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November 26, 2019

VIA ELECTRONIC FILING

Allison C. Davis, Director
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Docket No. EP 761 – Hearing on Revenue Adequacy
Docket No. EP 722 – Railroad Revenue Adequacy

Dear Board Members:

Enclosed please find an Overview of BNSF Railway's Hearing Testimony as requested by the Board in its Notice of Public Hearings issued on September 12, 2019 in the above-referenced proceedings.

Very truly yours,

A handwritten signature in blue ink that reads "Suzanne Wellen". The signature is fluid and cursive, with the first name "Suzanne" being more prominent than the last name "Wellen".

Suzanne Wellen

Enclosure

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. EP 761

HEARING ON REVENUE ADEQUACY

DOCKET NO. EP 722

RAILROAD REVENUE ADEQUACY

OVERVIEW OF BNSF RAILWAY HEARING TESTIMONY

BNSF Railway Company (“BNSF”) appreciates the opportunity to address the recommendations of the Surface Transportation Board’s (“STB”) Rate Reform Task Force (“RRTF”) for policy changes regarding revenue adequacy, as requested by the Board in its Notice of Public Hearings issued in these proceedings on September 12, 2019 (“Notice”).

BNSF joins in the testimony of the Association of American Railroads (“AAR”), which addresses in detail the topics presented by the Board in its Notice. Attending the hearing on behalf of BNSF will be Jill Mulligan, Vice President - Law and General Counsel, and Paul Bischler, Vice President - Controller and Chief Sourcing Officer. Ms. Mulligan and Mr. Bischler will use BNSF’s allotted time to highlight several principles that BNSF believes should frame the Board’s analysis of the issues raised in this proceeding and to emphasize areas of particular interest and concern for BNSF. Those principles include the following:

- BNSF’s business strategy is to market competitive and innovative service offerings, to earn a reasonable return on the service we provide, and to invest those returns in our business

for safety, efficiency and growth, to the benefit of our customers and the communities we serve.

- BNSF has a long history of investing to maintain, improve and expand our network. The STB should recognize and encourage the on-going need for significant amounts of capital investment in its rate reasonableness and revenue adequacy regulatory doctrines.
- Although BNSF did not earn a regulatory return that exceeded our regulatory cost of capital last year, BNSF has seen improved financial health and profitability. Most importantly, our improved returns have been driven by competitive, principally exempt traffic and not by undue exercise of market power on regulated traffic.
- While the Board must be focused on the long-term industry trends when it considers revenue adequacy or maximum rate regulation generally, the STB should not ignore the current circumstances facing the industry, which include, among other things, the long-term structural decline of coal, changes in global supply chains, competitive innovation, and, more recently, softness in many aspects of our business. To do otherwise is to regulate by looking into the rear-view mirror.
- It is important that any revisions the STB makes to the regulatory framework both make sense at the time and are durable into the future. That means a regulatory structure that allows competitive markets to determine transportation rates and drive service innovations, while also providing effective oversight when those market forces are not present.
- Artificial caps on rates or other regulatory devices meant to drive rates below market levels, as recommended by the RRTF on long-term revenue-adequate carriers, compromise the ability of rail carriers to make investments to maintain and expand their network and

facilities and remain competitive in the dynamic transportation markets we compete in to meet customer growth and secure market share.

- Railroads should not be penalized for successfully participating in and expanding competitive markets; the regulator doing so disrupts both transportation and commodities markets, and creates winners and losers wholly divorced from competitive outcomes. It also compromises the ability of a railroad to invest in assets that support regulated commodities.
- The STB should continue to address concerns about rate levels through an individualized analysis that maintains the important regulatory balance that currently exists. The Board should continue to focus on improving rate reasonableness methodologies, not on the development of a wholesale new revenue adequacy constraint that the ICCTA does not require or support.