

F.2d 921 (D.C. Cir. 1958). We conclude that ATA's request does not satisfy the factors governing the issuance of a stay.

The actions contained herein have not changed our Final Regulatory Flexibility Analysis (FRFA), which is set forth in the *Report and Order*. Thus, no supplemental FRFA is necessary. In addition, the action contained herein imposes no new or modified reporting and/or recordkeeping requirements or burdens on the public.

Ordering Clauses

1. Accordingly, pursuant to sections 1–4, 222, 227, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 222 and 227; and section 1.108 of the Commission's Rules, 47 CFR 1.108, of the Commission's Rules, this *Order on Reconsideration* in CG Docket No. 02–278 is adopted and the *Report and Order*, FCC 03–153, is modified as set forth herein.

2. Subject to the effective dates set forth above, the National Association of Realtors' Request for Emergency Stay is *dismissed* without prejudice.

3. Subject to the effective dates set forth above, the American Society of Association Executives' Petition for Stay is *dismissed* without prejudice.

4. Subject to the effective dates set forth above, Proximity Marketing Request for Stay is *dismissed* without prejudice.

5. Subject to the effective dates set forth above, the National Association of Business Political Action Committees' Request for Stay is *dismissed* without prejudice.

6. Subject to the effective dates set forth above, the Chamber of Commerce of the United States *et al.* Request for Stay is *dismissed* without prejudice.

7. Subject to the effective dates set forth above, the Business Users Coalition's Petition for Emergency Stay is *dismissed* without prejudice.

8. Subject to the effective dates set forth above, the American Business Media's Petition for Stay is *dismissed* without prejudice.

9. Subject to the effective dates set forth above, the Air Conditioning Contractors of America's Petition for Emergency Stay is *dismissed* without prejudice.

10. Subject to the effective dates set forth above, the American Dietetic Association's Request for Stay of the Implementation of Regulations is *dismissed* without prejudice.

11. Subject to the effective dates set forth above, Reed Elsevier Inc.'s Motion for Stay is *dismissed* without prejudice.

12. Subject to the effective dates set forth above, the Newspaper Association

of America and the National Newspaper Association's Petition for Stay is *dismissed* without prejudice.

13. The American Teleservices Association Request for Expedited Stay is *dismissed* without prejudice to the extent it seeks a stay of the rules affected by the effective dates set forth above, but is *otherwise denied*.

14. The effective date for the Commission's determination that an established business relationship will no longer be sufficient to show that an individual or business has given express permission to receive unsolicited facsimile advertisements and the requirement that the sender of a facsimile advertisement first obtain the recipient's express permission in writing, as codified at 47 CFR 64.1200(a)(3)(i), IS January 1, 2005, and that this *Order on Reconsideration* is effective upon publication in the **Federal Register**. In light of the need to allow affected entities time to comply with the new faxing rules, we find good cause, pursuant to 5 U.S.C. 553(d), to make this effective on less than 30 days' notice.

List of Subjects

47 CFR Part 64

Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–21644 Filed 8–22–03; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1002

[STB Ex Parte No. 542 (Sub-No. 10)]

Regulations Governing Fees For Services Performed in Connection With Licensing and Related Services—2003 Update

AGENCY: Surface Transportation Board.

ACTION: Final rules.

SUMMARY: The Board adopts its 2003 User Fee Update and revises its fee schedule at this time to recover the costs associated with the January 2003 Government salary increases and to recover increased **Federal Register** costs to the Board.

EFFECTIVE DATE: These rules are effective September 24, 2003.

FOR FURTHER INFORMATION CONTACT:

David T. Groves, (202) 565–1551, or Anne Quinlan, (202) 565–1727. [TDD

for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board's regulations in 49 CFR 1002.3 require the Board's user fee schedule to be updated annually. The Board's regulation at 49 CFR 1002.3(a) provides that the entire fee schedule or selected fees can be modified more than once a year, if necessary. The Board's fees are revised based on the cost study formula set forth at 49 CFR 1002.3(d). Also, in some previous years, selected fees were modified to reflect new cost study data or changes in agency fee policy.

