices are intertwined. Railroads are networks that require huge amounts of capital investment in order to function most efficiently. A law or regulation that reduces a Railroad's ability to invest in infrastructure is not sound public policy.

Car Supply

Car supply is a problem of mutual concern to Small and Large Railroads. The answer should not lie in government regulation, but in private industry negotiation.

IV. PRINCIPLES OF AGREEMENT

1. Car Supply Policy (applies to all participating Class I, II and III Railroads)

A joint committee of senior representatives of Large and Small Railroads will meet to explore opportunities where they can work together to meet customers' car supply needs for existing and new business. In general, this committee will examine a long list of potential cooperative policies and innovative programs that will enhance car supply within the bounds of sound business principles and appropriate return on investment. A detailed protocol for car supply is attached as Exhibit A.

2. Cooperative Service Actions (applies to all participating Class I, II and III Railroads)

Large and Small Railroads agree to develop and implement Interchange Service Agreements ("ISA's") with each other to include standards for service and measurements to be used to manage improvement. Regular meetings between Large and Small Railroad corporate and operating personnel will be scheduled to resolve issues and improve service to customers. A more detailed protocol governing service is attached as Exhibit B.

3. Paper Barriers and New Routes (applies to participating Class I and III Railroads)

a) **General Premise: *If the requested Access or routing helps the connecting Short Line and does not harm the Large Railroad, then the request should be approved as it will improve shipper rail service while strengthening the rail industry.***

b) **Paper Barriers and New Routes:** The Large and Short Line Railroads agree to work cooperatively to increase rail freight business. Joint initiatives designed to increase Short Line freight business under certain circumstances include, but are not limited to, waiver of contractual interchange restrictions and Large Railroad haulage of Short Line traffic. See Exhibit C (Examples 1-7).

In other cases, Large and Short Line Railroads may voluntarily agree at any time to renegotiate the terms of sale agreements including, but not limited to, terms relating to limitations on interchange (legitimate paper barriers). The renegotiations of limitations on interchange shall include consideration of additional compensation due to the Large carrier reflecting changes to the economic and market assumptions made by the Large and Short Line carriers at the time of original sale based upon the limitations on interchange at the time of such sale as well as all other relevant factors.

4. **Switching, Heavy Axle Loads, and Certain Rate Policies** (applies to all participating Class I, II and III Railroads)

a) **Switch Charges:**

i) **General Premise:** *The Large and Small Railroads agree that, subject to (iii) and (iv) below, existing (or future) intermediate and reciprocal switching charges between Large and Small carriers shall be comparable to existing (or future) charges between Large Railroads in similar circumstances and conditions.*

ii) Any intermediate (switching between carriers) or reciprocal (switching between customer and carrier) switch charges existing between Large and Small Railroads on or after the effective date of this agreement shall be comparable to existing charges between Large Railroads in similar circumstances and conditions. See Exhibit D (Examples 8 - 12).

iii) This provision will not grant reciprocal switch Access for any carrier to any industry for which Access is not otherwise provided.

iv) This provision shall not apply with respect to any switch charges that are the subject of any administrative or judicial proceeding as of the date of this Agreement.

b) **Heavy Axle Loads:** With the growth of heavy axle load rolling stock (286,000 lbs. or greater), the Large Railroads agree to proportionately increase the Small Railroad share of the increase, if any, in overall revenue for handling heavy axle loads to reflect tonnage in situations where traffic is priced on a per-car basis for the Small Railroad.¹

c) **Certain Rates Policies:**

i) **General Premise:** *The Large and Small Railroads commit to provide market-based competitive pricing for their customers, regardless of whether located on a Class I or connecting Small Railroad, that is non-discriminatory under similar circumstances and conditions.*

ii) Recognizing that the establishment of rate and service levels are matters of individual rather than collective consideration, assessment of market conditions upon which joint line price levels are based

¹ Subsection IV(4)(b) , Heavy Axle Loads, shall not apply to Montana Rail Link, Inc.; provided that this carve-out is without prejudice to the rights of Burlington Northern Santa Fe or Montana Rail Link, Inc. under their existing agreement.

will reflect consideration of capital and/or operating savings for the Large Railroads resulting from services provided by the Small Railroads in the route. See Exhibit E for the sole application of this subsection(c).

V. APPLICATION

All sections of this Agreement apply to Large Railroads (Class I) and Short Line Railroads (Class III) that indicate their participation by individual subscription to this Agreement. All sections of this Agreement except Section (IV)(3) - "Paper Barriers and New Routes" apply to Class II Railroads that indicate their participation by individual subscription to this Agreement. All items provided for in this Agreement shall be binding upon all participating Railroads. Any relief available to any party under this Agreement shall be prospective only. To the extent that relief is granted by an arbitrator pursuant to the terms of this Agreement, such relief shall be limited solely to the period commencing on or, at the arbitrator's discretion, after the date that the subject arbitration proceeding was initiated.

VI. ARBITRATION

The participating Large and Small Railroads agree that if they have a dispute arising under Sections (IV)(3) - "Paper Barriers and New Routes" or Section (IV)(4) - "Switching, Heavy Axle Loads, and Certain Rate Policies" of this Agreement that cannot be resolved through discussion and negotiation between the parties involved, the parties will submit any unresolved issues to arbitration under the auspices of the STB (Ex Parte No. 560). Such arbitration will be based on the policies and principles of those sections of this Agreement, and to the extent applicable, the associated examples and exhibits, and will be binding on the parties.

