

200625

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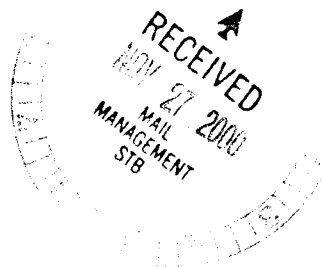
WRITER'S E-MAIL:

November 27, 2000

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BY HAND

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Unit
1925 K Street, N.W.
Washington, D.C. 20423-0001



Re: STB Ex Parte No. 634,
Consolidated Railroad Reporting

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the Comments of Western Coal Traffic League.

Please contact the undersigned if there are any questions concerning this matter.

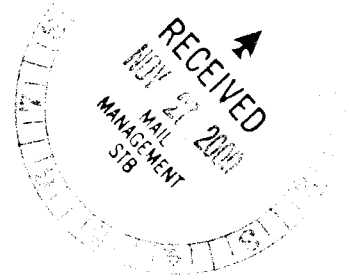
Sincerely,

A handwritten signature in cursive script that reads "Robert D. Rosenberg".

Robert D. Rosenberg
An Attorney for Western
Coal Traffic League

RDR:kaw
Enclosures

200625



BEFORE THE
SURFACE TRANSPORTATION BOARD

In the Matter of:

CONSOLIDATED RAILROAD REPORTING)

STB Ex Parte No. 634

COMMENTS OF WESTERN COAL TRAFFIC LEAGUE

WESTERN COAL TRAFFIC LEAGUE
Mark D. Werner, President
Mark W. Schwirtz, Treasurer

OF COUNSEL:

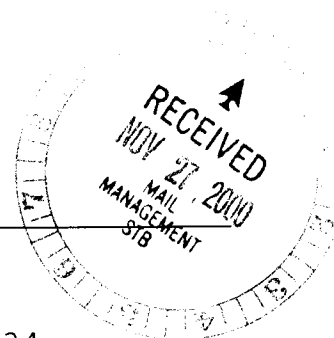
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Dated: November 27, 2000

Attorneys for Western Coal
Traffic League

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



In the Matter of:)

CONSOLIDATED RAILROAD REPORTING) STB Ex Parte No. 634
_____))

COMMENTS OF WESTERN COAL TRAFFIC LEAGUE

Western Coal Traffic League ("WCTL")¹ submits the following comments regarding the Notice of Proposed Rulemaking served by the Surface Transportation Board ("STB" or "Board") in the above-captioned proceeding on September 25, 2000 (the "Notice"), as modified by the subsequent notice dated October 20, 2000.

WCTL supports the proposal in the Notice to require consolidated financial reporting by commonly controlled railroads, subject to several qualifications.

WCTL believes that commonly-owned railroads, as well as their railroad-related affiliates, should be required to submit R-1 and related reports on a consolidated basis, consistent with FASB No. 94. Reporting is needed so that the Board and shippers will have an accurate depiction of railroad operating and cost performance, and accurate operating and cost data is needed for for performance of the STB's regulatory functions. As only large

¹WCTL is a voluntary association, whose regular membership consists entirely of utility shippers of coal mined West of the Mississippi River that is transported by rail. WCTL members presently ship and receive in excess of 100 million tons of coal by rail each year. A list of WCTL's regular members is attached as Exhibit A. WCTL members have an interest in the compilation of accurate rail operating and cost data.

organizations would be affected by the change in reporting requirements, the regulatory burdens involved in reporting the information should not be unreasonable. Moreover, soundly run railroads need to track the data that would be reported for their own internal business purposes.

The issue is particularly significant because there appear to be several large railroad organizations that operate on an integrated basis, yet have managed to avoid the filing of R-1 reports on the basis that no single carrier within the organization qualifies for Class I status. As a result, captive shippers bringing, or wanting to bring, rate cases have been unfairly and inequitably disadvantaged. The resulting harm is greatly exacerbated when those carriers also evade their obligation to make accounting data under the Uniform System of Accounts ("USOA") available as the need arises.²

Accordingly, the Board should not only adopt its consolidated reporting requirement, but also make clear that Class II carriers remain obligated to produce USOA-compatible accounting and cost data available as the need (e.g., rate cases) arises. The duty to submit a consolidated report should not excuse individual carriers from fulfilling their reporting and accounting duties, particularly since cost data for the

²See, e.g., Docket No. 42038, involving a complaint brought by WCTL Member Minnesota Power against the Duluth, Missabe and Iron Range Railway Company, which is part of Transtar, and particularly the May 11, 1999, and March 6, 2000 decisions in that proceeding.

individual carrier will generally be more informative than data for the consolidated entity.

WCTL submits that consolidated reporting should be required even when the individual railroads (or railroad-related affiliates) have no connection with one another except for a common parent. A blanket reporting rule will eliminate the potential for uncertainty and abuse. Moreover, the resulting operating and cost information has substantial potential to be more accurate than alternatives such as regional averages.³ Again, individual Class II carriers should still be required to make appropriate operating and cost information available in rate cases.

The Notice proposes that the revised reporting requirements apply starting only with calendar year 2001 operations.⁴ As a consequence, data would not be available until 2002, meaning that shippers could not obtain rate decisions utilizing the data until 2003 or maybe even 2004, at the earliest. Such a delay is unreasonable. The better approach is

³Moreover, the regional averages would be improved by the availability of information concerning Class II carriers.

⁴See Notice at 4. The classification is dependent upon revenues for three consecutive years. 49 C.F.R. § 1201, General Instruction 1-1(b)(1). Effectiveness of the reporting obligation for 2001 would thus appear to rest on revenues received by affiliated railroads for 1998-2000, and effectiveness for 2000 would rest on revenues received in 1997-1999. WCTL does not believe that the language in the Notice ("beginning with calendar year 2001 operations") can fairly or should be construed as merely providing that the revenue classification should be made starting in 2001; such an approach would unreasonably defer compliance to 2004.

to require consolidated data starting with calendar year 2000 operations.

WCTL wishes to note its concern that the Board's Notice appears to equate permissible accounting practices with sound regulatory policy. The Board should not abdicate its regulatory responsibilities in favor of what merely passes muster under Generally Accepted Accounting Principles. The Board's statutory duties involve making sound policy choices, and that duty is not discharged because the Board determines that the carriers have presented their financial statements in a way that meets the standards for general business disclosure.

Accordingly, WCTL supports the proposal in the Notice, subject to the qualifications noted above.

Respectfully submitted,

WESTERN COAL TRAFFIC LEAGUE
Mark D. Werner, President
Mark W. Schwirtz, Treasurer

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WESTERN COAL TRAFFIC LEAGUE MEMBERS

American Electric Power

Arizona Electric Power Cooperative, Inc.

Central Louisiana Electric Company, Inc.

City of Austin, Texas

City Public Service Board of San Antonio

Kansas City Power & Light Company

Lower Colorado River Authority

MidAmerican Energy Company

Minnesota Power

Nebraska Public Power District

Omaha Public Power District

Reliant Energy

Western Resources, Inc.

Wisconsin Public Service Corporation