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July 13, 2006

BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Attn: STB Ex Parte No. 575
1925 K Street, N.W., Room 711
Washington, D.C. 20423-0001

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Public Record



Re: Ex Parte No. 575, Review of Rail Access and
Competition Issues – Renewed Petition of the
Western Coal Traffic League

Dear Secretary Williams:

In accordance with the Board's Decision served in the above-referenced proceeding on June 2, 2006, the Western Coal Traffic League ("WCTL") hereby provides its summary of testimony regarding the Board's July 27, 2006 public hearing.

As WCTL indicated in its July 6, 2006 submission in this proceeding, WCTL's speakers for the July 27th hearing will include: (i) Mr. David Laffere, President of WCTL and Manager of Fuels for Kansas City Power & Light Company; and (ii) the undersigned counsel for WCTL. WCTL's presentation will summarize the points raised by WCTL in its prior filings in this case, and will address certain of the comments of the railroads made in response to these points.

In particular, WCTL will comment upon the Board's authority to address pre-existing paper barriers. As described in WCTL's comments, this authority exists as the result of a number of different statutes, including 49 U.S.C. § 722 (reopening), 49 U.S.C. § 10502 (revocation, in whole or in part, of exemptions), and 49 U.S.C.

Honorable Vernon A. Williams
July 13, 2006
Page 2

§ 10704(a)(1) (authority regarding unreasonable practices). In this regard, WCTL will emphasize that it is the continuing enforcement of unreasonable paper barriers that should be deemed to constitute an unreasonable practice.

Next, WCTL will comment upon the subject of competition, and will reiterate its position that the Board is obligated not only to preclude additional limitations on competition, but also to encourage competition where possible. WCTL will explain, contrary to the railroads' various "no harm, no foul" arguments, that the perpetuation of monopoly control through unreasonable paper barriers is anticompetitive and inconsistent with the policy goals of the agency. WCTL will direct the Board's attention to those portions of WCTL's filings that touched upon the antitrust doctrines associated with non-competition clauses in agreements for the sale of a business, and the Board's expressed policy goal in merger proceedings to enhance competition. In this regard, WCTL will address the fact that recent consolidation in the railroad industry has led to a substantial reduction in competition. When faced with such a circumstance, the Board should not remain neutral to agreements that perpetuate monopoly control, but instead, should be ever more vigilant in its efforts to balance the widespread reduction in intramodal competition with enhanced competition when possible.

Finally, WCTL will address the subject of the Railroad Industry Agreement ("RIA") and will demonstrate that it is improper to rely upon the business interests of Class I and shortline carriers as a means to protect captive shippers.

Sincerely,

A handwritten signature in black ink, reading "Andrew B. Kolesar III". The signature is written in a cursive, flowing style with a prominent "A" and "K".

Andrew B. Kolesar III
An Attorney for the Western
Coal Traffic League