VII. RAIL INDUSTRY WORKING GROUP

(a) A joint "Rail Industry Working Group" ("RIWG") shall be created to address all policy aspects and issues relating to the application and effects of this Agreement. It shall also provide a forum for the discussion of opportunities and concerns relating to issues between the Large Railroads and Small Railroads and to assure that the expectations of this Agreement are attained by having the terms of this Agreement consistently interpreted and applied throughout the railroad industry. The RIWG shall be comprised of Large Railroad managers who are responsible for the development of business with the Small Railroads and of Small Railroad operators who have first-hand knowledge of relevant rail transportation problems, issues, and opportunities. It shall consist of 16 members. There shall be one member designated from each of the seven Large railroad subscribers to this Agreement, seven members from Small Railroads who are subscribers to this Agreement (to be designated by the ASLRRRA), and one member each from the AAR and the ASLRRRA. (The AAR and ASLRRRA representatives shall be non-voting members.)

(b) The RIWG shall meet at least quarterly and, in addition, at any time upon the request of any member of the RIWG or upon notification from a party of its intent to withdraw from the Agreement pursuant to Section VIII(b). RIWG members may participate in meetings either in person or by conference call. Counsel from the AAR and/or the ASLRRRA shall attend RIWG meetings. Unless an objection is raised by any member, technical and other issue-specific experts and advisors may be invited to attend portions of RIWG meetings relevant to their respective interests.

(c) The RIWG may, from time to time, issue opinions or interpretations regarding the provisions of this Agreement. Any such opinion or interpretation must be in writing and by unanimous vote of the RIWG.

(d) The RIWG shall not, in any circumstance, have authority to set rates or charges or reach any agreement respecting rate-related matters.

VIII. AMENDMENT AND TERM

(a) The parties to this Agreement recognize that changes may occur which require modification of the terms of the Agreement. In the event of such changes, the parties agree that they will negotiate in good faith to modify appropriately the Agreement.

(b) The initial term of this Agreement shall be for a period of five years from the date hereof. The provisions of Section IV(4), including Exhibits D and E, shall not become effective until the Board has entered an order approving those provisions pursuant to 49 U.S.C. §0706. After the initial term, this Agreement shall remain in effect for additional successive one-year terms; provided, however, that during any such additional term, any party to this Agreement may withdraw from participation in this Agreement, only if such party has first (i) presented the reason(s) for such withdrawal to the RIWG and (ii) provided 90 days written notice to the AAR and the ASLRRRA.

LIST OF EXHIBITS

- Exhibit A: *Car Supply Protocol* (applies to all participating Class I, II, and III Railroads)
- Exhibit B: *Service Policy Protocol* (applies to all participating Class I, II and III Railroads)
- Exhibit C: *Guidelines for Paper Barriers and New Routes* (applies to all participating Class I and III Railroads)
- Exhibit D: *Guidelines for Intermediate and Reciprocal Switching* (applies to all participating Class I, II and III Railroads)
- Exhibit E: *Guidelines for Certain Rate Policies* (applies to all participating Class I, II and III Railroads)
- Exhibit F: *Interpretation Relating to Paper Barriers* (applies to all participating Class I, II and III Railroads)

DEFINITIONS AND OTHER NOTES

"Access" means interchange, intermediate switching, or haulage (or trackage rights at grantor's option);

No new Access to industries, shippers or receivers not now served is granted or created; all Access is Railroad to Railroad;

Carrier providing interchange, switching, haulage, trackage rights, or other service will be entitled to fair compensation for use of its facilities and/or services;

"New Traffic" means traffic that (1) is not now moving by rail (except for reasons of seasonality or unusual disruptions of shipping patterns outside the control of the Large Railroad, such as plant shutdowns) and (2) does not unreasonably negatively impact the Large Railroad.

"Congestion Problem" means that Access to or through a terminal, or to or via a track segment, need not be granted because incremental traffic caused by the New Traffic cannot be handled without causing unreasonable interference with the owner's operations. If the interference can be reasonably remedied by additional facilities and/or services, the carrier seeking Access is entitled to such facilities and/or services, provided it pays fair compensation;

"Short Line" ("SL") is a Class III railroad;

"Small Railroad" ("SRR") is a Class II or III railroad;

"Large Railroad" ("LRR") is a Class I railroad;

"Non-Short Line" ("Non-SL") is a Class I or II railroad; and

"Railroad" ("RR") is a Class I, II or III railroad.

CAR SUPPLY

(Applies to participating Class I, II and III Railroads)

Large and Small Railroads will explore opportunities where they can work together, consistent with the antitrust laws, to meet customers' car supply needs for existing and new business.

A joint committee of senior representatives of Large and Small carriers will identify car types for which existing fleets (Railroad, shipper, etc.) are projected to be inadequate for current and future demand. Further, the joint committee will examine the ability of Small Railroads to provide freight cars for their customers for the purpose of developing cooperative policies and programs to enhance the ability of the Small Railroads to have the use of more new and used freight cars. Return on investment will be a consideration.

The joint committee will report its recommendations quarterly to the appropriate representatives of the Large and Small Railroads.

