

SURFACE TRANSPORTATION BOARD**Ex Parte 755*****Final Offer Rate Review***

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Summary of Teleconference Meeting between Union Pacific Railroad Company (“UP”), Norfolk Southern Railway Co. (“NS”), CSX Transportation, Inc. (“CSXT”), Kansas City Southern Railway Company (“KCS”), and the US rail operating subsidiaries of Canadian National Railway (“CN”), and Surface Transportation Board Chairman Ann Begeman

July 15, 2020

Railroad Attendees:

UP: Rhonda S. Ferguson, Executive Vice President, Chief Legal Officer and Corporate Secretary

NS: Vanessa A. Sutherland, Executive Vice President and Chief Legal Officer;

CSXT: Nathan D. Goldman, Executive Vice President, Chief Legal Officer and Corporate Secretary;

CN: Kathryn Gainey, Counsel, U.S. Regulatory Affairs;

KCS: Adam J. Godderz, Senior Vice President, Chief Legal Officer and Corporate Secretary

STB Attendees: Ann Begeman, Chairman; Rachel Campbell, Managing Director; Craig Keats, General Counsel; Bill Brennan, Director of the Office of Economics; Kim Hillenbrand, Transportation Industry Analyst; Chris Diamond, Attorney-Advisor; Adam Kress, Attorney-Advisor; Amanda Gorski, Attorney-Advisor; Valerie Quinn, Attorney-Advisor.

The railroads thanked the Board for holding these ex parte meetings. The discussion updated the Board on efforts to develop a confidential and non-precedential voluntary arbitration program targeted to smaller rate disputes. The railroads discussed hypothetical changes to the proposal that was discussed with the Board in the ex parte meeting on June 29, 2020, and ways that the program

might be changed in response to feedback from various stakeholders. The discussion included ideas for ensuring greater confidentiality while enabling the Board to monitor the program; the standards that the arbitrators would use to decide market dominance and the maximum lawful rate; potential ways to streamline the determination of market dominance by the arbitration panel; hypothetical changes to eligibility for the program; and the process for selection of an arbitration panel in an individual case. The railroads discussed the reasons why they believed that voluntary arbitration would be attractive for both railroads and customers and a better alternative than the proposed Final Offer Rate Review or other regulatory proposals that have been suggested as a means to address the concern that the Board's rate reasonableness methods are not available for smaller cases.

Chairman Begeman asked about discussions of the potential voluntary arbitration program with other stakeholders, and whether a proposal could be developed that would attract willingness to participate. The railroads indicated that discussions were ongoing, and that they hoped to present a proposal that could attract support from multiple stakeholders. Chairman Begeman and the staff also asked questions about the standards to be used by the arbitration panel to determine the maximum lawful rate, potential eligibility for the program, and ways to encourage participation in voluntary arbitration.