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February 14, 2020

VIA E-FILING

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

Re: Docket No. EP 763, Montana Rail Link, Inc. -- Petition for Rulemaking --
Classification of Carriers (49 C.F.R. Pt. 1201)

Dear Ms. Brown:

Pursuant to 49 C.F.R. § 1110, et.seq. Montana Rail Link, Inc. has enclosed a Petition for Rulemaking, which requests the Board to initiate a proceeding to amend the current revenue threshold for Class I rail carriers. If there are any questions concerning this filing, please contact me by telephone at (202) 663-7820 or by e-mail at rnardi@bakerandmiller.com.

Sincerely,


Rose-Michele Nardi

Enclosure

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. EP 763

**MONTANA RAIL LINK, INC.
-- PETITION FOR RULEMAKING --
CLASSIFICATION OF CARRIERS (49 C.F.R. Pt. 1201)**

Montana Rail Link, Inc. ("MRL") is filing this petition with the Surface Transportation Board ("Board"), pursuant to 49 C.F.R. § 1110, et. seq. to initiate a rulemaking proceeding to amend the rail carrier classification regulations set forth in 49 C.F.R. § 1201, 1-l(a) ("Petition"). The revenue threshold for determining a Class I railroad is \$250 million (1991 Dollars), which after applying the most current railroad revenue deflator formula, is approximately \$489.936 million. MRL's proposed amendment to 49 C.F.R. § 1201, 1-l(a) would increase the revenue threshold for a Class I carrier to \$900 million after application of the revenue deflator formula. MRL operationally and economically continues to be a regional railroad, but may exceed the Class I revenue threshold within two years. If MRL becomes classified as a Class I railroad, it will incur significant costs, without any off-setting public benefits.

I. BACKGROUND

A. 1992 RULEMAKING PROCEEDING

On December 3, 1990, MRL, along with Wisconsin Central Ltd. ("WC"), filed a similar petition for rulemaking with the Interstate Commerce Commission (the "Commission") to amend the then-current revenue classification threshold. The Commission granted the petition, increasing the Class I revenue threshold to \$250 million (1991 dollars), so regional railroads such as MRL would not be classified as Class I carriers. *See Montana Rail Link, Inc. and Wisconsin Central*

Ltd., *Joint Petition for Rulemaking with Respect to 49 C.F.R. Part 1201*, Ex Parte No. 492, 8 I.C.C.2d 625, June 10, 1992 (“1992 Rulemaking Decision”). Three important principles emerged from the 1992 Rulemaking Decision: **(1) Regional railroads are a class of railroads distinct from Class Is; (2) The Commission’s historic policy was to narrowly apply its reporting requirements; and (3) Expanding the pool of Class I carriers should occur only if the benefits of the expansion outweigh the burdens imposed on such newly-classified carriers.**

1. The Emergence of the Regional Railroad.

In the 1992 Rulemaking Decision, the Commission explained how the industry landscape had changed since 1980, and noted the emergence of a new distinct group of railroads – the regional railroads:

The big carriers have for the most part grown bigger (and fewer in number), through consolidations and other acquisitions. The number of small carriers has grown, as new companies have taken over the unwanted lines of the big carriers. *And a new group of mid-size regional carriers has emerged – clearly distinct in terms of revenues from the larger class I carriers* – as new companies have consolidated with each other and rationalized their route structures.

Id. at *635-636 (emphasis added; footnote omitted). *The 1992 Rulemaking Decision* provided specific data demonstrating the extreme difference in revenue between Class Is and regional railroads like MRL:

[T]he five largest class I’s each had revenues in 1990 exceeding \$3 billion and accounted as a sub-group for more than 73% of total class I revenues in that year. In contrast, the combined 1990 revenue of MRL and WC accounted for approximately seven-tenths of one percent of that amount....

Id. at *633. Therefore, the Commission recognized the financial profile of a railroad such as MRL was completely distinct from that of a typical Class I carrier.

2. Long-Standing Policy of Narrowly Applying Reporting Requirements.

In discussing the burden of requiring regional railroads such as MRL to be bound by Class I reporting requirements, the Commission noted its longstanding policy regarding the collection of information:

[T]o limit the information that it collects to what the agency ‘regularly and frequently’ needs, using the classification system to gather ‘essential information from carriers which make a major impact on the transportation industry while reducing the burden upon smaller carriers’ and collecting data needed irregularly ‘only when the specific needs arise’.

See 1992 Rulemaking Decision, at *632 (citing Policy Statement on Financial and Statistical Reporting, 44 Fed. Reg. 27,537 (1979)). *See also Revision to Railroad Annual Report Form R-1; (49 CFR Part 1241)*, 1 ICC.2d 661 (Oct. 30, 1985) (adopting the “‘regular-and-frequent-use’ standard in evaluating whether to retain the schedules proposed for deletion”) (footnote omitted).