Policies and programs to be considered to determine if they are feasible and mutually beneficial include, but are not limited to:

TTX ownership and operation of general service cars

Regional pools for specific car types operated by interested Railroads

Joint ownership of equipment by Large and Small carriers

Underwriting of Small Railroad ownership by a larger carrier

Continued review of rate arrangements

Refurbishment of older cars

Improvement of transit and turnaround times

Opportunity for Small Railroads to buy surplus cars from Large Railroads on a mutually beneficial basis

Longer term bilateral agreements to facilitate equipment financing

Private agreement to establish car hire rates

SERVICE POLICY

(Applies to participating Class I, II and III Railroads)

Most Small Railroads are dependent upon and serve merchandise traffic that moves in non-unit manifest or local trains. Therefore, frequency and reliability of both interchange and manifest train schedules are of critical importance to the ability of Small Railroads, as well as Large Railroads, to serve their customers and to grow traffic and revenue.

To maintain a higher level of service, Large and Small Railroads agree to establish procedures for Small Railroad corporate and/or operating personnel and Large Railroad senior corporate and/or operating officers (all of whom having authority within their respective companies to effect a resolution of service issues) to meet on a regular basis in order to review, among other items, train service and interchange priorities.

Each Large Railroad and each Small Railroad connecting with a Large Railroad will develop and implement Interchange Service Agreements ('ISA's') with each other. These ISA's will include agreement on terms and standards to govern service and common procedures to measure interchange performance, manifest and/or local train performance, and car cycle time for the purpose of providing Small Railroad customers with the equivalent level of service provided to similarly situated Large Railroad customers taking into account factors such as volumes, commodities transported and locations.

**GUIDELINES FOR
PAPER BARRIERS AND NEW ROUTES**

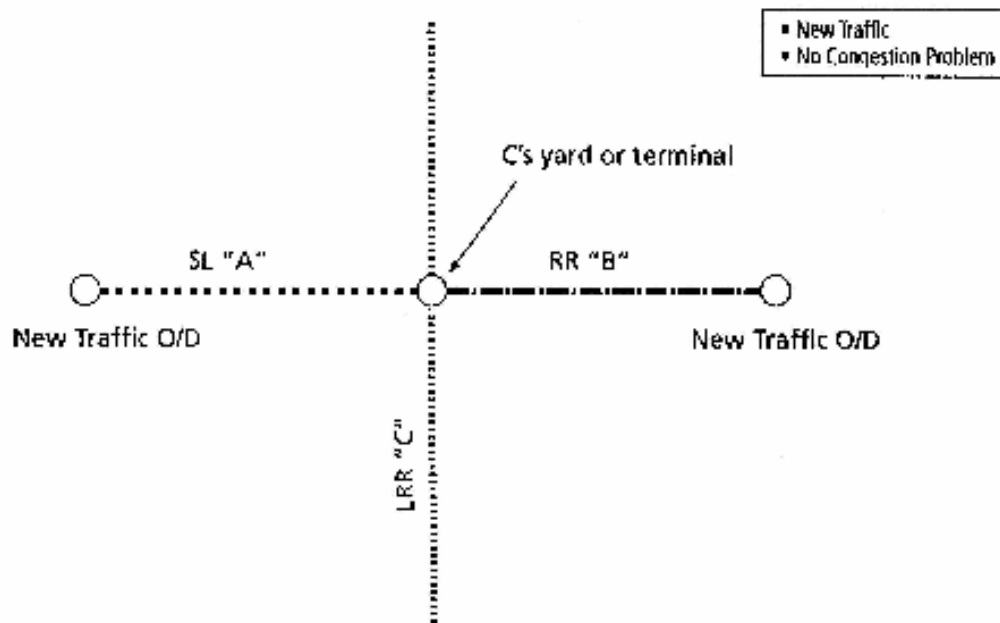
(Examples 1 - 7)

(Applies to participating Class I and III Railroads)

Paper Barriers

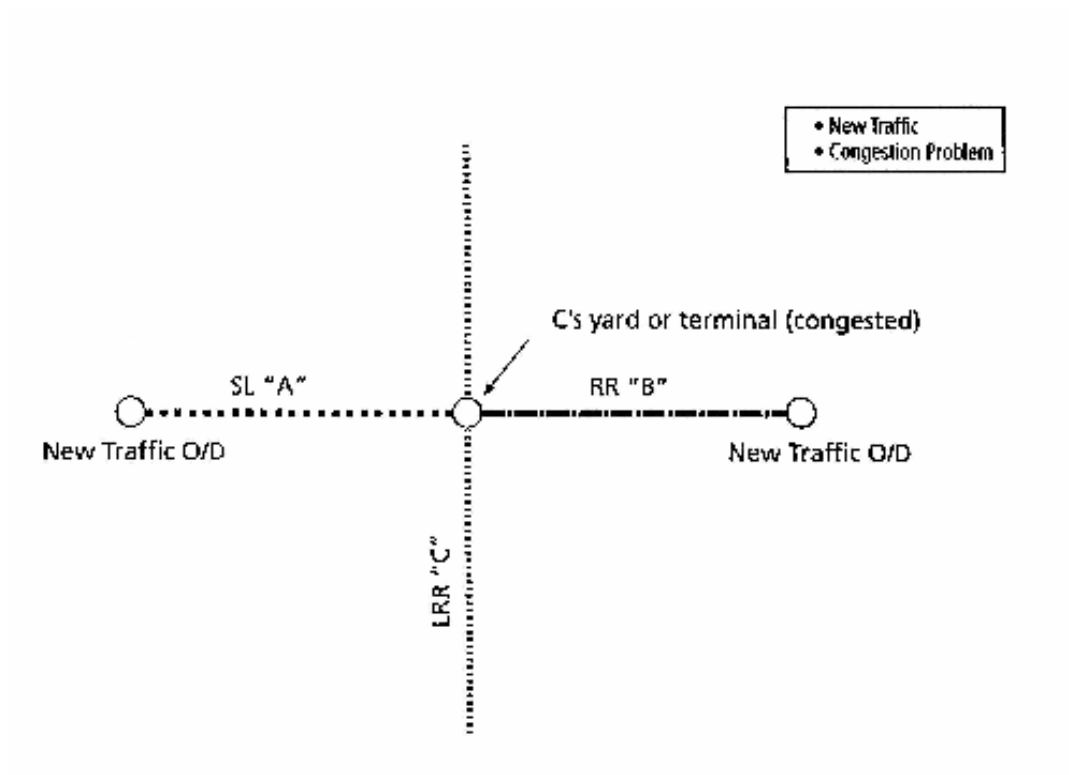
Short Line "A" (SL "A") and Railroad "B" (RR "B") both connect with Large Railroads "C" (LLR "C") either in a common yard or terminal area. There is an opportunity for New Traffic that would originate on "A" and terminate on "B", or vice versa. There is no Congestion Problem. "C" must grant Access by either allowing "A" and "B" to connect directly or by handling the traffic between "A" and "B" within the yard or terminal.

