

# STB Ex Parte No. 711

## *Petition for Rulemaking to Adopt Revised Competitive Switching Rules*

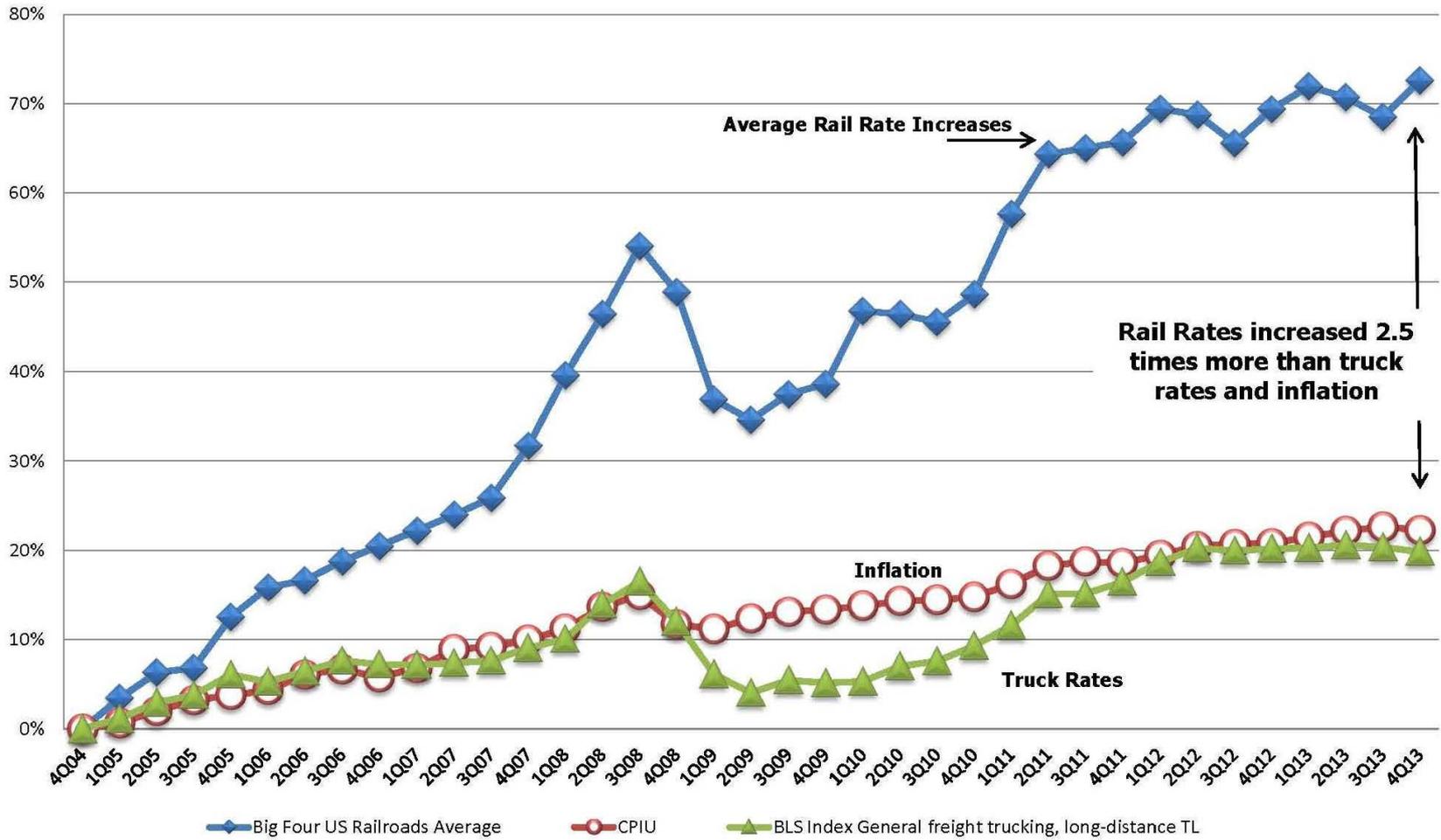
Presentation of  
The National Industrial  
Transportation League  
March 25, 2014

# Witnesses

- Bruce Carlton, President, The National Industrial Transportation League
- Karyn Booth and Nicholas DiMichael, Thompson Hine LLP
- Jay Roman, President, Escalation Consultants
- Walter Schuchmann, Vice President, Operations Planning, R.L. Banks & Associates

# Percent Change in Average Revenue Per Car on the Big Four U.S. Railroads versus the CPIU and the BLS Long Haul Trucking Index

(4Q2004 - 4Q2013)



Source: Railroad's average revenue per car in each period is calculated from the railroad's SEC filings.

