

BEFORE THE
SURFACE TRANSPORTATION BOARD
EX PARTE 766

ENTERED
Office of Proceedings
February 4, 2021
Part of
Public Record

JOINT PETITION FOR RULEMAKING—ANNUAL REVENUE ADEQUACY
DETERMINATIONS

NOTICE OF WORKPAPER FILING

Union Pacific Railroad Company, Norfolk Southern Railway Company, and the U.S. operating affiliates of Canadian National Railway Company (“CN”) (collectively, “Petitioners”) provide this notice that workpapers sufficient to replicate the analysis underlying their proposal in the Joint Petition for Rulemaking are being submitted as confidential attachments to this filing. The same workpapers have been made available to parties who previously contacted undersigned counsel and who have agreed to be bound by the protective order, and will be made available to any other parties who request them and agree to be bound by the protective order.

The workpapers have been designated Highly Confidential pursuant to the protective order issued on February 4, 2021. The Highly Confidential designation was necessary because certain data was obtained using proprietary information sources that are subject to licensing agreements. Specifically, information to calculate return on invested capital for S&P 500 companies was obtained using the Compustat database, and data to calculate cost of capital was obtained from the Duff & Phelps Cost of Capital Navigator – U.S. Industry

Benchmarking Module. The use of these sources was explained in Paragraph 65 and Appendix A (Paragraph A-17) to the Verified Statement appended to the Joint Petition for Rulemaking.¹ Because all parties to the proceeding may not have a license to Compustat and/or may not have a subscription to Duff & Phelps, Petitioners have secured special permission from Compustat and Duff & Phelps to submit data supporting Petitioners' calculations on the conditions that the data be designated Highly Confidential and that it be limited to the single year of 2019. Similar data for previous years will be provided to any party to this proceeding who informs Petitioners that they have licenses for the underlying information sources, which are both in wide use.²

While the workpapers are highly confidential, Petitioners note that a detailed description of sources and methodology is available in the public record as Appendix A to the Verified Statement attached to the Petition. The public record also contains Professor Zmijewski's calculation of return on investment, cost of capital, and ROIC net cost of capital for each entity in S&P 500 in each

¹ As explained in the Verified Statement, the Duff and Phelps Cost of Capital Navigator replaced the Duff and Phelps Cost of Capital hardcover publications beginning in 2018; cost of capital information for prior years was obtained from the Duff and Phelps Valuation Handbook – U.S. Industry Cost of Capital and the Ibbotson Cost of Capital Yearbook. Joint Petition for Rulemaking, Verified Statement at ¶ 65 nn.65-66 & Appendix A at ¶ A-15 n.107 and ¶ A-17 n.113.

² It will also be provided to the Board if the Board informs Petitioners that it possesses or chooses to obtain licenses.

year between 2006-2019, which was filed as a spreadsheet alongside the Petition and is available on the Board's filings website.

Respectfully submitted,

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Dated: February 4, 2021

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of February, 2021, I served the foregoing
Notice of Filing Workpapers by email on the service list for Ex Parte 766.

/s/ Matthew J. Warren
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