If existing movements between "A" and "B" are provided for by a reasonable intermediate switch charge published by "C", "A" and "B" are already deemed to have Access.



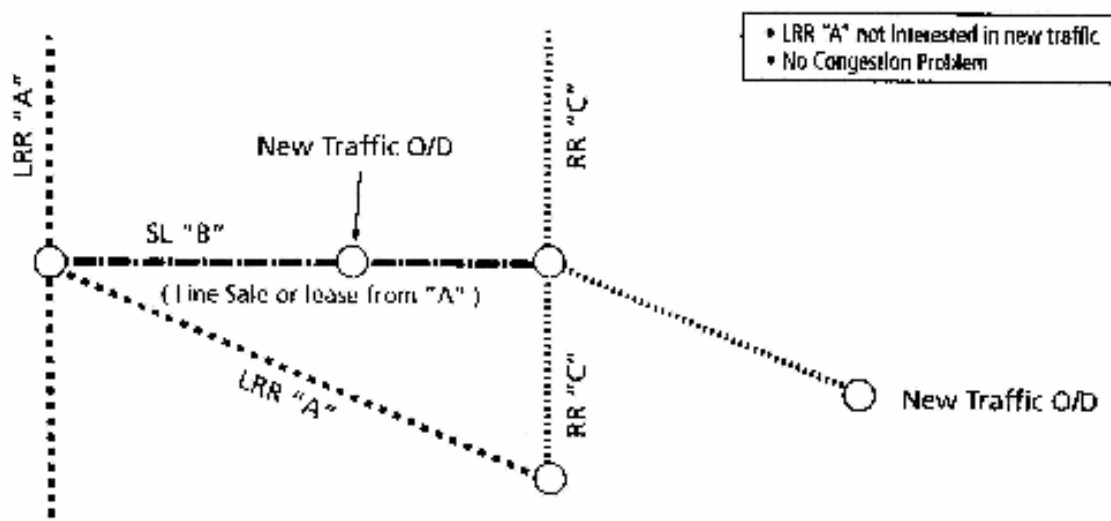
Paper Barriers

Same facts as Example 1, except there is a Congestion Problem. Large Railroad "C" may deny Access.



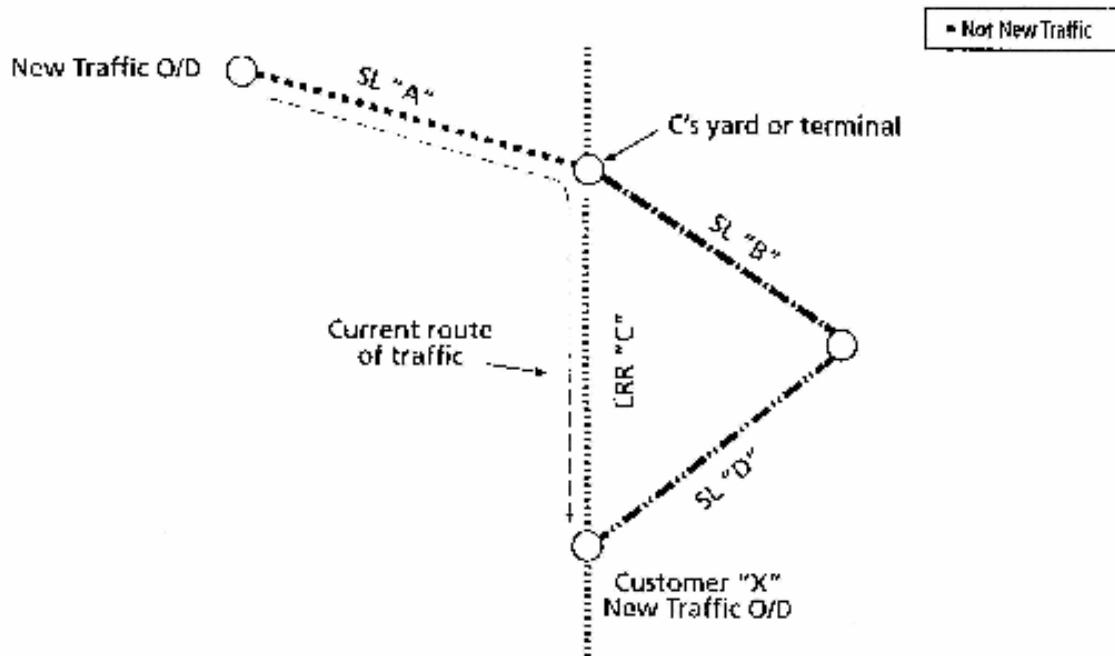
Paper Barriers

A legitimate paper barrier [see Section (III)(6)] resulting from a line sale or lease by Large Railroad "A" to Short Line "B" which restricts "B" from interchanging with Railroad "C" will be suspended to allow "B" to interchange New Traffic with "C" without penalty if, after request by "B", "A" does not establish a competitive package (rates, service and car supply) and "C" does.