Because Board employees received a salary increase of 4.27% in January 2003, we are updating our user fees to recover the increased personnel costs. With certain exceptions, all fees will be updated based on our cost formula contained in 49 CFR 1002.3(d). In addition, the cost to publish data in the **Federal Register** increased last year, so we are revising the fees to give consideration to that increase.

The fee increases involved here result only from the mechanical application of the update formula in 49 CFR 1002.3(d), which was adopted through notice and comment procedures in *Regulations Governing Fees for Services-1987 Update*, 4 I.C.C.2d 137 (1987). In addition, no new fees are being proposed in this proceeding. Therefore, we find that notice and comment are unnecessary for this proceeding. See *Regulations Governing Fees For Services-1990 Update*, 7 I.C.C.2d 3 (1990); *Regulations Governing Fees For Services-1991 Update*, 8 I.C.C.2d 13 (1991); and *Regulations Governing Fees For Services-1993 Update*, 9 I.C.C.2d 855 (1993).

We conclude that the fee changes adopted here will not have a significant economic impact 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.

Additional information is contained in the Board's decision. To obtain a copy of the full decision, write, call, or pick up in person from the Board's contractor, Da-To-Da Legal, Suite 405, 1925 K Street, NW, Washington, DC 20006. Telephone: (202) 293–7776. [Assistance for the hearing impaired is available through TDD services 1–800–877–8339.]

List of Subjects in 49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information, User fees.

Decided: August 18, 2003.

By the Board, Chairman Nober.

Vernon A. Williams,
Secretary.

■ For the reasons set forth in the preamble, title 49, chapter X, part 1002, of the Code of Federal Regulations is amended as follows:

PART 1002—FEES

■ 1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701 and 49 U.S.C. 721(a).

■ 2. Section 1002.1 is amended by revising paragraphs (b), (c), and (e)(1) and the table in paragraph (f)(6) to read as follows:

§ 1002.1 Fees for record search, review, copying, certification, and related services.

* * * * *

(b) Service involved in examination of tariffs or schedules for preparation of certified copies of tariffs or schedules or extracts therefrom at the rate of \$32.00 per hour.

(c) Service involved in checking records to be certified to determine authenticity, including clerical work, etc., incidental thereto, at the rate of \$22.00 per hour.

* * * * *

(e) * * *

(1) A fee of \$55.00 per hour for professional staff time will be charged when it is required to fulfill a request for ADP data.

* * * * *

(f) * * *

(6) * * *

Grade	Rate
GS-1	\$ 9.31

Grade	Rate
GS-2	10.14
GS-3	11.43
GS-4	12.83
GS-5	14.35
GS-6	16.00
GS-7	17.78
GS-8	19.69
GS-9	21.75
GS-10	23.95
GS-11	26.31
GS-12	31.53
GS-13	37.50
GS-14	44.31
GS-15 and over	52.13

* * * * *

■ 3. In § 1002.2, paragraph (f) is revised as follows:

§ 1002.2 Filing fees.