Consistent with this policy, the Commission in 1982 issued a final rule excluding all Class IIs from the financial reporting requirement. *See Elimination of Accounting and Reporting Requirements of Class II Railroads*, 47 Fed. Reg. 6879, Feb. 17, 1982. In that final rule, the Commission noted that Class II “operations account for only 2% of total railroad operating revenues”, and it had “concluded that the accounting and reporting burden is no longer justified”. *Id.* at 1, 2. Similarly, in the *1992 Rulemaking Decision*, the Commission explained that it did not need the financial information of regional railroads such as MRL and WC because, without such data, it still would have “representative information” and the ability to “accurately monitor the financial condition of the carriers that carry the great majority of the traffic of the railroad industry”, which were the purposes of the reporting requirements for Class I carriers. *See Id.* at *633.

This long-standing policy adopted by the Commission is also consistent with the current

governing statute. *See* 49 U.S.C. 11161 (directing the Board to use the “least burdensome means by which the required information may be developed for regulatory purposes”); 49 U.S.C. 10101(13) (stating an objective of Railroad Transportation Policy is, in part, “minimizing the burden on rail carriers of developing and maintaining the capability of providing [accurate cost information]”).

3. The Importance of a Cost-Benefit Analysis.

In the *1992 Rulemaking Decision*, the Commission stated “[a]t bottom, our final decision in this proceeding will turn on a weighing of the costs and benefits of reporting by the regionals”, noting “[t]he costs associated with Class I reporting are not trivial”. *Id.* at *632 (*quoting* September 10, 1991, decision in the same proceeding). The Commission concluded the benefits did not outweigh the costs, finding the inclusion of regional railroads like MRL “in the class I reporting group will have no appreciable impact on the breadth or representativeness of the industry information that the Commission needs and already receives”. *Id.* at *632-33.

The Commission also stated that “the statutory and regulatory distinctions between class I and class II railroads do not, in our view, provide a basis for adding to the pool of class I carriers”. *Id.* at *633. And, the Commission pointed out that no matter where the revenue threshold was set, there would always be carriers that fell below the Class I cut-off. *See Id.* at *635 (noting “[s]ome carriers will fall below the class I cap and some above it, regardless of where it is set”).

As a general matter, the Commission concluded Congress did not intend for the increased statutory burdens applicable to Class I railroads to apply to regional carriers. *Id.* at *635 (stating “[i]n our view, the increased burdens that the statute imposes on class I carriers were not intended to apply to carriers such as WC and MRL”). The Commission also noted no evidence

had been introduced “to show that mid-size carriers such as WC and MRL will inappropriately exercise market power unless the statutory provisions applicable to class I carriers are applied to them as well”. *Id.* at *636. In addition, the Commission noted MRL and WC had explained “they have little market power and are dependent upon their large class I connections...for business”. *Id.*

The Commission also addressed the regulatory distinctions between Class I and Class II carriers in its *1992 Rulemaking Decision*. In that decision, the Commission noted:

The fact that classification status is a relevant factor in some of our regulations, however, is not a determinant, in and of itself, of the appropriate revenue threshold for each classification level. We can modify our regulations, when it is necessary or appropriate to do so, and in any case we apply them in a manner that will ensure that we have the information necessary to make the analysis required under the Act.

Id. at *636-37.¹

B. MRL’S OPERATING PROFILE

MRL has been classified as a Class II carrier since its formation in 1987. As noted above, the Commission in its *1992 Rulemaking Decision* recognized the great chasm between the financial profile of MRL and WC, on the one hand, and of Class I carriers, on the other hand. However, it is also important to note two significant characteristics of MRL’s operating profile,

¹ In 2000, WC filed a second petition for rulemaking to increase the revenue threshold for a Class I carrier. Before the Board ruled on the petition, WC was acquired by Canadian National Railway Company, rendering the petition moot with respect to the petitioner. The Board subsequently addressed the petition as part of a broader decision on consolidated financial reporting. In a one-sentence response, the Board summarily declined to initiate the rulemaking, “because railroads with operating revenues of more than [the current Class I revenue threshold] are clearly large entities for which financial reporting is reasonable and not unduly burdensome....” *See Proposal to Require Consolidated Reporting by Commonly Controlled Railroads; Wisconsin Central Ltd. – Petition for Rulemaking – Classification of Carriers*, STB Ex Parte No. 634 and 584, served Nov. 7, 2001. Given the changed status of WC, the summary treatment of the WC petition was understandable; however, that treatment should hold little weight for purposes of this proceeding, because it is not supported by any analysis (including a cost-benefit analysis) and fails to address the core principles raised by both the *1992 Rulemaking Decision* and the governing statute.

which clearly differentiate MRL from a typical Class I carrier: (1) MRL's dependence on a Class I connection, and (2) the regional nature of MRL's rail operations.

MRL leases its main line from the Class I railroad, BNSF Railway Company ("BNSF"). MRL only interchanges traffic with BNSF, and BNSF sets the rates for which MRL receives a division. In fact, approximately 84% of MRL's total revenue is generated from traffic MRL interchanges with BNSF and from other ancillary services MRL performs for BNSF. In addition, the overwhelming majority of MRL's car and power supply is provided by BNSF. Therefore, MRL, like most short lines, is heavily dependent on its Class I interchange partner. This operating profile is in stark contrast to the typical Class I railroad, which has numerous interchange partners, rate-setting authority, and owns or leases the majority of its locomotives and rail cars.