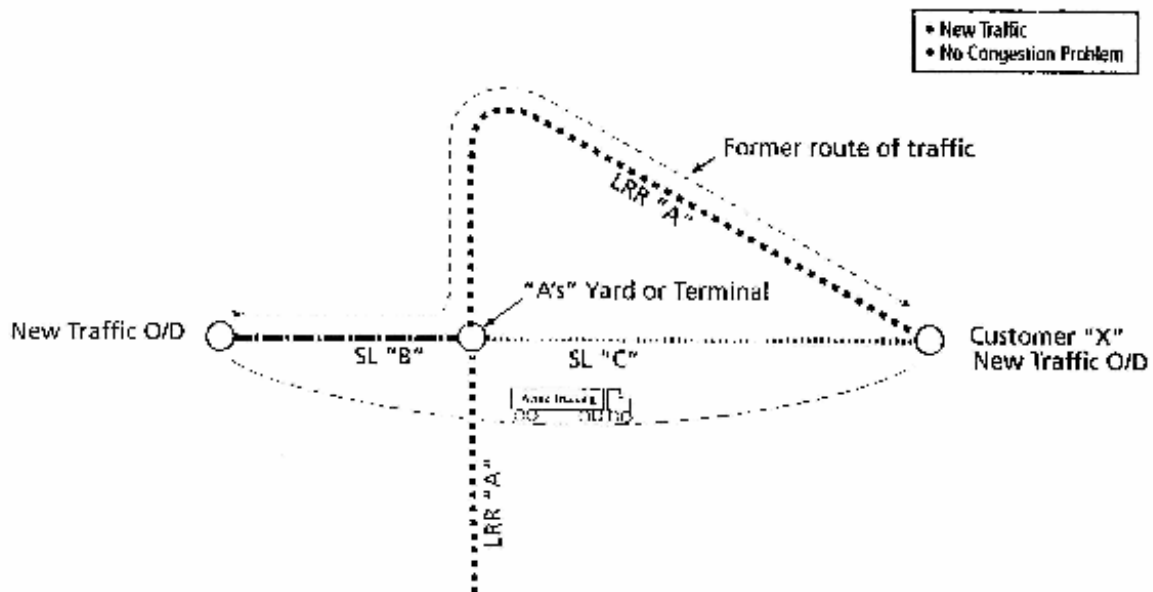
Paper Barriers

Short Line "A" can physically connect with Short Line "B" via Large Railroad "C's" yard or terminal but a paper barrier restricts "A" from interchanging with "B". "B" connects with Short Line "D" and "D" serves Customer "X" also directly served by "C". "A" and "D" wish to develop business with Customer "X" that is not New Traffic. "C" may deny Access.



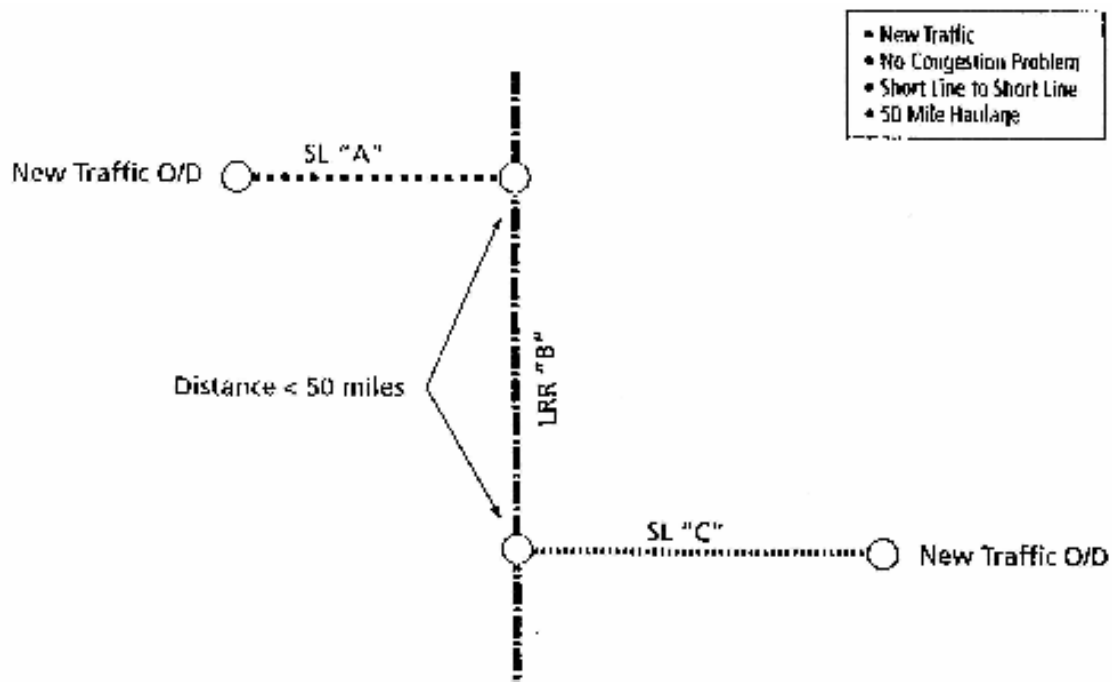
Paper Barriers

Large Railroad "A" / Short Line "B" traffic for Customer "X" has been lost to truck. "B" and "C" had no role in causing the truck diversion to happen. **"A" must grant Access to "B" and Short Line "C" through "A's" terminal or yard to redirect traffic to rail from truck (New Traffic).** There is no Congestion Problem.



