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SERVICE DATE – JANUARY 25, 2008

SURFACE TRANSPORTATION BOARD

NOTICE

STB Ex Parte No. 542 (Sub-No. 14)

REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED  
IN CONNECTION WITH LICENSING AND RELATED SERVICES–2007 UPDATE

Decided: January 24, 2008

This notice advises the public of a change in the Board’s filing fees for certain rate complaints.

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 194, 121 Stat. 1844 (2007), the filing fees established in the Board’s 2007 User Fee Schedule in this proceeding<sup>1</sup> for two types of “rate complaints” are being modified. The affected filing fees are: the fee for a formal complaint filed under the coal rate guidelines, which has previously been set at \$178,200 [see 49 CFR 1002.2(f)(56)(i)]; and the fee for a formal complaint involving rail maximum rates filed under the Simplified-Stand-Alone Cost methodology, which has previously been set at \$10,600 [see 49 CFR 1002.2(f)(56)(ii)].<sup>2</sup>

**BACKGROUND**

On December 26, 2007, the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, 121 Stat. 1844 (2007) (Act), was enacted into law, which among other things, provides the Board with funding for fiscal year 2008. Section 194 of the Act provides:

None of the funds appropriated or otherwise made available under this Act may be used by the Surface Transportation Board of the Department of Transportation to charge or collect any filing fee for rate complaints filed with the Board in an amount in excess of the amount authorized for district court civil suit filing fees under section 1914 of title 28, United States Code.

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<sup>1</sup> See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services–2007, STB Ex Parte No. 542 (Sub-No. 14) (STB served Apr. 6, 2007) (2007 Update).

<sup>2</sup> See Simplified Standards for Rail Rate Cases, STB Ex Parte No. 646 (Sub-No. 1), slip op. at 105 (STB served Sept. 5, 2007) (Simplified Standards).

In 2007 Update and Simplified Standards, the Board used its various updating procedures and established fees for the two types of rate complaints mentioned above. However, based on the language in Section 194, the filing fees for these two types of rate complaints must be capped at \$350 because the court filing fee under 28 U.S.C. 1914 is currently set at \$350. The \$350 filing fee is thus mandatory and is now in effect. Should anyone wish to file a complaint under either of the two sub-fee items (56)(i) or (56)(ii), that complaint must be accompanied by a filing fee of \$350.

All other sub-fee item amounts (56)(iii) through (56)(vi) remain the same as they appear in Simplified Standards at 105.

### **REGULATORY FLEXIBILITY ANALYSIS**

The Board certifies that these two rule modifications will not have a significant economic effect on a substantial number of small entities because the Board's regulations provide for waiver of filing fees for those entities that can make the required showing of financial hardship.

It is ordered:

1. The filing fees for 49 CFR Part 1002.2(f)(56)(i) and (56)(ii) are capped at \$350.
2. These two rule modifications are effective on January 25, 2008.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

Anne K. Quinlan  
Acting Secretary