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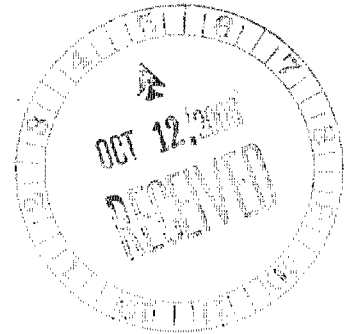
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October 12, 2006

By Courier

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

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Re: Ex Parte No. 664, *Methodology To Be Employed In Determining The Railroad Industry's Cost Of Capital*

Dear Mr. Secretary:

Enclosed for filing in the above-captioned matter are the original and ten copies of the Association of American Railroads' Motion to Modify Procedural Schedule. Also enclosed is an additional copy to be stamped and returned via our courier.

Please direct any questions regarding this matter to the undersigned counsel.
Thank you for your assistance in this matter.

Sincerely,

G. Paul Moates

cc: Louis P. Warchot
Nicholas J. DiMichael

**UNITED STATES OF AMERICA
SURFACE TRANSPORTATION BOARD**

Ex Parte No. 664

217813

**METHODOLOGY TO BE EMPLOYED IN DETERMINING
THE RAILROAD INDUSTRY'S COST OF CAPITAL**

**ASSOCIATION OF AMERICAN RAILROADS'
MOTION TO MODIFY PROCEDURAL SCHEDULE**

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The Association of American Railroads ("AAR") respectfully requests that the Board extend the due date for the submission of comments on the Board's Advance Notice of Proposed Rulemaking ("ANPR") in this proceeding from the present date of November 6, 2006, to December 8, 2006. The AAR is a trade association representing the interests of North America's major freight railroads, and often presents comments and testimony in STB proceedings. In support of its request, the AAR states as follows:

1. On September 20, 2006, the Board issued the ANPR in this proceeding, summarizing the Board's current methodology for calculating the rail industry's cost of capital, describing how that calculation affects the Board's revenue adequacy determinations conducted pursuant to 49 U.S.C. § 10704(a), and seeking comments on the appropriate methodology to be employed in determining the cost of capital, as well as comments on how evidence should be submitted and analyzed in future cost of capital proceedings.

2. For all previous cost-of-capital determinations, the Board consistently has relied upon a Discounted Cash Flow ("DCF") methodology to calculate the cost of equity, one of the elements of the cost of capital. *See* ANPR at 2. In the ANPR, the Board stated that "there

are other methodologies that could be employed” in determining the cost of equity, including the Capital Asset Pricing Model (“CAPM”) methodology. *Id.* The Board also noted other potential alternative methods for determining the cost of equity, including “risk premium methods other than CAPM, earnings-price ratios, and the comparable earnings method.” *Id.* The ANPR stated that the instant proceeding would provide interested parties an opportunity to comment on the DCF model, as well as “whether the Board should adopt an alternative to that method, such as the CAPM model, for future cost-of-capital determinations.” *Id.*

3. In a related decision served the same day, the Board declined to adopt the CAPM model in calculating the rail industry’s cost of capital for 2005. *See* STB Ex Parte No. 558 (Sub-No. 9), *Railroad Cost of Capital - 2005* (served September 20, 2006). In that decision, the Board stated:

Over the years the calculation of the cost of common equity has produced *thousands of articles and treatises* by members of the financial, economic, and regulatory communities. There has not been a consensus as to how best to compute the cost of common equity and, in fact, *there are many different ways in which it is computed by both investors and regulators.*

Id. at 7 (emphasis added). The Board added that the DCF methodology was adopted “after considerable public discourse,” and noted that the Board and its predecessor agency have used the DCF model consistently for more than 20 years. *Id.*

4. The Board has acknowledged that the calculation of the cost of capital is both complex and controversial. *Id.* Moreover, the Board has relied upon its established DCF methodology for more than two decades. *Id.* (noting the “norm of regularity in government conduct that presumes an agency’s duties are best carried out by adhering to the settled rule”). In these circumstances, there is no apparent reason for the Board to act precipitously in examining potential alternatives to the DCF methodology.

5. The AAR respectfully submits that the procedural schedule set forth in the ANPR does not allow adequate time for interested parties to analyze and address in appropriate detail the Board's current methodology for calculating the cost of capital, nor does it allow adequate time for parties to review and analyze the alternative methodologies noted in the ANPR, and other potential alternative methods (if any) for calculating the cost of capital.

6. The issues raised in the ANPR have significant implications for the financial health of the rail industry and for its ability to attract and invest the capital needed to maintain and improve service to shippers in light of the continuing growth in demand for rail services. Interested parties need adequate time to analyze and address the potential consequences of any changes in the Board's methodology for calculating the cost of capital, with its concomitant effects on the Board's revenue adequacy analyses.

7. The Board's request for comments on these highly technical and financially significant issues comes at a time when interested parties and the Board itself are extraordinarily busy in several other pending industry-wide proceedings, including the preparation and analysis of recently-filed comments in Ex Parte No. 661, *Rail Fuel Surcharges*, preparation of comments in Ex Parte No. 646 (Sub-No. 1), *Simplified Standards For Rail Rate Cases*, in which opening submissions are due on October 24, 2006, with reply and rebuttal submissions to follow, and preparation for participation in the hearing on grain rates announced by the Board in Ex Parte No. 665, *Rail Transportation of Grain* (served October 10, 2006).

8. In light of these pending matters, and considering both the complexity and the significance of the issues raised in the ANPR, the AAR respectfully submits that additional time would permit interested parties to analyze and prepare written comments addressing the issues in this proceeding. Therefore, the AAR respectfully requests that the Board modify the pending procedural schedule, extending the due date for the submission of comments on the ANPR by

approximately one month, from the present date of November 6, 2006, to December 8, 2006.

This modification of the procedural schedule will not prejudice any parties and will permit a more thorough and considered analysis of the issues, without unduly delaying the proceeding.

9. Counsel for the National Industrial Transportation League ("NITL"), a major shippers' association, has authorized the AAR to indicate that NITL supports an extension of the procedural schedule to December 8, 2006.

CONCLUSION

For the foregoing reasons, the AAR respectfully requests that the due date for the submission of comments in this proceeding be extended from the present date of November 6, 2006, to December 8, 2006.

Respectfully submitted,



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Dated: October 12, 2006