# Overview of NITL Presentation

- NITL performed detailed analyses of the CSP
  - CSP is consistent with the Staggers Act
  - CSP impacts on shippers and carriers are balanced
  - CSP would inject a reasonable level of rail competition into the marketplace
  - CSP will **not** harm the railroads economically or operationally
- NITL analysis consistent with other credible CSP studies (e.g. USDOT, USDA, NG&FA)

# Overview of NITL Presentation

- AAR analyses are incomplete and misleading
- AAR analyses are based on faulty assumptions which drastically overstate CSP impacts
- Record supports action by STB to initiate a rulemaking on competitive switching
- Competitive switching would benefit the public interest

# The Board Has Broad Powers to Adopt New Competitive Switching Rules

- Statute seeks to encourage competitive switching
  - authorizes competitive switching when “practical and in the public interest” OR when “necessary to provide competitive rail service”
- Existing rules are unworkable
  - competitive switching has never been granted under the 1985 rules, and no shipper has even tried for over 15 years.
- Board has broad discretion to adopt new rules
- Changes in railroad market since 1985 support adoption of new rules

# STB Question #1: Existing Terminals and Shippers

- Switching arrangements exist today:
  - All major RRs, where RRs have agreed
  - But, many shippers are excluded
- Existing switch fees in RR tariffs:
  - In the West, generally \$200-\$300 per car
  - In the East, generally \$400-\$500 per car
- CSP would expand on existing practice
- AAR provided no information on existing switching arrangements

# STB Question #2: Carloads/Revenue Subject to Switching under CSP

- NITL Approach
  - Calculated the effect of both the 240% R/VC presumption and 75% market share presumption
  - Like DOT, focused on 240% R/VC presumption
  - Developed assumed access pricing methodology
  - Took into account all factors necessary for identifying impacted carloads and dollars
  - Calculated answers for all the questions asked by the Board
- This yields the total carloads & revenue potentially impacted by the CSP

# NITL's Assumed Access Pricing Methodology

- An assumed pricing method is required to estimate the number of cars potentially impacted and the revenue effect
- NITL's assumed fee based on Canadian interswitching fee (determined by CTA)
- NITL assumed switch fees:
  - \$300 per car for switches of < 60 cars
  - \$89 per car for switches of 60 cars or more

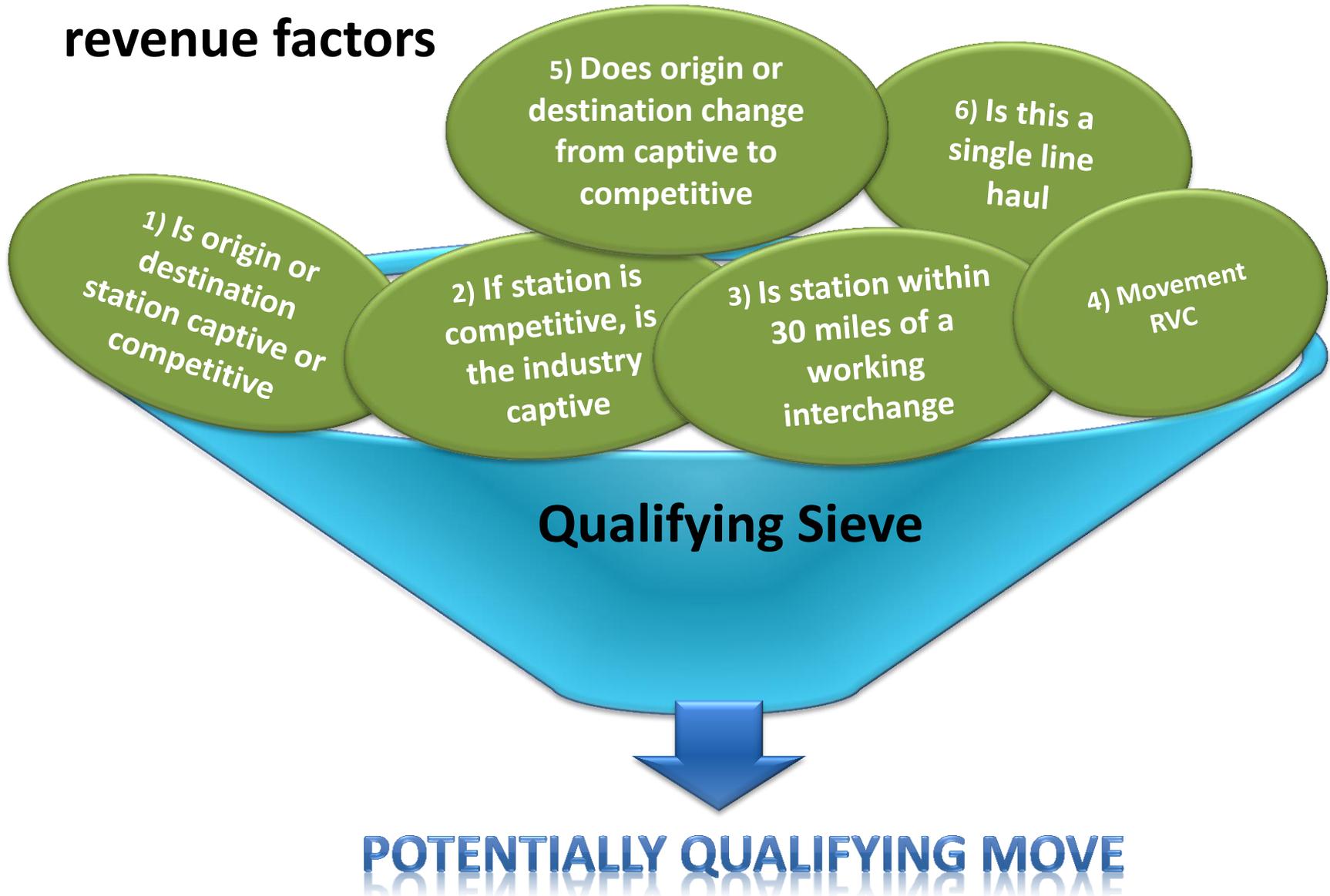
# NITL Access Fee Consistent With Current Railroad Tariff Switching Charges

