

BEFORE THE
SURFACE TRANSPORTATION BOARD

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REVISIONS TO THE COST-OF-	)	
CAPITAL COMPOSITE RAILROAD	)	EP 664 (Sub-No. 3)
CRITERIA	)	

COMMENTS OF THE WESTERN COAL TRAFFIC LEAGUE

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Pursuant to notice of proposed rulemaking that the Surface Transportation Board (“STB” or “Board”) served in the above-proceeding on April 18, 2017, the Western Coal Traffic League (“WCTL”)¹ submits its comments regarding the proposal of the Surface Transportation Board (“Board” or “STB”) to modify the screening criteria for the composite sample of the railroad industry used to estimate the railroad industry cost of capital to include carriers listed on the NASDAQ as well as the NYSE exchange.

As the Board notes, the NASDAQ is a respected and credible stock exchange, the AMEX no longer exists as an independent stock exchange, and the holding company for one of the major Class I United States railroads, CSX Corporation (“CSX”), elected to leave the NYSE for the NASDAQ in 2015. Expanding the screening criteria to include the NASDAQ-listed railroads, *i.e.*, CSX, would thus result in a larger composite

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 members currently ship and receive in excess of 125 million tons of coal by rail each year. WCTL’s members are: Ameren Missouri, Arizona Electric Power Cooperative, Inc., Austin Energy (City of Austin, Texas), CLECO Corporation, CPS Energy, Entergy Services, Inc., Kansas City Power & Light Company, Lower Colorado River Authority, MidAmerican Energy Company, Minnesota Power, Nebraska Public Power District, Omaha Public Power District, Western Fuels Association, Inc., and Wisconsin Public Service Corporation.

sample. All things being equal, a larger composite sample should be more representative of the industry and result in a more accurate cost of capital determination.

But all things are not always equal in the composite sample. The sample is rather small, consisting of just four carriers that have significant differences: one relatively huge railroad in the West (UP), two large railroads in the East (CSX and UP), and a smaller railroad that is placed in the West (KCS), although it derives a substantial portion of its revenues from Mexico. The composite sample conspicuously omits BNSF, which is by some measures the largest railroad in the United States, because BNSF constitutes less than 50% of the assets of its parent (Berkshire Hathaway). The industry average cost of capital, with CSX included in the composite sample, reflects roughly 59% western and 41% eastern railroads, even though Western railroads (UP, BNSF, and KCS) account for 73% of the industry, and the two eastern railroads only 27%.² Excluding CSXT, along with BNSF, from the composite sample would actually result in an average that is more representative of the regional division (75% western and 25% eastern). Moreover, CSXT has recently embarked on a business path that differs from that of the other railroads in the composite sample.³

Accordingly, it is far from clear at this point that the Board's proposed modification of its criteria for the composite sample will result in an industry average

² Percentages calculated using the market cap presented in the Verified Statement of AAR witness John Gray in EP 558 (Sub-No. 20), filed April 20, 2017, at 47, treating KCS as a western carrier, and assuming that a stand-alone BNSF would have the same market cap as UP.

³ CSX's management change occurred after the end of 2016, and so the 2016 cost of capital is relatively unaffected.

cost of capital that is more representative of the industry as a whole or more accurate. Indeed, a significant possibility exists that the proposed change will result in an average that is less representative and a cost of capital that is more distorted. Another complicating factor is that the second stage of the Board's MSDCF uses a simple average of the growth rates of the individual carriers, such that KCS counts just as much as UP (or, for that matter, UP and BNSF combined).

Under the circumstances, WCTL recommends that the Board make the proposed change, but on a tentative or qualified basis that would allow the Board to revisit the matter, and allow parties to present relevant evidence, if inclusion of NASDAQ-traded carriers turns out to undermine the representativeness of the composite sample or the accuracy of the cost of capital.

Respectfully submitted,

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