

Before the

SURFACE TRANSPORTATION BOARD

STB Ex Parte No. 575

**REVIEW OF RAIL ACCESS AND COMPETITION
ISSUES – RENEWED PETITION OF THE
WESTERN COAL TRAFFIC LEAGUE**

**NOTICE OF INTENT TO PARTICIPATE
OF READING BLUE MOUNTAIN
AND NORTHERN RAILROAD COMPANY**

**REQUEST FOR CONFIDENTIALITY
AND PROTECTIVE ORDER**

Notice of Intent to Participate. Reading Blue Mountain and Northern Railroad Company ("RBMN") hereby gives notice of its intent to participate in the public hearing scheduled by the Board to be held on July 27, 2006. RBMN respectfully requests that it be allotted 10 minutes to present its views. Wayne A. Michel, President of RBMN, will present the testimony on behalf of RBMN.

RBMN is a 320-mile Class III railroad operating in eastern Pennsylvania. A portion of its rail lines were acquired in 1996 and are subject to "paper barriers." RBMN is also a party to the Railroad Industry Agreement ("RIA"). RBMN previously filed Comments and Reply Comments in this proceeding.

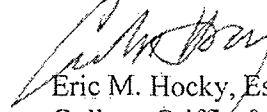
Request for Confidentiality. RBMN requests that the Board confirm, prior to the July 13, 2006 deadline for the submission of testimony, that the summaries submitted by each participant will not be made part of the public record and will be kept confidential by the Board until such participant presents its testimony to the Board. Until such time as

oral testimony is presented to the Board by a participant, that participant should have the right and ability to determine whether such testimony will be presented. Treating the summary of testimony as part of the public record when filed would chill some parties from considering participation in public hearings. Keeping the summaries confidential is consistent with the procedures the Board has apparently followed with respect to recent public hearings. For example, in STB Ex Parte No. 661, *Rail Fuel Surcharges*, the Board posted on its website the identities of the participants that filed summaries of testimony; however the actual testimony was not posted until after the hearing.

Request for Protective Order. RBMN recognizes that any testimony given at the public hearing by its very nature cannot properly be the subject of a protective order. While similar arguments might be applied to the written summary of that testimony, RBMN believes that participants should have the ability to include supplemental confidential information with their respective summaries that would assist the Board in understanding the testimony of the participants, even if such information is confidential and cannot be made part of the public testimony that is presented. Such information could include the terms of paper barriers that are part of confidential commercial agreements, as well as the identification of shippers and routes and applicable rates and charges. *See, for example,* STB Ex Parte No. 661, *Rail Fuel Surcharges* (served June 8, 2006) (granting Union Pacific's motion for a protective order to allow it to submit portions of a confidential contract as part of its reply following a public hearing). Accordingly, RBMN requests that the Board enter a protective order in accordance with 49 CFR 1104.14 to allow a participant to submit both a redacted version of its summary of testimony that will eventually become part of the public record, and a confidential

complete version that will be subject only to the Board's review and the review of outside lawyers and consultants for other parties that execute an appropriate undertaking.

Respectfully submitted,



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