- BNSF and UP average switching fee is ~ \$250 per car
- NS and CSXT average switching fee is ~ \$400 per car
- AAR/railroads did not contest NITL's \$300 per car access fee
- AAR/railroads did not offer any access fee of their own

# Impacted Carloads and Revenues: Non-Revenue and Revenue Factors

- A movement must satisfy CSP criteria to be eligible for competitive switching. These are the “non-revenue factors”
- NITL also examined “revenue factors” to determine potentially impacted movements
- The sum of movements that satisfy both factors provides the total number of carloads and revenue impacted by the CSP

# Non-Revenue Factors – Movement factors that must get through the Qualifying Sieve before considering revenue factors



# Impacted Carloads and Revenues: Revenue Factors

- In addition to non-revenue factors or “sieves,” NITL examined each potentially eligible movement to determine if a competitive rate plus the assumed access price results in a rate lower than the shipper’s current rate
- This “revenue factor” establishes a separate “sieve” for determining the potentially impacted movements

# Revenue Factors – How NITL Identified Potentially Impacted Moves

	Impacted Move		Non-Impacted Move	
Existing Rate		\$4,000		\$3,000
Rate After CSP	\$3,100		\$3,100	
+ Access Fee	\$300		\$300	
Total Cost After CSP		\$3,400		\$3,400
<b>Change in Rate</b>		<b>-\$600</b>		<b>\$400</b>
Impacted Move?		Yes		No

# “Full” vs. “Reduced” Competition Scenarios

- “Full Competition” scenario assumes that CSP results in a rate equal to the average “competitive” rate, for that carrier, commodity and mileage block
- “Reduced Competition” scenario assumes that CSP results in a rate higher than the average competitive rate
  - Not all forms of transportation competition apply to CSP traffic (only intramodal competition, in a concentrated rail market)
  - Competition muted because access fee must be paid

# Results of NITL Analysis - Full Competition Scenario (carloads)

CSP Condition	Carloads (in millions)	Percent of All Rail Carloads <sup>(1)</sup>
240% RVC Condition	1.24	
75% of Traffic Condition	0.20	
<b>Total Carloads</b>	<b>1.44</b>	<b>4.6%</b>

(1) 31 million total carloads for BNSF, CSXT, NS and UP.

# Results of NITL Analysis - Less Than Full Competition Scenario (carloads)

CSP Condition	Carloads (in millions)	Percent of All Rail Carloads <sup>(1)</sup>
240% RVC Condition	1.08	
75% of Traffic Condition	0.12	
<b>Total Carloads</b>	<b>1.20</b>	<b>3.9%</b>

(1) 31 million total carloads for BNSF, CSXT, NS and UP.

