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In the Matter of:

RAILROAD COST RECOVERY PROCEDURES - PRODUCTIVITY ADJUSTMENT

Ex Parte No. 290 (Sub-No. 4)

COMMENTS OF THE WESTERN COAL TRAFFIC LEAGUE

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Its Attorneys

Dated: February 5, 2024

BEFORE THE
SURFACE TRANSPORTATION BOARD

In the Matter of:

RAILROAD COST RECOVERY
PROCEDURES - PRODUCTIVITY
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COMMENTS OF THE WESTERN COAL TRAFFIC LEAGUE

In response to the decision of the Surface Transportation Board (“Board” or “STB”) in the above-captioned proceeding served January 19, 2024, the Western Coal Traffic League (“WCTL”)¹ submits the following comments regarding the Board’s proposed calculation of railroad industry productivity for 2022 and the 2018-2022 average for use in the Rail Cost Adjustment Factor (“RCAF”) productivity adjustment.

WCTL concurs in the Board’s calculation of the input index value of 1.020 for 2022. The input index value utilizes publicly-available information, and the calculation is thus transparent. WCTL is unaware of any information that directly undermines the technical accuracy of the Board’s calculation of the input index value of 1.020 for 2022.

¹ WCTL is a voluntary association, whose regular membership consists entirely of shippers of coal mined west of the Mississippi River that is transported by rail. WCTL’s members are: Ameren Missouri, Arizona Electric Power Cooperative, Inc., Austin Energy (City of Austin, Texas), CLECO Corporation, CPS Energy, Entergy Services, Inc., Evergy, Inc., Lower Colorado River Authority, MidAmerican Energy Company, Minnesota Power, Nebraska Public Power District, and Western Fuels Association, Inc.

WCTL is unable to confirm the STB's calculation of the output index at 0.992. Beyond the unavailability of the unmasked confidential waybill sample and the computer program that the Board uses to process the sample, WCTL is not able to replicate the values shown in the STB's WBSTB22.TXT workpaper of \$76,630,777,856 for 2022 revenue or 1,533,419,716,808 for 2022 revenue ton-miles of freight ("TOTAL TM ADJUST"). The revenues shown in the R-1 reports as most recently revised sum to \$84,544,502,000, leaving a difference of roughly \$7.9 billion, and the ton-miles sum to 1,533,416,346,000, leaving a difference of roughly 3.4 million. The STB's program may make some adjustment(s), but the decision offers no explanation beyond the statement in the Appendix that "[t]he costed Waybill Sample excludes movements lacking sufficient information for the application of unit costs." It would be useful if the decision or workpapers specified the amount of the revenues and ton-miles excluded to permit reconciliation to publicly-available data.

Otherwise, the STB's calculated productivity decrease of 2.8% (0.972) for 2022 stands in sharp contrast to the 2.9% increase in productivity (1.029) calculated for 2021, and 2022 represents the first productivity decrease after six years of productivity increases. The most plausible explanation for the reversal is that the Class I carriers' excessive embrace of Precision Scheduling Railroading ("PSR") as a means to reduce their operating ratios came at the expense of both volumes and operations.

PSR, and the associated deficit of employees, left the railroads unable to manage volumes that WCTL members and other shippers had available and wanted to ship by rail. The railroads' shortage of train crews, maintenance of way personnel, locomotive maintenance engineers, and other employees also increased the carriers' difficulties and costs to transport freight, as reflected in their reduced velocity and increased dwell times, railcars on line, recrew rates, train holds, congestion, UP embargoes, *etc.* EP 770, *Urgent Issues in Freight Rail Service* (public hearing held Apr. 26-27, 2022); EP 772, *Oversight Hearing Pertaining to Union Pacific Railroad Company's Embargoes* (public hearing held Dec. 13-14, 2022). The PSR-related problems served both to decrease the output numerator and increase the input denominator for the productivity calculation, leading to the decrease in productivity.²

Unfortunately, the consequences of the productivity decrease fell on shippers in terms of both not receiving service and having to pay more for the service that was provided. The railroads themselves did not share in the pain, as the industry generally achieved favorable and, in some instances, record profits, conducted massive buybacks, *etc.* E.g., https://www.up.com/cs/groups/public/@uprr/@investor/documents/investordocuments/df_unp_4q22_financials.pdf (noting UP's record income for the year and \$6.3 billion in buybacks despite network operations adversely impacted by crew

² While there was also inflation in 2022, its impact on railroad input is controlled by the use of inflation-adjusted dollars.

availability and operational inefficiencies). The ability of the railroads to benefit while inflicting poor service on shippers is a further manifestation of the market dysfunction and lack of competition.

Furthermore, the pain was experienced by so-called competitive shippers as well as captive ones. For example, WCTL members that are capable of being served by both BNSF and UP were not contractually able to switch to the other carrier, and even if they could, the other carrier was not in a position to offer alternative service. The sort of remedy proposed in EP 711 (Sub-No. 2), *Reciprocal Switching for Inadequate Service*, would thus have been of little value, had it been available. Additional measures are needed to bring balance to the railroad transportation market.

Respectfully submitted,

WESTERN COAL TRAFFIC LEAGUE

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Dated: February 5, 2024

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Certificate of Service

I hereby certify that today, February 5, 2024, copies of the foregoing Comments of the Western Coal Traffic League have been served on all parties of record in this proceeding in accordance with the Board's Rules of Practice.

/s/ Robert D. Rosenberg