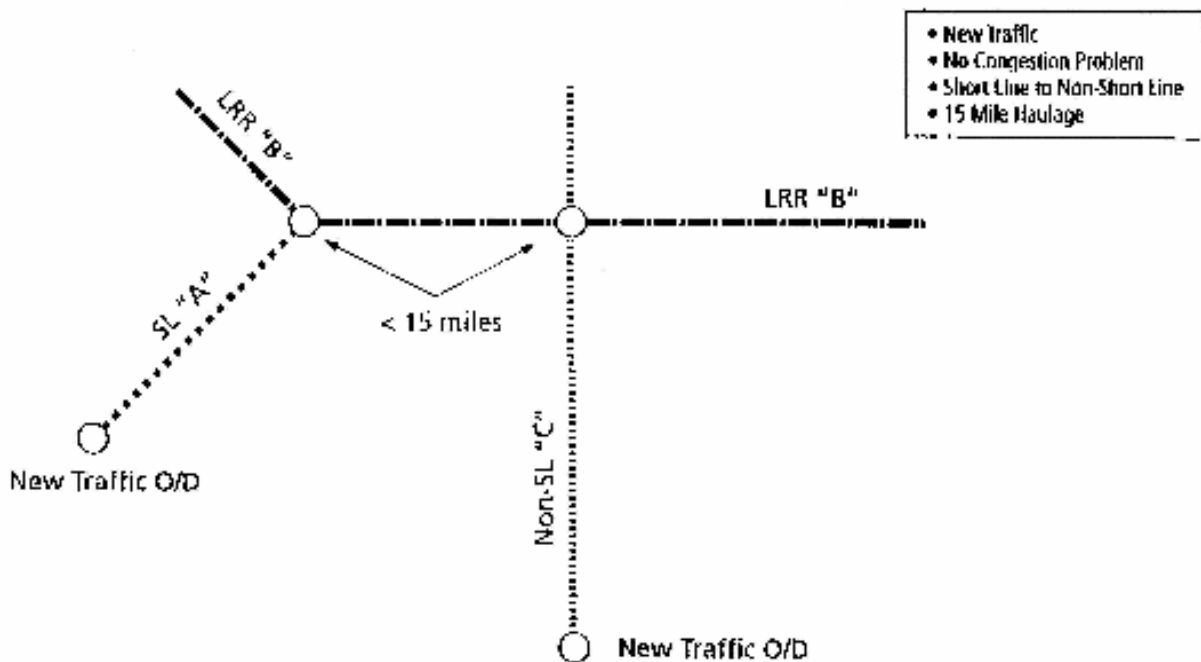
New Routes

Large Railroad "B" must grant Access via haulage (or trackage rights at "B's" option) for New Traffic originating on Short Line "A" and terminating on Short Line "C", or vice versa, for distances up to fifty (50) miles along "B's" line of railroad connecting "A" and "C" as long as there is not a Congestion Problem. "B" is not obligated to provide equipment. Haulage (or trackage rights at "B's" option) may be for longer distance by mutual agreement. If "B" does provide equipment, "B" is entitled to participate as a line-haul carrier in the rate if it so chooses.



New Routes

Large Railroad "B" must grant Access via haulage (or trackage rights at "B's" option) between Short Line "A" and Non-Short Line "C" to move New Traffic handled by "B" for distances up to fifteen (15) miles along "B's" line of railroad connecting "A" and "C" as long as there is not a Congestion Problem. "B" is not obligated to provide equipment. Haulage (or trackage rights at "B's" option) may be for longer distance by mutual agreement.