In addition, approximately 95% of its main line (and a greater percentage, if other track is included) is located in the state of Montana. This means MRL, like most short lines, are vulnerable to regional economics, especially given that most of MRL's traffic is comprised of a handful of commodities. Class Is, on the other hand, are generally more insulated from the swings of regional economics, because their rail systems extend over numerous states and they transport more diversified traffic.

Therefore, although MRL has high revenue by short line standards, its operating profile is more akin to a short line than a Class I carrier. And, the Board already recognizes that certain types of railroads should not be treated as Class I carriers regardless of their revenues. *See* 49 C.F.R. § 1201 at 1-l(d) (exclusion from Class I classification for all switching and terminal railroads).

C. MRL'S FINANCIAL PROFILE.

MRL's total revenue² for 2018 was approximately \$398,374,000. While that revenue is certainly higher than the typical short line railroad, it is dwarfed by the operating revenue generated by the Class I railroads.

There are 7 Class I railroads: (1) BNSF Railway Company, (2) CSX Transportation, (3) Grand Trunk Corporation, (4) Kansas City Southern Railway Company, (5) Norfolk Southern Railway (and subsidiaries), (6) Soo Line Corporation, and (7) Union Pacific Railroad Company. See Railroad Facts 2019, Association of American Railroads ("*2019 AAR Railroad Facts*"), at 65. After applying the most current revenue deflator formula (for 2018), the revenue threshold for Class Is is approximately 489.936 million. In 2018, each Class I generated operating revenue that far exceeded the Class I revenue threshold for that year: The smallest Class I railroad (with operating revenue of approximately \$1.414 billion) exceeded that threshold by almost 3 times; the two largest Class I railroads (with operating revenue of approximately \$23.413 billion and \$22.831 billion) exceeded that threshold by more than 46 times; and the third and fourth largest Class I railroads (with operating revenue of approximately \$11.934 billion and \$11.458 billion)³ exceeded that threshold by more than 23 times.⁴

Similarly, a comparison of the 2018 operating revenue of Class Is to the 2018 total

² The revenue classification thresholds refer to operating revenue. MRL's operating revenue constitutes the vast majority of its total revenue, and this Petition is based on MRL's concern that its operating revenue may exceed the Class I revenue threshold within two years. However, for purposes of its analysis in this Petition, MRL is conservatively using its total revenue rather than its operating revenue. As set forth in this Section I.C, the difference between the revenue of MRL and the revenue of the Class Is is stark, even when the total revenue of MRL is compared to only the operating revenue of the Class Is.

³ *2019 AAR Railroad Facts*, at 64 (identifying the operating revenue for each Class I railroad for the year 2018).

⁴ The 2018 relationship between actual Class I operating revenue and the revenue threshold for Class Is is similar to the circumstances the Commission faced in the 1992 proceeding. In its 1990 filing, MRL and WC noted that "with one exception, all of the existing Class I carriers have revenues that are more than three times higher than the classification threshold", and "the seven largest Class I carriers each have operating revenues more than 20 times higher than the classification threshold". See *Joint Petition of Montana Rail Line, Inc. and Wisconsin Central LTS. For Rulemaking With Respect To* 49 C.F.R. 1201, Dec. 3, 1990, at 3.

revenue of MRL demonstrates that Class I revenue continues to far exceed MRL's revenue. The *average* operating revenue for all Class Is that year was approximately \$10.883 billion⁵, which is more than 27 times MRL's total revenue for 2018. The operating revenue of the largest Class I (approximately \$23.413 billion) was more than 58 times MRL's total revenue. And the operating revenue of even the smallest Class I railroad (approximately 1.414 billion) still generated about 3.5 times the total revenue of MRL.

II. ARGUMENTS

The same factors that led the Commission in 1992 to raise the Class I threshold to prevent regional railroads like MRL from being lumped together with Class I carriers still exist today. As demonstrated above in Sections I.B and I.C, MRL is both operationally and financially a different type of carrier than the Class Is, and should not be treated as their equivalent. The essential question - both in the 1992 proceeding and today - is whether the burdens of treating a regional railroad like MRL as a Class I carrier is outweighed by the public benefits. As was the case in 1992, the answer is no.

The key burden on MRL, if it were to become a Class I carrier, is the financial reporting requirements. In 2015, the Board estimated the time for a Class I railroad to prepare eight specific railroad reports for which the Board was proposing new deadlines. *See Accelerating Reporting Requirements for Class I Railroads*, Docket No. EP 701, June 18, 2015, Appendix B, at *18. This decision did not purport to address the estimated hours for a Class I railroad to comply with all Class 1 accounting reporting requirements, but focused on eight specific reports. Based on the Board's estimates, each Class I railroad would spend up to 2,116 hours annually to prepare those eight reports. Even if the reporting requirements for Class I railroads were limited

⁵ This calculation was based on the 2018 operating revenues for each of the Class I railroads, as identified in the *2019 AAR Railroad Facts*, at 64.

to those eight reports, MRL would be required to hire a minimum of one dedicated accounting employee, at a fully burdened cost nearing \$150,000, solely to prepare those reports (*i.e.*, an employee working 8 hours a day, 264 days a year).⁶ And, it is reasonable to expect a newly-classified Class I carrier would, at least initially, incur substantially more hours in generating those eight reports than estimated by the Board, because it would need to convert its accounting system, re-train its employees, and begin collecting additional data it currently does not need for its internal accounting requirements.

