HISTORY OF NORTH DAKOTA WHEAT RATES

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The oldest wheat rates in North Dakota are those prescribed by the Interstate Commerce Commission (ICC) in Docket 17000, Part VII, *Grain and Grain Products*, 164 I.C.C. 619 (1930). These rates increased by the various general increases are still in effect in North Dakota today. In addition to establishing the rates in Docket 17000, the ICC also prescribed the services that the railroads were to provide under this rate structure. The rates have thus become known as the full service rates. Services provided under the Docket 17000 rates included, "standard free time for loading and unloading, diversion and reconsignment, one or more stops in transit for milling, cleaning, sacking or storage at interior points or the markets and one free stop en route for the purpose of inspecting the grain to obtain grade."[1] Although the Docket 17000 rates are still in effect in North Dakota very little, if any, wheat has moved under these rates since 1960.

Responding to severe unregulated motor carrier competition in the early 1960's, the railroads established reduced rates for grain and grain products originating from some N.D. stations. These rates, referred to as Group 3 rates [described in Wheat, Rye, and Flaxseed to Duluth and Minneapolis, 315 I.C.C. 89 (1961)] took effect in 1960. Group 3 rates unlike Docket 17000 rates did not include a free stop for inspection. Instead, the Group 3 rates had an additional charge for inspection stops.

Rates were again adjusted in 1963 by the Railroads serving North Dakota. The 1963 rate adjustment introduced a seasonality feature in the wheat rates, in response to the railroads perception of differing demand for grain transportation between the winter and summer months. The 1963 adjustment lowered the Group 3 rates approximately

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[1]Interstate Commerce Commission, Initial Decision I & S 8939, October 22, 1974, p.2.

10 percent from N.D. origins (except in the extreme eastern portion of the state) for the winter months. The reduced rates were offered from November through May and were referred to as Group 4 rates. The Group 4 rates (November-May) like the Group 3 rates (June-October) were not "Full Service Rates," since they included an additional charge for en route inspection not found under the Docket 17000 rates. The Group 3 and Group 4 rates moved the majority of the rail wheat movement until 1971.

Once again, in response to intensive motor carrier competition, the railroads on December 11, 1971 reduced rates from North Dakota to Minneapolis and Duluth. The 1971 reduction was unique in that it only applied to wheat and wheat products. The 1971 adjustment reduced the Group 3 and Group 4 rates approximately 25 percent and changed the seasonal period to June, July, and August for the summer rates. The adjustment created an average 14 percent differential between summer and winter rates. However, to preserve rail revenues, services were drastically cut under the new "Restricted Service" or "Frill Free" rates.

"The following discussion lists the reduction in services which accompanied the 1971 wheat reductions:"[2]

A. The Burlington Northern's frill-free rates, summer and winter, are restricted per Item 3800, Tariff 177, I.C.C. No 193 as follows:

    Rates apply only on wheat, wheat flour and mill feed. Minimum weight is not less than 80,000 pounds whereas Docket 17000 rates are 80 percent of market capacity but not less than 50,000 pounds.

    No inspection en route, sampling, diversion or reconsignment privileges.

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[2]Finsness, John I., Verified Statement, I & S 8939, July 31, 1978, pps. 2-3.

Bill of lading to be tendered at origin. Destination industry must be named on bill of lading. Not subject to standard demurrage rules. Car must be loaded and bill of lading showing consignee, destination station and destination industry must be tendered at origin station within ten daylight hours.

Twenty-four consectuve additional hours for loading will be allowed at the charge of $50 for boxcars and $80 for hopper cars.

Forty-eight hours are allowed for unloading with one credit given for unloading within twenty-four hours and one debit given for each day beyond forty-eight hours and an excess of debits over credits at month end to be charged $30 per excess. Milling, cleaning or blending is allowed.

B. Soo Line provisions, Item 446, Tariff 87-P, I.C.C. 7848, are essentially the same as the Burlington Northern except that:

An additional twenty-four hours for loading at origin at cost of $50-box and $80-hopper is not allowed.

Instead the shipper may bill the car to a destination terminal area and furnish the Soo Line at Minneapolis the name of the unloading elevator at that destination by 4:00 p.m. on the day following the day the car is tendered. If the shipper desires to do this, in other words, load and bill the car to destination within 10 daylight hours and furnish name of unloading elevator by 4:00 p.m. the next day, he will have to pay an additional $50 on a boxcar and $80 on a hopper car.

