

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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RAILROAD COST OF CAPITAL — 2024	)))))	STB Docket No. EP 558 (Sub-No. 28)
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**REBUTTAL COMMENTS OF THE ASSOCIATION OF AMERICAN RAILROADS
AND ITS MEMBER RAILROADS**

By a decision served on January 10, 2025, the Surface Transportation Board (“STB” or “Board”) instituted this proceeding to determine the railroad industry’s cost of capital for the year 2024. The Association of American Railroads (“AAR”) submitted the statement of the railroads on April 14, 2026. The only other interested person to submit comments was the Western Coal Traffic League (“WCTL”), which filed its reply on May 5, 2025.

Argument

AAR reiterates that it followed the Board’s instructions to use the methodology in Railroad Cost of Capital – 2023, and WCTL does not dispute that. Indeed, WCTL admits that it found “no significant errors in AAR’s mathematical calculations implementing the Board’s established cost of capital methodology.”¹ There being no errors in AAR’s calculations, nor any claims that the AAR failed to follow the cost-of-capital calculation methodology set forth in Railroad Cost of Capital – 2023, the Board should determine that the railroads’ cost of capital for 2024 is 10.68 percent.

¹ Reply Statement of Western Coal Traffic League (“WCTL”) at 1.

I. THE BOARD SHOULD DENY WCTL’S COLLATERAL ATTACKS, AS IT REPEATEDLY AND CONSISTENTLY HAS.

WCTL could not provide substantive concerns with the calculation. Instead, WCTL, as it seems to annually, made several complaints about the STB’s methodology for calculating the railroad cost of capital, such as data concerns and results-based issues with the measures. These complaints have been denied as procedurally deficient and have been repeatedly rejected by the Board.²

Multiple Board proceedings on the cost of capital have specifically rejected WCTL’s claims regarding the insufficiency of the Multi-Stage Discounted Cash Flow (“MSDCF”), and the desire to move to a Capital Asset Pricing Model (“CAPM”)-only approach.³ For example, two years ago, the Board held that, although “WCTL . . . reiterates its critiques of the MSDCF and provides arguments in support of the CAPM-only approach and its calculation of the cost of equity[,] the Board has rejected similar arguments WCTL has raised in the past.”⁴ And again, just last year, the Board noted that WCTL’s arguments are limited to “challenges to the Board’s methodology.”⁵

² See, e.g., Pet. of the W. Coal Traffic League to Inst. a Rulemaking Proceeding to Abolish the Use of the Multi Stage Discounted Cash Flow Model in Determining the R.R. Indus.’s Cost of Equity Capital, EP 664 (Sub-No. 2), slip op. at 1-2 (STB served Sept. 28, 2018); Pet. of the W. Coal Traffic League, EP 664 (Sub-No. 2), slip op. at 2 (STB served Aug. 14, 2017); Pet. of the W. Coal Traffic League, EP 664 (Sub-No. 2), slip op. at 2, 5, 9, 11-13 (STB served Apr. 28, 2017); Pet. of the W. Coal Traffic League, EP 664 (Sub-No. 2), slip op. at 11, 14, 17-18, 20 (STB served Oct. 31, 2016); Use of a Multi-Stage Discounted Cash Flow Model, EP 664 (Sub-No. 1), slip op. at 11-13 (STB served Jan. 28, 2009).

³ See, e.g., R.R. Cost of Cap.—2022, EP 558 (Sub-No. 26), at 3 (STB served Oct. 3, 2023); R.R. Cost of Cap.—2021, EP 558 (Sub-No. 25), at 3 (STB served Aug. 2, 2022); R.R. Cost of Cap.—2020, EP 558 (Sub-No. 24), at 3 (STB served Aug. 6, 2021); see also Revisions to the Board’s Methodology for Determining the Railroad Industry’s Cost of Capital (“Revisions”), EP 664 (Sub-No. 4), at 5 (STB served June 23, 2020).

⁴ See id. at 2.

⁵ See R.R. Cost of Cap.—2023, EP 558 (Sub-No. 27), at 3 (STB served Aug. 7, 2024).

As has been the case for numerous years, the Board should recognize the deficiency of WCTL's complaints about its methodology and reject WCTL's arguments.

II. THE BOARD SHOULD NOT REWARD WCTL'S FAILURE TO PROPERLY PETITION FOR RULEMAKING

As the Board has stated repeatedly, "requests to [change our methodology] must be brought (in the form of a petition for rulemaking) in a 664 proceeding, not in the annual 558 proceeding, in which we calculate the cost of capital for a particular year."⁶ Despite this oft-repeated refrain from the Board, WCTL once again tried to backdoor its reply as a petition for rulemaking, arguing that "[t]he deviation between the cost of capital values adduced under the Board's methodology and those utilized by investors, the railroads, and the Board itself in other contexts is more than worthy of a Board-initiated rulemaking proceeding."⁷ The Board should not entertain this request.

Far from being a new practitioner before the Board with little knowledge of Board processes and procedures, WCTL is an experienced filer before the Board. Indeed, WCTL routinely files the same or similar complaints about the methodology in the annual cost of capital proceeding, and the Board annually advises WCTL that this is not the docket for such challenges. WCTL cannot claim ignorance, nor should it be rewarded for not following the Board's consistent advice to file in the appropriate docket, much less its procedural rules.

⁶ See, *id.* at 3 (citing Methodology to Be Employed in Determining the R.R. Industry's Cost of Cap. (Cost-of-Cap. Methodology), EP 664, slip op. at 18 (STB served Jan. 17, 2008), corrected (STB served Jan. 18, 2008) (emphasis added); see also WCTL v. STB, No. 23-1272, slip op. at 1 (D.C. Cir. Feb. 21, 2024) (affirming the Board's use of the two-docket system).

⁷ WCTL at 9.

The Board should once again deny WCTL's request for the same reasons it rejected them on at least four separate occasions.

Conclusion

As has been the case in prior years, WCTL concedes that AAR correctly calculated the cost of capital. Therefore, the Board should determine that the railroads' cost of capital for 2024 is 10.68 percent and deny WCTL's backdoor petition for a rulemaking.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "K. Kirmayer", with a stylized flourish at the end.

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May 22, 2025

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of May 2025, I caused to be served by electronic mail a copy of the foregoing on the following:

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/s/ Alex Mills
Alex Mills