In the *1992 Rulemaking Decision*, the Commission stated it would not impose the accounting reporting costs “unless there is a demonstrable showing on the record that there are very real benefits outweighing those costs”. *Id.* at *632 (*quoting* September 10, 1991 decision in the same proceeding). In the *1992 Rulemaking Decision*, the Commission also noted the combined revenues of the two petitioner railroads accounted for approximately seven-tenths of one percent of the revenue of the five largest Class I railroads, and those five Class Is constituted more than 73% of all Class I revenues. *Id.* at *633. Therefore, the Commission concluded that, based on such evidence, it was “clear” that imposing Class I reporting requirements on regional carriers like MRL was unnecessary to further the rationale of the reporting requirements, which was “to gather representative information and accurately monitor the financial condition of the carriers that carry the great majority of the traffic of the railroad industry”. *Id.*

The same is true today. MRL’s annual total revenue for 2018 accounts for less than six-tenths of one percent of the combined operating revenue of the four largest revenue-producing Class I railroads (approximately \$69.636 billion), and those four Class Is accounted for more than 91% of all Class I operating revenue for the year 2018 (approximately \$76.178 billion).

⁶ See *Working Day Payroll Calendar, 2019, University Human Resources – The University of Iowa*, calculating 261 working days in 2019.

MRL's financial information simply would have no impact on the Board's assessment of the financial condition of those carriers responsible for most of the country's railroad traffic. Accordingly, imposing the Class I accounting requirements on MRL would not promote the purposes sought by the reporting obligations.

Two different statutory provisions under the governing statute also direct the Board to minimize reporting burdens on railroads. Section 11161 provides: "The Board shall insure that the [cost accounting] rules promulgated under this section are the most efficient and *least burdensome means by which the required information may be developed for regulatory purposes*" (emphasis added). And, section 10101(13) incorporates, as part of its Rail Transportation Policy, the objective of "ensur[ing] the availability of accurate cost information in regulatory proceedings, *while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information*" (emphasis added). In addition, imposing unnecessary accounting requirements on MRL would undermine two additional statutory objectives of the Rail Transportation Policy: "[T]o encourage...efficient management of railroads", and "to minimize the need for Federal regulatory control over the rail transportation system...." 49 USC 10101(9) and (2).

The Commission in the *1992 Rulemaking Decision* also considered the potential benefits of Class I reporting requirements for use in rate reasonableness proceedings and contested abandonment proceedings. *Id.* at *634 and *637. Again, the Commission concluded the costs to regional railroads such as MRL would outweigh the benefits.

Moreover, since that decision, the Board has issued a formal policy squarely addressing the calculation of variable costs in a rate complaint against a non-class I carrier. The Board determined in such rate cases, it would "rely upon regional URCS costing data in determining

variable costs...with adjustments permitted to the costs as appropriate on a case-by-case basis”. See *Calculation of Variable Costs in Rate Complaint Proceedings Involving Non-Class I Railroads*, STB Ex Parte No. 589, March 21, 2003, at *15. See also *Market Dominance Streamlined Approach*, Docket No. EP 756, served Sept. 12, 2019, at *34 (noting “[s]mall railroads have always been subject to rate reasonableness complaints and their associated litigation costs, including addressing whether they have market dominance over traffic”). The Board also has repeatedly introduced various options for providing more accessible relief in rate cases, and there is no reason to believe the Board will cease to do so in the future. See *Simplified Standards for Rail Rate Cases*, STB Ex Parte No. 646 (Sub-No. 1), served Sept. 4, 2007, *motions for reconsideration denied*, served March 19, 2008; *Final Offer Rate Review; Expanding Access to Rate Relief*, Docket Nos. EP 755 and EP 665 (Sub-No. 2), served Sept. 12, 2019; *Market Dominance Streamlined Approach*, Docket No. EP 756, served Sept. 12, 2019. Accordingly, the use of Class I reporting data in rate reasonableness cases does not justify expanding the pool of Class I carriers. This is especially true for MRL, which, as noted above, has no rate-setting authority over the traffic that generates the vast majority of its revenue.

The use of Class I reporting data for calculating off-branch costs in abandonment applications similarly does not justify imposing Class I reporting requirements on regional railroads such as MRL. In its *1992 Rulemaking Decision*, the Commission noted non-Class I carriers use regional averages for calculating off-branch costs, and that methodology had not been shown to unfairly favor the abandoning railroad. *Id.* at *637. In addition, the Commission noted “parties that are concerned that they are disadvantaged by the current abandonment regulations can seek to change them, and participants in abandonment proceedings can adjust regional costs when appropriate, or develop more accurate carrier-specific costs, in any given

case”. *Id.* at *637-38. This logic should equally apply today. Moreover, traditional abandonment and discontinuance applications (*i.e.*, as opposed to adverse applications) are not frequently filed with the Board. The last decision issued by the Board deciding the merits of an application to abandon or discontinue (other than an adverse application) appears to be more than 8 years ago, in August of 2011. And, because BNSF is the lessor of MRL’s main line, BNSF retains a residual common carrier obligation over such line, and would need to obtain its own authority before the line could be abandoned. Accordingly, the need for Class I financial data for abandonment purposes provides a weak justification for expanding the pool of Class I carriers, in general, but especially for expanding the pool to include MRL.