C. The Milwaukee's adjustment provides:

Not less than 100,000 pounds minimum weight. No transit for milling or storage is allowed.

One stop for inspection en route or one diversion or reconsignment, but not both, is allowed without further charge.

Forty-eight hours are allowed for loading and there is no unusual $50–$80 charge for 10 hours restriction. Holding for loading beyond forty-eight hours is subject to standard demurrage rates.

The Railroads in explaining the initial implementation of the 1971 adjustment stated:

> The wheat rates involved in this proceeding made further changes in the accessorial services available to the shippers. This was accomplished to reduce the carriers cost in gathering grain and thus permit the very substantial rate reductions to be made without a loss in earnings to the carriers.[3]

The Railroads rationale for retaining the seasonality feature under the new "Restricted Service" rates was the same as in 1963. Basically, the railroads perceived that the demand exceeded the supply of rail transportation in the summer months while the opposite was true during the winter months. Therefore, the seasonal rates were developed to discourage shipments during periods of heavy demand and encourage shipments during weak demand periods. The end result being a more balanced rail movement throughout the entire year allowing the railroads more efficient utilization of their equipment.

North Dakota, in 1971, had three different rate structures applying to wheat and wheat products:

1. The Docket 17000 or "Full Service" rates were the highest but included a number of accessorial services.
2. The Group 3 and Group 4 rates that were lower than the Docket 17000 rates, but did not allow a free stop for inspection.
3. The new "Restricted Service" summer and winter rates that were approximately 25 percent less than Group 3 and Group 4 rates but had drastically reduced accessorial services.

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[3] IBID p.3

The wheat shippers in North Dakota could choose, to some extent, the rate and service level that they desired. After 1971, however, the majority of North Dakota's wheat moved under the "Restricted Service" rates.

On December 1, 1974, the railroads were allowed to cancel their winter level restricted service rates and raise them to the summer level. Shippers protested the cancellation of the winter rates arguing that the railroads had not restored services when they were allowed to raise their rates year around to the summer restricted service level. Although the case involving the winter rates (I & S 8939) is still under litigation, "summer" restricted service rates now apply year around from North Dakota origins.

The basic argument put forth by the railroads in support of the cancellation of the winter rates was that, "the seasonal marketing of grain which justified the seasonal variations in the gather grain rate structure no longer exists."[4] Specifically Burlington Northern argued.[5]

1. That during the 24 month period from September 1972 to July 1974, "there was not enough seasonality of movement to create a car surplus in the Twin City Region, except on June 3, 1974 and that surplus disappeared even though the higher-rated summer season was entered.

2. "...that there is no visible relationship between the prices of various grains and the railroads seasonal application of rates."

3. that with the wide swings in prices (from January 1972 to July 1974) it has become impossible to level out movements of grain by varying freight rates. And

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[4]ICC, I &S 8939 Report and Order of the Commission, Review Board Number 4, Members Fitzpatricks, Shaw, and Fisher, September 30, 1975, pps. 7-9.

[5]IBID

4. "...that an increase in storage capacity over the past years demonstrates that the farmers now have the ability to store grain on the farm at harvest time. Thus, it submits that this capacity to store grain in large quantities at harvest also negates the rationale for seasonal rates' existence."

Overall, the railroads perceived in 1974 that the demand for rail transportation exceeded supply or was strong enough year around to negate their incentive to encourage shipments during the winter months and discourage shipments during the summer months.

From 1974 to present the wheat rate structure has remained basically the same. The majority of the wheat transported by rail from North Dakota moves under the restricted service summer rates subsequently increased under various general rate increases since 1974.[6]

[6]There has also been some minor rate adjustments on wheat from some origins in extreme N.D.

SUMMARY: HISTORY

The railroads serving North Dakota instituted seasonal rates in response to their perception of a differing demand for transport between the summer and winter months. The railroads hoped through the use of seasonal rates to encourage shipments in the off peak winter months and discourage shipments in the peak summer months. This would thus allow the railroads better utilization of equipment.

Seasonal rates were not effective in leveling out movements and were cancelled by the railroads. In cancelling the winter rates the railroads felt that the demand for rail transportation exceeded supply or was strong enough year around to neutralize the effects of seasonal rates.