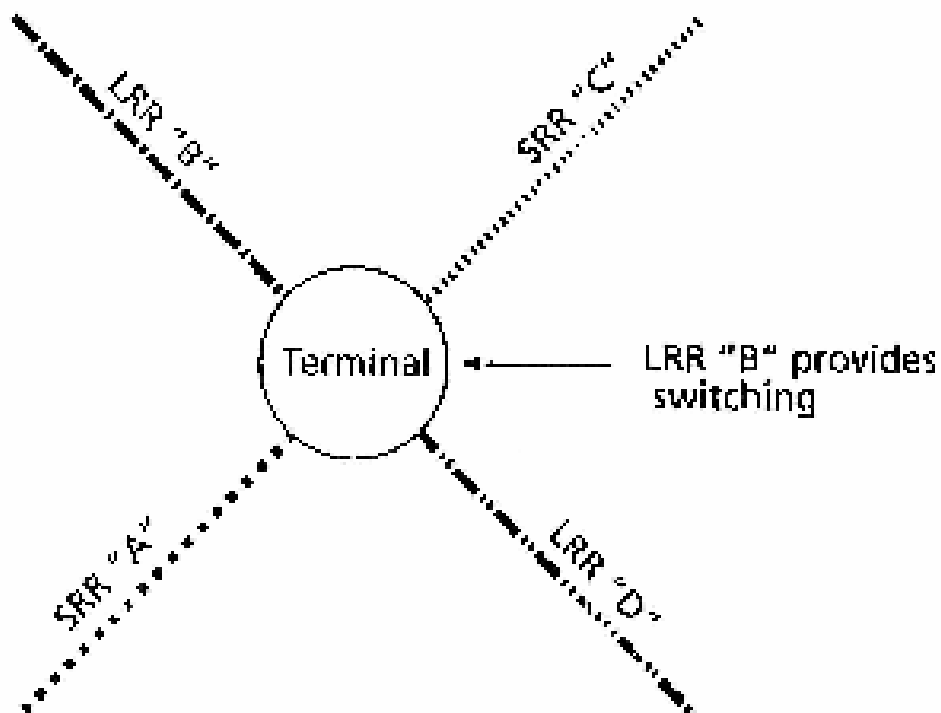
**GUIDELINES FOR
INTERMEDIATE AND RECIPROCAL SWITCHING**

(Examples 8 – 12)

(Applies to participating Class I, II and III Railroads)

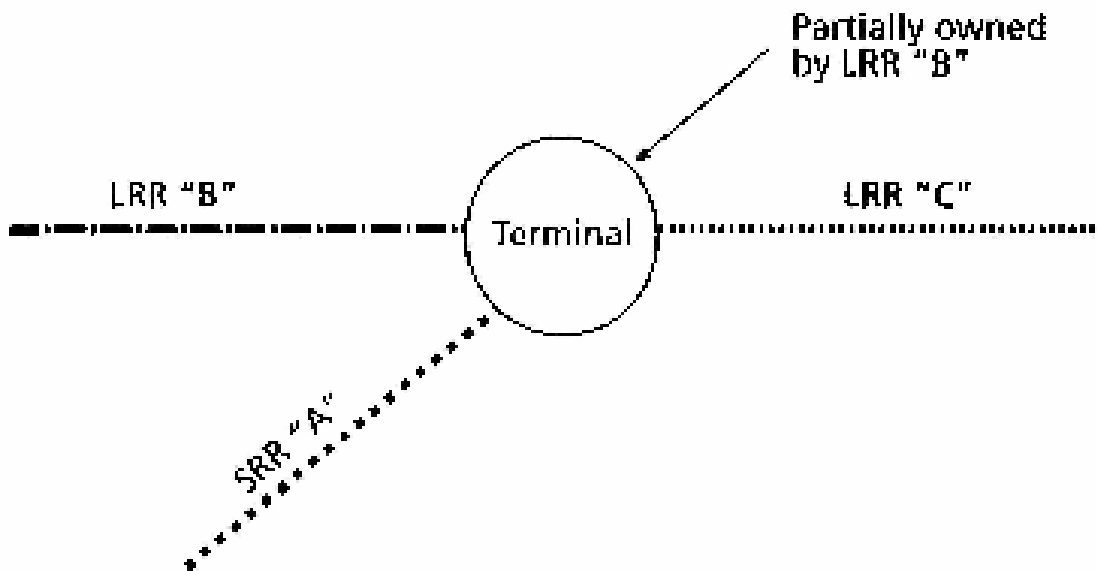
Intermediate Switching Charges

Small Railroad "A" serves a terminal where Large Railroad "B" currently provides intermediate terminal switching between a number of carriers including Small Railroad "C". Small Railroad "C" serves the same terminal as does another Large Railroad. Assuming the operating conditions are similar, "A" and "C" should pay the same or similar charges as the other Large Railroad for receipt of similar services.



Intermediate Switching Charges

Small Railroad "A" serves a terminal, as do Large Railroad "B" and Large Railroad "C". "B" owns a share of the terminal switching company and "A" and "C" own no share of the terminal switching company. "A" and "C" may pay a higher per car intermediate switch charge than "B", reflecting its ownership interest. Assuming the operating conditions are similar, "A" and "C" should pay the same or similar charges for receipt of similar services.



Example 10

Reciprocal Switching Charges

Large Railroads "A" and "B" and Small Railroad "C" serve a terminal. No other Large Railroads serve the terminal. "A" and "B" charge each other \$400 per loaded car for reciprocal switching within the terminal. "A" charges "C" \$500 per loaded car, and "B" charges "C" \$600 or more per loaded car. "A" and "B" must each charge "C" \$400 per loaded car, assuming similar circumstances and conditions.

Example 11

Reciprocal Switching Charges

Large Railroad "A" and "B" and Small Railroad "C" serve a terminal. No other Large Railroads serve the terminal. "A" and "B" have a system-wide reciprocal switching arrangement with each other that provides for a per-car charge less than or equal to \$250 per loaded car. The charge (assessed by "A" and/or "B" to "C") for switching in this particular terminal exceeds \$250 per loaded car. If 115% of the actual cost of performing the reciprocal switch service is greater than \$250, "A" and "B" shall each charge "C" no more than said 115% of actual cost. If 115% of actual cost is less than or equal to \$250, "A" and "B" shall not charge "C" more than \$250 per loaded car. Nothing in this example prohibits a lower switch charge to "C" if such is mutually agreed to by "A" and/or "B" and "C".