Imposing additional burdens on a railroad, without meaningful, off-setting benefits, is not only detrimental to the railroad, but also for its customers. Numerous Montana business associations have recognized this fact and provided letters in support of this Petition. Those letters are attached to the Petition as *Attachment A*.

MRL does not dispute that certain statutory and regulatory provisions distinguish between Class I railroads and non-Class I railroads. But, any revenue threshold adopted by the Board will result in some carriers being treated as Class Is and other carriers being treated as non-Class Is. The issue for the Board to address is whether a regional carrier such as MRL should be treated as a Class I carrier, taking into account (1) the financial and operational differences between MRL and existing Class I carriers, and (2) the cost-benefit analysis of imposing Class I requirements on MRL. As the Commission noted in its *1992 Rulemaking decision*, “Congress knew that the Commission was capable of changing its idea of what was a big railroad...., and it left to the Commission the job of defining ‘big’ in light of its overall regulation of the transportation industry”. *Id.* at *635.

III. CONCLUSION

The proposed Class I revenue threshold of \$900 million would recognize the financial and operational differences between Class I carriers and a regional railroad like MRL, while still permitting MRL to generate growth and effectively serve its customers. In addition, a cost-benefit analysis supports continuing to treat MRL separately from Class I railroads, because MRL otherwise would incur significant costs without any off-setting public benefit. Under such circumstances, this Petition is fully consistent with both current statutory directives and the historical policy of the Commission.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Rose-Michele Nardi / cc", is written over a horizontal line.

Rose-Michele Nardi
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Washington, DC 20037
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Counsel for Montana Rail Link, Inc.

February 14, 2020

ATTACHMENT A

EP-763

MONTANA RAIL LINK, INC. – PETITION FOR RULEMAKING

SUPPORT LETTERS



1717 11th Avenue

Helena MT 59601

www.mtagc.org

MONTANA CONTRACTORS ASSN.

Quality People. Quality Projects.

September 30, 2019

Chairwoman Ann D. Begeman
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Adjusting the Revenue Threshold for Class II Railroads

Dear Chairwoman Begeman,

I am writing on behalf of the Montana Contractors' Association to support Montana Rail Link, Inc. (MRL) as they petition the Surface Transportation Board to increase the revenue threshold related to railroad classification.

MCA contractors and suppliers use rail to move heavy equipment from ports, as well as raw products such as oil, bulk lime, cement, aggregates, and ready-mix concrete. Increased costs to transport these value-added commodities results in higher end pricing for consumers.

The original revenue threshold classifications were not intended to be burdensome on smaller railroads like MRL. If MRL is reclassified as a Class I, it would almost certainly need to increase staffing simply to comply with the extensive reporting obligations imposed on much larger Class I railroads.

MRL serves as a critical link to markets around the world for rural Montana businesses and consumers. All businesses that ship by rail depend on competitive rates and quality service, which MRL currently provides to its limited customer base. The reclassification process has the potential to detrimentally impact a rural Montana employer and put further strain on the ability of rural Montana rail customers to efficiently and effectively transport their products to markets in Montana and the around the world.

For the reasons described above, I'm asking you to raise the revenue threshold and keep MRL a Class II railroad. Thank you for your consideration of this important issue.

Sincerely yours,

David Smith

David Smith, Executive Director
Montana Contractors' Association



Montana Agricultural Business Association

PO Box 7325, Helena, MT 59604 406-227-3523 mabamgea@Gmail.com

September 27, 2019

Chairwoman Ann D. Begeman
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Adjusting the Revenue Threshold for Class II Railroads

Dear Chairwoman Begeman,

I am writing to support Montana Rail Link, Inc. (MRL) as they petition the Surface Transportation Board to increase the revenue threshold related to railroad classification. MRL is a regional railroad that operates predominantly within the state of Montana, moves most of its traffic across 655 mainline miles and employs less than 1,300 people. MRL is captive to a single Class I railroad, BNSF Railway Company (BNSF) and shares three interchange points with BNSF. While MRL is approaching the current Class I revenue threshold, 84% of that revenue is generated directly through line-haul movements and other ancillary services on behalf of BNSF. Consequently, MRL has virtually no ratemaking authority and is dependent upon another Class I railroad for most of its revenue. MRL's captivity inherently limits its ability to generate non-BNSF revenue and its rural setting provides limited opportunity to interface with rail-served customers. MRL's overall ability to generate revenue is thereby limited.

The original revenue threshold classifications were not intended to be burdensome on smaller railroads like MRL. If MRL is reclassified as a Class I, it would almost certainly need to increase staffing simply to comply with the extensive reporting obligations imposed on much larger Class I railroads. As a result of the significant increase in compliance costs, MRL may be forced to reduce spending in other areas or reduce non-compliance staff.

Like Class I railroads, MRL is installing the necessary infrastructure and technology for Positive Train Control, albeit voluntarily. However, even the smallest Class I railroad (Kansas City Southern) has an annual revenue over three times larger than the current Class I threshold. In fact, MRL's total revenue accounts for less than six-tenths of one percent of the total Class I-railroad revenue.

