

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 810.)

PRIOR PROVISIONS

A prior section 10703, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1372; Pub. L. 96-296, §22(a), (h), July 1, 1980, 94 Stat. 812, 814; Pub. L. 97-449, §5(g)(5), Jan. 12, 1983, 96 Stat. 2443; Pub. L. 98-216, §2(11), Feb. 14, 1984, 98 Stat. 5; Pub. L. 99-521, §7(a), Oct. 22, 1986, 100 Stat. 2994; Pub. L. 103-272, §5(m)(21), July 5, 1994, 108 Stat. 1377, related to authority for carriers to establish through routes, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 10703 and 13705 of this title.

§ 10704. Authority and criteria: rates, classifications, rules, and practices prescribed by Board

(a)(1) When the Board, after a full hearing, decides that a rate charged or collected by a rail carrier for transportation subject to the jurisdiction of the Board under this part, or that a classification, rule, or practice of that carrier, does or will violate this part, the Board may prescribe the maximum rate, classification, rule, or practice to be followed. The Board may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Board.

(2) The Board shall maintain and revise as necessary standards and procedures for establishing revenue levels for rail carriers providing transportation subject to its jurisdiction under this part that are adequate, under honest, economical, and efficient management, to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business. The Board shall make an adequate and continuing effort to assist those carriers in attaining revenue levels prescribed under this paragraph. Revenue levels established under this paragraph should—

(A) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; and

(B) attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

(3) On the basis of the standards and procedures described in paragraph (2), the Board shall annually determine which rail carriers are earning adequate revenues.

(b) The Board may begin a proceeding under this section only on complaint. A complaint under subsection (a) of this section must be made under section 11701 of this title, but the proceeding may also be in extension of a complaint pending before the Board.

(c) In a proceeding to challenge the reasonableness of a rate, the Board shall make its determination as to the reasonableness of the challenged rate—

(1) within 9 months after the close of the administrative record if the determination is based upon a stand-alone cost presentation; or

(2) within 6 months after the close of the administrative record if the determination is based upon the methodology adopted by the Board pursuant to section 10701(d)(3).

(d) Within 9 months after January 1, 1996, the Board shall establish procedures to ensure expeditious handling of challenges to the reasonableness of railroad rates. The procedures shall include appropriate measures for avoiding delay in the discovery and evidentiary phases of such proceedings and exemption or revocation proceedings, including appropriate sanctions for such delay, and for ensuring prompt disposition of motions and interlocutory administrative appeals.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 810; amended Pub. L. 104-287, §5(23), Oct. 11, 1996, 110 Stat. 3390.)

PRIOR PROVISIONS

A prior section 10704, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1373; Pub. L. 96-296, §13(b), July 1, 1980, 94 Stat. 803; Pub. L. 96-448, title II, §205(b), Oct. 14, 1980, 94 Stat. 1906; Pub. L. 97-261, §9(b), Sept. 20, 1982, 96 Stat. 1109; Pub. L. 99-521, §7(b), Oct. 22, 1986, 100 Stat. 2994, related to authority and criteria for rates, classifications, rules, and practices prescribed by Interstate Commerce Commission, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See sections 10704, 13701, and 15503 of this title.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104-287 substituted “January 1, 1996” for “the effective date of the ICC Termination Act of 1995”.

§ 10705. Authority: through routes, joint classifications, rates, and divisions prescribed by Board

(a)(1) The Board may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates, the division of joint rates, and the conditions under which those routes must be operated, for a rail carrier providing transportation subject to the jurisdiction of the Board under this part.

(2) The Board may require a rail carrier to include in a through route substantially less than the entire length of its railroad and any intermediate railroad operated with it under common management or control if that intermediate railroad lies between the terminals of the through route only when—

(A) required under section 10741, 10742, or 11102 of this title;

(B) inclusion of those lines would make the through route unreasonably long when compared with a practicable alternative through route that could be established; or

(C) the Board decides that the proposed through route is needed to provide adequate, and more efficient or economic, transportation.

The Board shall give reasonable preference, subject to this subsection, to the rail carrier originating the traffic when prescribing through routes.

(b) The Board shall prescribe the division of joint rates to be received by a rail carrier providing transportation subject to its jurisdiction