* * * * *

(f) *Schedule of filing fees.*

Type of proceeding	Fee
PART I: Non-Rail Applications or Proceedings to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(1) An application for the pooling or division of traffic	\$3,300.
(2) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor carrier of passengers under 49 U.S.C. 14303.	\$1,500.
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703	\$20,600.
(4) An application for approval of an amendment to a non-rail rate association agreement:	
(i) Significant amendment	\$3,400.
(ii) Minor amendment	\$70.
(5) An application for temporary authority to operate a motor carrier of passengers. 49 U.S.C. 14303(i)	\$350.
(6) A notice of exemption for transaction within a motor passenger corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family.	\$1,300.
(7)–(10) [Reserved]	
PART II: Rail Licensing Proceedings Other than Abandonment or Discontinuance Proceedings:	
(11) (i) An application for a certificate authorizing the extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901.	\$5,400.
(ii) Notice of exemption under 49 CFR 1150.31–1150.35	\$1,400.
(iii) Petition for exemption under 49 U.S.C. 10502	\$9,400.
(12) (i) An application involving the construction of a rail line	\$55,600.
(ii) A notice of exemption involving construction of a rail line under 49 CFR 1150.36	\$1,400.
(iii) A petition for exemption under 49 U.S.C. 10502 involving construction of a rail line	\$55,600.
(13) A Feeder Line Development Program application filed under 49 U.S.C. 10907(b)(1)(A)(i) or 10907(b)(1)(A)(ii) ...	\$2,600.
(14) (i) An application of a class II or class III carrier to acquire an extended or additional rail line under 49 U.S.C. 10902.	\$4,600.
(ii) Notice of exemption under 49 CFR 1150.41–1150.45	\$1,400.
(iii) Petition for exemption under 49 U.S.C. 10502 relating to an exemption from the provisions of 49 U.S.C. 10902.	\$4,900.
(15) A notice of a modified certificate of public convenience and necessity under 49 CFR 1150.21–1150.24	1,300.
(16)–(20) [Reserved]	
PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings:	
(21) (i) An application for authority to abandon all or a portion of a line of railroad or discontinue operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the Northeast Rail Service Act [Subtitle E of Title XI of Pub. L. 97–35], bankrupt railroads, or exempt abandonments).	\$16,500.
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50	\$2,800.
(iii) A petition for exemption under 49 U.S.C. 10502	\$4,700.
(22) An application for authority to abandon all or a portion of a line of a railroad or operation thereof filed by Consolidated Rail Corporation pursuant to Northeast Rail Service Act.	\$350.
(23) Abandonments filed by bankrupt railroads	\$1,400.
(24) A request for waiver of filing requirements for abandonment application proceedings	\$1,300.
(25) An offer of financial assistance under 49 U.S.C. 10904 relating to the purchase of or subsidy for a rail line proposed for abandonment.	\$1,100.
(26) A request to set terms and conditions for the sale of or subsidy for a rail line proposed to be abandoned	\$16,800.
(27) A request for a trail use condition in an abandonment proceeding under 16 U.S.C.1247(d)	150.
(28)–(35) [Reserved]	
PART IV: Rail Applications to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(36) An application for use of terminal facilities or other applications under 49 U.S.C. 11102	\$14,100.
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322	\$7,600.

Type of proceeding	Fee
(38) An application for two or more carriers to consolidate or merge their properties or franchises (or a part thereof) into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11324:	
(i) Major transaction	\$1,111,700.
(ii) Significant transaction	\$222,300.
(iii) Minor transaction	\$5,900.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,300.
(v) Responsive application	5,900.
(vi) Petition for exemption under 49 U.S.C. 10502	7,000.
(39) An application of a non-carrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	\$1,111,700.
(ii) Significant transaction	\$222,300.
(iii) Minor transaction	\$5,900.
(iv) A notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,000.
(v) Responsive application	\$5,900.
(vi) Petition for exemption under 49 U.S.C. 10502	\$7,000.
(40) An application to acquire trackage rights over, joint ownership in, or joint use of any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11324:	
(i) Major transaction	\$1,111,700.
(ii) Significant transaction	\$222,300.
(iii) Minor transaction	\$5,900.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$950.
(v) Responsive application	\$5,900.
(vi) Petition for exemption under 49 U.S.C. 10502	\$7,000.
(41) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	\$1,111,700.
(ii) Significant transaction	\$222,300.
(iii) Minor transaction	\$5,900.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	\$1,100.
(v) Responsive application	\$5,900.
(vi) Petition for exemption under 49 U.S.C. 10502	\$4,900.
(42) Notice of a joint project involving relocation of a rail line under 49 CFR 1180.2(d)(5)	\$1,800.
(43) An application for approval of a rail rate association agreement. 49 U.S.C. 10706	\$52,000.
(44) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant amendment	\$9,600.
(ii) Minor amendment	\$70.
(45) An application for authority to hold a position as officer or director under 49 U.S.C. 11328	\$550.
(46) A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered.	\$6,000.
(47) National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562	\$150.
(48) National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act.	\$150.
(49)–(55) [Reserved]	
PART V: Formal Proceedings:	
(56) A formal complaint alleging unlawful rates or practices of carriers:	
(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1)	\$62,100.
(ii) All other formal complaints (except competitive access complaints)	\$6,100.
(iii) Competitive access complaints	\$150.
(57) A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates or charges. 49 U.S.C. 10705.	\$6,600.
(58) A petition for declaratory order:	
(i) A petition for declaratory order involving a dispute over an existing rate or practice which is comparable to a complaint proceeding.	\$1,000.
(ii) All other petitions for declaratory order	\$1,400.
(59) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	\$5,200.
(60) Labor arbitration proceedings	\$150.
(61) Appeals to a Surface Transportation Board decision and petitions to revoke an exemption pursuant to 49 U.S.C. 10502(d).	\$150.
(62) Motor carrier undercharge proceedings	\$150.
(63)–(75) [Reserved].	
PART VI: Informal Proceedings:	
(76) An application for authority to establish released value rates or ratings for motor carriers and freight forwarders of household goods under 49 U.S.C. 14706.	\$900.
(77) An application for special permission for short notice or the waiver of other tariff publishing requirements	\$90.
(78) (i) The filing of tariffs, including supplements, or contract summaries	\$1 per page. (18 minimum charge.)
(ii) Tariffs transmitted by fax	\$1 per page.
(79) Special docket applications from rail and water carriers:	
(i) Applications involving \$25,000 or less	\$50.
(ii) Applications involving over \$25,000	\$100.
(80) Informal complaint about rail rate applications	\$450.