MRL serves as a critical link to markets around the world for rural Montana businesses and consumers. All businesses that ship by rail depend on competitive rates and quality service, which MRL currently provides to its limited customer base. The reclassification process has the potential to detrimentally impact a rural Montana employer and put further strain on the ability of rural Montana rail customers to efficiently and effectively transport their products to markets in Montana and the around the world.

For the reasons described above, I'm asking you to raise the revenue threshold and keep MRL a Class II railroad. Thank you for your consideration of this important issue.

Sincerely yours,

Krista Lee Evans

Krista Lee Evans, Executive Director
Montana Agricultural Business Association



Montana Grain Elevator Association

PO Box 7325, Helena, MT 59604
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mabamgea@Gmail.com

September 20, 2019

Chairwoman Ann D. Begeman
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Adjusting the Revenue Threshold for Class II Railroads

Dear Chairwoman Begeman,

I am writing to support Montana Rail Link, Inc. (MRL) as they petition the Surface Transportation Board to increase the revenue threshold related to railroad classification. MRL is a regional railroad that operates predominantly within the state of Montana, moves most of its traffic across 655 mainline miles and employs less than 1,300 people. MRL is captive to a single Class I railroad, BNSF Railway Company (BNSF) and shares three interchange points with BNSF. While MRL is approaching the current Class I revenue threshold, 84% of that revenue is generated directly through line-haul movements and other ancillary services on behalf of BNSF. Consequently, MRL has virtually no ratemaking authority and is dependent upon another Class I railroad for most of its revenue. MRL's captivity inherently limits its ability to generate non-BNSF revenue and its rural setting provides limited opportunity to interface with rail-served customers. MRL's overall ability to generate revenue is thereby limited.

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detrimentally impact a rural Montana employer and put further strain on the ability of rural Montana rail customers to efficiently and effectively transport their products to markets in Montana and the around the world.

For the reasons described above, I'm asking you to raise the revenue threshold and keep MRL a Class II railroad. Thank you for your consideration of this important issue.

Sincerely,

Krista Lee Evans

Krista Lee Evans, Executive Director
Montana Grain Elevator Association



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Alan Olson
Executive Director

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August 12, 2019

Chairwoman Ann D. Begeman
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Adjusting the Revenue Threshold for Class II Railroads

Dear Chairwoman Begeman,

On behalf of a diverse spectrum of revenue and job creators working to support Montana oil and gas production, transportation, and refining of crude oil and natural gas, the Montana Petroleum Association (MPA) is writing to support Montana Rail Link, Inc. (MRL) as they petition the Surface Transportation Board to increase the revenue threshold related to railroad classification.

MPA is a non-profit trade association representing the nearly two hundred businesses which work to facilitate energy production in Montana. These include integrated and independent producers; lease operators; service providers; pipeline companies; refineries; as well as professional entities providing legal, financial, and additional regulatory support to the oil and natural gas industry.

MPA is proud to represent and advocate for companies which not only produce necessary resources, but contribute greatly to the families, communities, and state and local economies. For more than 100 years, petroleum production has supported and, in some cases, saved agricultural producers and other key revenue generators from financial hardship.

MRL is a regional railroad that operates predominantly within the state of Montana, moves most of its traffic across 655 mainline miles and employs less than 1,300 people. MRL is captive to a single Class I railroad, BNSF Railway Company (BNSF) and shares three interchange points with BNSF. While MRL is approaching the current Class I revenue threshold, 84% of that revenue is generated directly through line-haul movements and other ancillary services on behalf of BNSF. Consequently, MRL has virtually no ratemaking authority and is dependent upon another Class I railroad for most of its revenue. MRL's captivity inherently limits its ability to generate non-BNSF revenue and its rural setting provides limited opportunity to interface with rail-served customers.

We believe original revenue threshold classifications were not intended to be burdensome on smaller railroads like MRL. If MRL is reclassified as a Class I, it would almost certainly need to increase staffing simply to comply with the extensive reporting obligations imposed on much larger Class I railroads. As a result of the significant increase in compliance costs, MRL may be forced to reduce spending in other areas or reduce non-compliance staff.

Like Class I railroads, MRL is voluntarily installing the necessary infrastructure and technology for Positive Train Control exhibiting a strong safety culture. However, even the smallest Class I railroad (Kansas City Southern) has an annual revenue over three times larger than the current Class I threshold. In fact, MRL's total revenue accounts for less than six-tenths of one percent of the total Class I-railroad revenue.

MRL serves as a critical link to markets around the world for rural Montana businesses and consumers, including MPA members. All businesses that ship by rail depend on competitive rates and quality service, which MRL currently provides to its limited customer base. The reclassification process has the potential to detrimentally impact a rural MPA members and put further strain on the ability of rural Montana rail customers to efficiently and effectively transport their products to markets in Montana and the around the world.

For the reasons described above, we are asking you to raise the revenue threshold and keep MRL a Class II railroad. Thank you for your consideration of this important issue.