Example 12

Reciprocal Switching Charges

In terminals containing multiple Railroads (greater than three), the carrier, on which the particular customer to be Accessed by reciprocal switch is located, must not charge a Small Railroad a charge that is higher than the highest charge to a Large Railroad or \$250 per loaded car, whichever is greater. (The involved Large Railroad may be parties to one or more system-wide reciprocal switching agreements providing charges to each involved carrier of less than or equal to \$250 per loaded car.)

Note: Nothing in the provisions of Examples 10, 11 and 12 will grant reciprocal switch access for any carrier to any industry for which Access is not otherwise provided.

GUIDELINES FOR CERTAIN RATE POLICIES

(Applies to participating Class I, II and III Railroads)

In the event that a Small Railroad has only one Class I connection or a Large Railroad has rate making authority on behalf of a Small Railroad, and the Small Railroad is trying to generate New Traffic or is threatened with the loss of existing traffic, and the Small Railroad believes that the Large Railroad is not adequately reflecting the Large Railroad costs or relevant market conditions in a rate charged to a shipper of a comparable commodity located on the Large Railroad in close proximity to a similar shipper located on the Small Railroad (similar circumstances and conditions), then the Small Railroad can request the Large Railroad, within ninety (90) days, to examine its costs and relevant market conditions and meet to discuss the matter. For purposes of this Agreement, a haulage agreement between a Large Railroad and a Small Railroad does not give the Large Railroad rate making authority on behalf of the Small Railroad.

The Large Railroad shall study its costs and the relevant market conditions, on an annual actual total cost basis, from the area requested by the Small Railroad to the first crew change location common for the similar Small Railroad and Large Railroad shipments in question. This study shall include all costs relevant to this segment of the Large Railroad (including any savings attributable to the then present Small Railroad operations as well as including any applicable handling charges paid by the Large Railroad to the Small railroad as part of the costs incurred by the Large Railroad) and shall consider the volume and seasonality of the traffic in question and capability of the Large Railroad, due to economies of scale, to reallocate assets and personnel during periods of slow demand.

After the requested cost study has been completed, the Railroads shall meet to discuss the results. Terms of confidential transportation contracts to which both Railroads are not a party will not be revealed. Acting on the results of the study, the Large Railroad may choose to adjust one or more rates and/or charges or may elect to retain the status quo.

The Small Railroad, if not satisfied with the result, may invoke arbitration under Section VI of this Agreement. Both parties and the arbitrator will treat all cost information involved in the arbitration as confidential. Particular rates charged to individual shippers or receivers in transportation contracts shall not be considered in arbitration under the terms of this Agreement. The arbitrator's decision can only deal with the rate complained of, that is, the joint Large Railroad/Small Railroad rate.

If the arbitrator determines that the rate charged by the Large Railroad to the Small Railroad shipper improperly favors the shipper on the Large Railroad, then the arbitrator may order a reduction of the rate, but only to the extent needed to eliminate such favoritism. The rights provided in this Exhibit E reflect unique circumstances and create no rights for any third parties.

INTERPRETATION RELATING TO PAPER BARRIERS

(Applies to participating Class I, II and III Railroads)

The following situations shall be considered to meet the first element in the definition of "New Traffic" pursuant to the RIA:

1. Traffic to or from newly constructed customer facilities on the Short Line by a new customer to the Short Line. Expansions, relocations, or replacements of customer facilities from which traffic is currently or had been previously moving by any mode of transportation (whether or not such existing facilities were previously located on the Short Line) do not satisfy the first element of the definition of "New Traffic" under this paragraph.
2. Traffic to or from an existing facility located on the Short Line that has been shipped by any mode or modes of transport other than by rail for a period of twelve consecutive months immediately prior to a request made pursuant to the RIA.
3. Traffic to or from an existing facility located on the Short Line if that facility has not shipped for a period of twenty-four consecutive months immediately prior to a request made pursuant to the RIA.

For purposes of computing the time periods in paragraphs 2 and 3, periods during which there were unusual disruptions of shipping patterns outside the control of the Large Railroad and the Short Line, such as plant shutdowns, shall not be included.

This list is not intended to be exhaustive, and traffic not meeting these criteria may still be considered to meet the first element of the "New Traffic" definition as determined by individual facts and circumstances.

In all these cases, in order to be considered "New Traffic" the traffic in question must also meet the second element in the definition of "New Traffic" under the RIA, i.e., it must not have an unreasonable negative impact on the Large Railroad. Factors in assessing whether there is an "unreasonable negative impact" on a Large Railroad would include, but not be limited to, circumstances where the traffic at issue was diverted from an existing movement elsewhere on the Large Railroad.

In all instances the identification of "New Traffic" on a rail line shall not require the waiver of a "paper barrier" unless the Large Railroad that sold or leased the rail line in question, and has the contract with the Short Line, cannot offer a transportation package for the traffic which is competitive on a rate, service, and car supply basis with motor carrier alternatives.

ACCEPTANCE AGREEMENT

The Class II and/or Class III railroad(s) listed below hereby subscribe(s) to and agree(s) to be bound by the terms and conditions of the Amendment signed on October 7, 2004, to the Railroad Industry Agreement. The undersigned is authorized to execute this document on behalf of the following railroad(s) [list additional railroads on a separate page if needed]:

Dated: _____

Executed by: _____

Print or type name: _____

Title: _____

E-mail: _____

(Please complete and return this Acceptance Agreement page either by mail to ASLRRA, 50 F Street, N.W., Suite 7020, Washington, DC 20001-1564 or by FAX to (202) 628-6430, as soon as possible, but no later than Friday, January 14, 2005.)