Type of proceeding	Fee
(81) Tariff reconciliation petitions from motor common carriers:	
(i) Petitions involving \$25,000 or less	\$50.
(ii) Petitions involving over \$25,000	\$100.
(82) Request for a determination of the applicability or reasonableness of motor carrier rates under 49 U.S.C. 13710(a)(2) and (3).	\$150.
(83) Filing of documents for recordation. 49 U.S.C. 11301 and 49 CFR 1177.3(c)	\$30 per document.
(84) Informal opinions about rate applications (all modes)	\$150.
(85) A railroad accounting interpretation	\$850.
(86) An operational interpretation	\$1,100.
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108:	
(i) Complaint	\$75.
(ii) Answer (per defendant), Unless Declining to Submit to Any Arbitration	\$75.
(iii) Third Party Complaint	\$75.
(iv) Third Party Answer (per defendant), Unless Declining to Submit to Any Arbitration	\$75.
(v) Appeals of Arbitration Decisions or Petitions to Modify or Vacate an Arbitration Award	\$150.
(88)–(95) [Reserved]	
PART VII: Services:	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent	\$23 per delivery.
(97) Request for service or pleading list for proceedings	\$18 per list.
(98) (i) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Surface Transportation Board or State proceeding that does not require a <i>Federal Register</i> notice.	\$200.
(ii) Processing the paperwork related to a request for Carload Waybill Sample to be used for reasons other than a Surface Transportation Board or State proceeding that requires a <i>Federal Register</i> notice.	\$500.
(99) (i) Application fee for the Surface Transportation Board's Practitioners' Exam	\$100.
(ii) Practitioners' Exam Information Package	\$25.
(100) Uniform Railroad Costing System (URCS) software and information:	
(i) Initial PC version URCS Phase III software program and manual	\$50.
(ii) Updated URCS PC version Phase III cost file, if computer disk provided by requestor	\$10.
(iii) Updated URCS PC version Phase III cost file, if computer disk provided by the Board	\$20.
(iv) Public requests for <i>Source Codes</i> to the PC version URCS Phase III	\$500.
(v) PC version or mainframe version URCS Phase II	\$400.
(vi) PC version or mainframe version Updated Phase II databases	\$50.
(vii) Public requests for <i>Source Codes</i> to PC version URCS Phase II	\$1,500.
(101) Carload Waybill Sample data on recordable compact disk (R-CD):.	
(i) Requests for Public Use File on R-CD—First Year	\$450.
(ii) Requests for Public Use File on R-CD Each Additional Year	\$150.
(iii) Waybill—Surface Transportation Board or State proceedings on R-CD—First Year	\$650.
(iv) Waybill—Surface Transportation Board or State proceedings on R-CD—Second Year on same R-CD	\$450.
(v) Waybill—Surface Transportation Board of State proceeding on R-CD—Second Year on different R-CD	\$500.
(vi) User Guide for latest available Carload Waybill Sample	\$50.

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