Regards:

Alan Olson
Executive Director
Montana Petroleum Association

cc: Ross Lane, Montana Rail Link
MPA Board of Directors

MONTANA TAXPAYERS ASSOCIATION



Tom Ebzery, Chairman
Bob Story, Executive Director
rstory@montax.org

PO Box 4909

Helena, MT 5960

(406) 442-2130 - - - (406)-860-0455 - cell

rstory@montax.org

September 13, 2019

Chairwoman Ann D. Begeman
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Adjusting the Revenue Threshold for Class II Railroads

Dear Chairwoman Begeman,

On behalf of the Montana Taxpayers Association, I am writing to support Montana Rail Link, Inc. (MRL) as they petition the Surface Transportation Board to increase the revenue threshold related to railroad classification. MRL is a regional railroad that operates predominantly within the State of Montana. It was established to take advantage of changes in operation of Montana's primary railroad, BNSF. Montana Rail Link's takeover of the southern rail route in Montana provided continued rail transport options for a large part of Montana, maintained tax base in many Montana counties and cities, and provided employment opportunities for many Montanans at good wages. Montana Rail Link moves most of its traffic across 655 mainline miles and employs less than 1,300 people. MRL is captive to a single Class I railroad, BNSF Railway Company (BNSF) and shares three interchange points with BNSF. While MRL is approaching the current Class I revenue threshold, 84% of that revenue is generated directly through line-haul movements and other ancillary services on behalf of BNSF. Consequently, MRL has virtually no ratemaking authority and is dependent upon another Class I railroad for most of its revenue. MRL's captivity inherently limits its ability to generate non-BNSF revenue and its rural setting provides limited opportunity to interface with rail-served customers. MRL's overall ability to generate revenue is thereby limited. We are concerned that a move of Rail Link to Class I could put at risk jobs and tax base.

The original revenue threshold classifications were not intended to be burdensome on smaller railroads like MRL. If MRL is reclassified as a Class I, it would almost certainly need to increase staffing, simply to comply with the extensive reporting obligations imposed on much larger Class I railroads. As a result of the significant increase in compliance costs, MRL may be forced to reduce spending in other areas or reduce non-compliance staff.

Like Class I railroads, MRL is installing the necessary infrastructure and technology for Positive Train Control, albeit voluntarily. However, even the smallest Class I railroad (Kansas City Southern) has an annual revenue over three times larger than the current Class I threshold. In fact, MRL's total revenue accounts for less than six-tenths of one percent of the total Class I-railroad revenue.

MRL serves as a critical link to markets around the world for rural Montana businesses and consumers. All businesses that ship by rail depend on competitive rates and quality service, which MRL currently provides to its limited customer base. The reclassification process has the potential to detrimentally impact a rural Montana employer and put further strain on the ability of rural Montana rail customers to efficiently and effectively transport their products to markets in Montana and the around the world.

For the reasons described above, the Montana Taxpayers Association is asking you to raise the revenue threshold and keep MRL a Class II railroad. Thank you for your consideration of this important issue.

Sincerely yours,

A handwritten signature in cursive script that reads "Bob Story".

Robert Story, Executive Director
Montana Taxpayers Association



WE MEAN BUSINESS

TOLL-FREE: 888.442.6668

LOCAL: 406.442.2405

FAX: 406.442.2409



Chairwoman Ann D. Begeman
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

September 13, 2019

Dear Chairwoman Begeman,

I am writing to support Montana Rail Link, Inc. (MRL) as they petition the Surface Transportation Board to increase the revenue threshold related to railroad classification. MRL is a regional railroad that operates predominantly within the state of Montana, moves most of its traffic across 655 mainline miles and employs fewer than 1,300 people. MRL is captive to a single Class I railroad, BNSF Railway Company (BNSF), and shares three interchange points with BNSF. While MRL is approaching the current Class I revenue threshold, 84% of that revenue is generated directly through line-haul movements and other ancillary services on behalf of BNSF. Consequently, MRL has virtually no ratemaking authority and is dependent upon another Class I railroad for most of its revenue. MRL's captivity inherently limits its ability to generate non-BNSF revenue and its rural setting provides limited opportunity to interface with rail-served customers. MRL's overall ability to generate revenue is thereby limited.

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Like Class I railroads, MRL is installing the necessary infrastructure and technology for Positive Train Control, albeit voluntarily. However, even the smallest Class I railroad (Kansas City Southern) has an annual revenue over three times larger than the current Class I threshold. In fact, MRL's total revenue accounts for less than six-tenths of one percent of the total Class I-railroad revenue.

MRL serves as a critical link to markets around the world for rural Montana businesses and consumers. All businesses that ship by rail depend on competitive rates and quality service, which MRL currently provides to its limited customer base. The reclassification process has the potential to detrimentally impact a rural Montana employer and put further strain on the ability of rural Montana rail customers to efficiently and effectively transport their products to markets in Montana and the around the world.

Representing more than 760 businesses that operate in Montana, the Montana Chamber of Commerce cannot overstate the importance of this decision for the Surface Transportation Board and the impact it could have on many businesses throughout our state.

Please raise the revenue threshold and keep MRL a Class II railroad. Thank you for your consideration.

