

SURFACE TRANSPORTATION BOARD**Ex Parte 755*****Final Offer Rate Review***ENTERED
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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 Vice Chairman Marty Oberman

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: Marty Oberman, Vice Chairman; Ellen Erichsen, 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 The discussion updated the Board on efforts to develop a confidential and non-precedential voluntary arbitration program targeted to smaller rate disputes.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 railroads discussed 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; 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.

Vice Chairman Oberman expressed interest in reviewing a proposal for a voluntary arbitration process and interest in hearing from shippers in response to any proposal. Vice Chairman Oberman asked questions about the proposed process, including eligibility for the program, the standards to be used by the arbitrators to determine the maximum lawful rate, and the potential for flexibility in the methods used by parties. The railroads indicated that they were continuing to consider potential changes to such a voluntary arbitration program with other stakeholders.