



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

General Counsel

1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

238914

238925

July 21, 2015

FILED ELECTRONICALLY

Ms. Cynthia Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
July 21, 2015
Part of
Public Record

**Re: Docket Nos. EP 722, Railroad Revenue Adequacy, And
EP 664 (Sub-No. 2), Cost of Equity Capital**

Dear Ms. Brown:

Please find attached for filing in the above-referenced proceedings a letter from the Department of Transportation (DOT), signed by Kathryn B. Thomson, DOT's General Counsel. If you have any questions, please feel free to contact me.

Respectfully,

CHRISTOPHER S. PERRY
Senior Trial Attorney

Tel: (202) 366-9282
christopher.perry@dot.gov



U.S. Department of
Transportation
Office of the Secretary
of Transportation

General Counsel

1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

July 21, 2015

FILED ELECTRONICALLY

The Honorable Daniel R. Elliott III, Chairman
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

**Re: Docket Nos. EP 722, Railroad Revenue Adequacy, And
EP 664 (Sub-No. 2), Cost Of Equity Capital**

Dear Chairman Elliott:

The Department of Transportation (DOT or Department) and the Federal Railroad Administration (FRA), an operating administration of DOT, appreciate the Board's consideration of the important issues raised in these proceedings on railroad revenues and costs, in which the Board is scheduled to hear testimony on July 22-23, 2015.

In these related proceedings, STB has received comments and will hear testimony from concerned parties about the financial health of the railroads and their ability to serve shippers of various commodities. Among other things, the Board is examining the measures that it uses to calculate the industry's cost of equity capital and its methodology for determining whether railroads are "revenue adequate." These measures in turn affect the Board's consideration of rate reasonableness cases and other matters relating to the operation of the rail network.

Shippers and railroads have presented the Board with divergent views on the issues in this proceeding. For example, the Western Coal Traffic League (WCTL) contends that the United States Class I railroads are financially sound; that the Board should modify its revenue adequacy test to reflect current conditions in the industry; and that the Board should be wary of "changes to its revenue adequacy model that would have the effect of making a railroad appear to be farther from revenue adequate status than the current methodology shows." Joint Opening Comments of the Western Coal Traffic League, *et al.*, at 2, 20 (Sept. 5, 2014); *see also* Reply Comments of Arkansas Electric Cooperative Corporation at 3 (Nov. 4, 2014) ("Revenue adequacy is an indicator both that railroads have achieved financial health, and that there now is a need for changed regulatory practices."). On the other hand, the Association of American Railroads (AAR) contends that shippers have erred in advocating "more vigorous Board rate regulation," and that it is "irresponsible to use improving railroad financial health as a pretext to

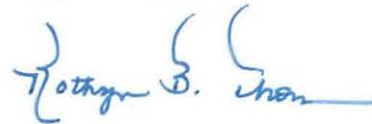
abandon economically rational rate regulation and substitute arbitrary maximum rate standards.” Reply Comments of the Association of American Railroads at 1, 5 (Nov. 4, 2014).

DOT recognizes the importance of the concerns raised by the parties to this proceeding. As you know, DOT is charged by statute with promoting “transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation,” consistent with “the public interest.” 49 U.S.C. § 101. Safety is the Department’s highest priority, and we remain committed to working with the Board and other stakeholders to protect the public by ensuring that the rail network is maintained in an appropriate state of repair.

Consequently, the Department appreciates the Board’s efforts to consider how this and other proceedings may “impact the railroads’ ability to invest in their networks and expand capacity.” Notice of Public Hearing in Docket Nos. EP 722, 664 (Sub-No. 2), at 3 (May 8, 2015). In *Beyond Traffic: US DOT’s 30 Year Framework for the Future*, the Department has recognized the importance of investment in the rail network, both for the efficiency of freight movement and the safe carriage of passengers. For example, by 2040, railroad freight volume is expected to increase by nearly 40%, to 2.8 billion tons. *Beyond Traffic, 2045: Trends at Choices*, at 47.¹ DOT is pleased that STB has continued to devote its attention to these trends, and to help ensure that the rail network can respond effectively to changing conditions.

Thank you for your consideration of the Department’s views. DOT will continue to monitor these proceedings and may offer further views at a later stage if appropriate.

Respectfully,

A handwritten signature in blue ink, appearing to read "Kathryn B. Thomson".

Kathryn B. Thomson

¹ This document can be accessed at the following link:
http://www.transportation.gov/sites/dot.gov/files/docs/Draft_Beyond_Traffic_Framework.pdf.