Sincerely,

Bridger Mahlum
Government Relations Director



P.O. Box 1700
Helena, MT 59624
(406) 443-5541
treasurestateresources.org
Email: info@treasurestateresources.org

August 5, 2019

Chairwoman Ann D. Begeman
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Adjusting the Revenue Threshold for Class II Railroads

Dear Chairwoman Begeman,

I am writing on behalf of the members of the Treasure State Resources Association (TSRA) to support Montana Rail Link, Inc. (MRL) as they petition the Surface Transportation Board to increase the revenue threshold related to railroad classification. The Treasure State Resources Association is a broad coalition of business and industry, members of organized labor, agriculture, and over twenty other organizations. We work together to promote the responsible use of Montana's natural resources to provide jobs and economic opportunity.

MRL is a regional railroad that operates predominantly within the state of Montana, moves most of its traffic across 655 mainline miles and employs less than 1,300 people. MRL is captive to a single Class I railroad, BNSF Railway Company (BNSF) and shares three interchange points with BNSF. While MRL is approaching the current Class I revenue threshold, 84% of that revenue is generated directly through line-haul movements and other ancillary services on behalf of BNSF. Consequently, MRL has virtually no ratemaking authority and is dependent upon another Class I railroad for most of its revenue. MRL's captivity inherently limits its ability to generate non-BNSF revenue and its rural setting provides limited opportunity to interface with rail-served customers. MRL's overall ability to generate revenue is thereby limited.

The original revenue threshold classifications were not intended to be burdensome on smaller railroads like MRL. If MRL is reclassified as a Class I, it would almost certainly need to increase staffing simply to comply with the extensive reporting obligations imposed on much larger Class I railroads. As a result of the significant increase in compliance costs, MRL may be forced to reduce spending in other areas or reduce non-compliance staff.

RE: Adjusting the Revenue Threshold for Class II Railroads

Page 2

Like Class I railroads, MRL is installing the necessary infrastructure and technology for Positive Train Control, albeit voluntarily. However, even the smallest Class I railroad (Kansas City Southern) has an annual revenue over three times larger than the current Class I threshold. In fact, MRL's total revenue accounts for less than six-tenths of one percent of the total Class I-railroad revenue.

MRL serves as a critical link to markets around the world for rural Montana businesses and consumers. They are a key partner for many of our TSRA members as they work to provide goods and services to our nation and abroad. All businesses that ship by rail depend on competitive rates and quality service, which MRL currently provides to its limited customer base. The reclassification process has the potential to detrimentally impact a rural Montana employer and put further strain on the ability of rural Montana rail customers to efficiently and effectively transport their products to markets in Montana and the around the world.

For the reasons described above, we are asking you to raise the revenue threshold and keep MRL a Class II railroad. Thank you for your consideration of this important issue.

Sincerely yours,

A handwritten signature in cursive script, reading "Peggy Trenk". The signature is written in dark ink and is positioned above the printed name.

Peggy Trenk, Executive Director



February 7, 2020

Chairwoman Ann D. Begeman
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Adjusting the Revenue Threshold for Class II Railroads

Dear Ms. Begeman,

I am writing to support Montana Rail Link, Inc. (MRL) as they petition the Surface Transportation Board to increase the revenue threshold related to railroad classification. MRL is a regional railroad that operates predominantly within the state of Montana, moves most of its traffic across 655 mainline miles and employs less than 1,300 people. MRL is captive to a single Class I railroad, BNSF Railway Company (BNSF) and shares three interchange points with BNSF. While MRL is approaching the current Class I revenue threshold, 84% of that revenue is generated directly through line-haul movements and other ancillary services on behalf of BNSF. Consequently, MRL has virtually no ratemaking authority and is dependent upon another Class I railroad for most of its revenue. MRL's captivity inherently limits its ability to generate non-BNSF revenue and its rural setting provides limited opportunity to interface with rail-served customers. MRL's overall ability to generate revenue is thereby limited.

Last year, 2400 carloads of lumber products were transported across MRL's rail line. Nationally, the lumber market is as low it has been in decades and stumpage prices high. With profit margins being squeezed, it is critical that Montana's wood manufacturing sector keep transportation costs as low as possible.

If MRL is reclassified as a Class I, it would almost certainly need to increase staffing simply to comply with the extensive reporting obligations imposed on much larger Class I railroads. As a

result of the significant increase in compliance costs, MRL may be forced to reduce spending in other areas, reduce non-compliance staff or pass increased costs on to the customer.

Like Class I railroads, MRL is installing the necessary infrastructure and technology for Positive Train Control, albeit voluntarily. However, even the smallest Class I railroad (Kansas City Southern) has an annual revenue over three times larger than the current Class I threshold. In fact, MRL's total revenue accounts for less than six-tenths of one percent of the total Class I-railroad revenue.

MRL serves as a critical link to markets around the world for rural Montana businesses and consumers. All businesses that ship by rail depend on competitive rates and quality service, which MRL currently provides to its limited customer base. The reclassification process has the potential to detrimentally impact a rural Montana employer and put further strain on the ability of rural Montana rail customers to efficiently and effectively transport their products to markets in Montana and the around the world.

For the reasons described above, I'm asking you to raise the revenue threshold and keep MRL a Class II railroad. Thank you for your consideration of this important issue.

Sincerely yours,

Julia Altemus

Julia Altemus
Executive Director
Montana Wood Products Association
PO Box 1967
Missoula, MT 59806