# NITL Analysis Overstates CSP Impact

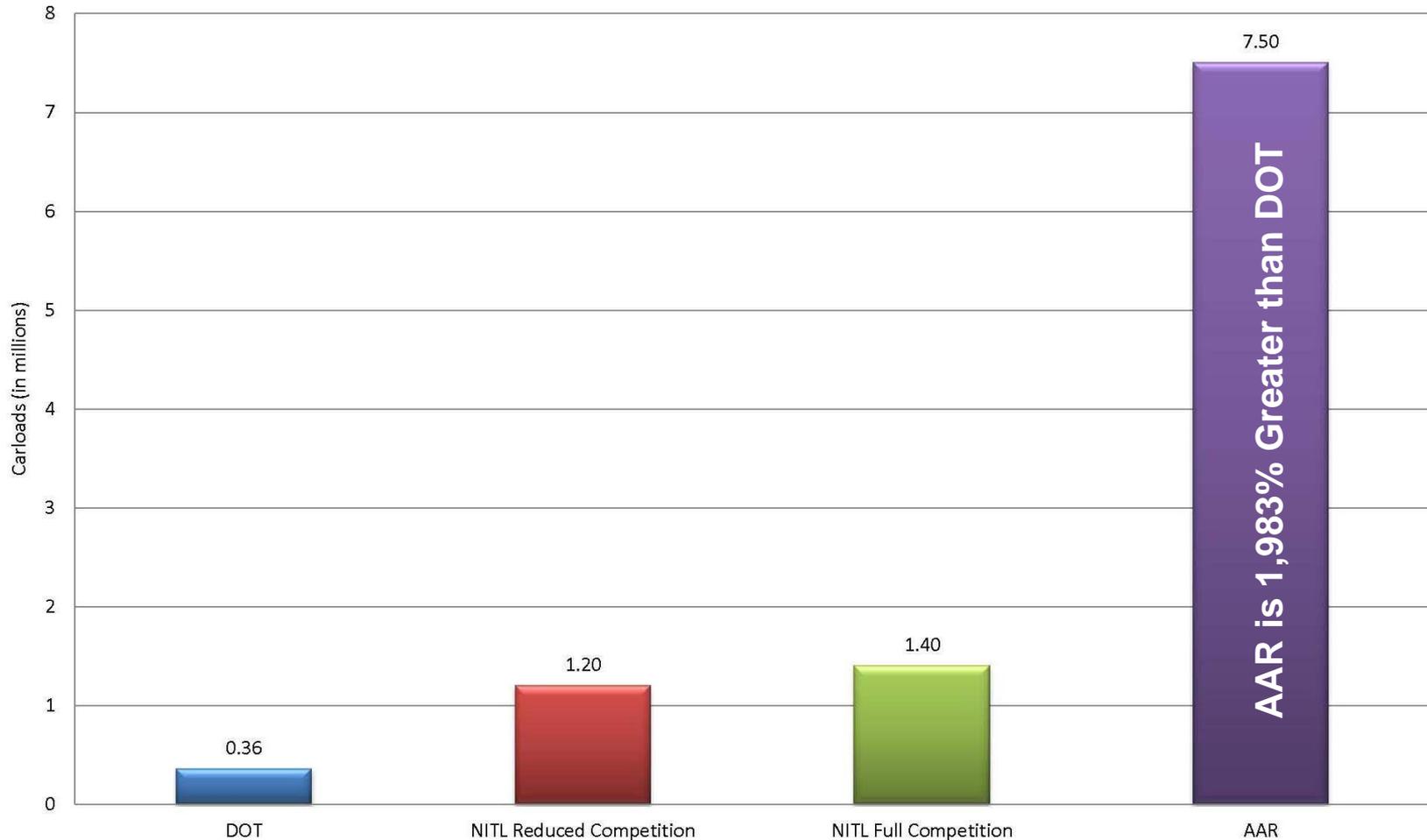
- NITL developed reasonable assumptions
- NITL analysis overstates the potential effect of the CSP:
  - Included all exempt traffic
  - Included all contract traffic
  - Ignored many paper barriers that would prevent many Class II and III carriers from competing
  - Assumed that all qualifying shippers applied for competitive switching

# NITL Analysis Is Generally Consistent With DOT

- DOT focused on 240% presumption, as did NITL
- DOT focused on three major commodity groups (coal, chemicals and farm products)
- DOT found that 360,000 carloads of these commodities would be potentially impacted by the CSP
- This compares to NITL's estimate of 1.44 million carloads impacted, for all commodities

# AAR Results Are Not Realistic

Ex Parte 711 Impacted Carload Results of NITL, DOT and AAR  
(carloads in millions)



# AAR's Estimate of Potentially Affected Carloads Is Overstated

- AAR's estimate of 7.5 million carloads affected is over 20 times DOT's estimate
- AAR only addressed the 75% market share presumption
- AAR admitted: "it is impossible to determine whether 75 percent of total traffic moves on the incumbent railroad" from the data
- AAR's "default assumption": RR that solely serves a station carries all traffic at that station is absurd
  - ignores the entire trucking, waterways and pipeline industries

# NITL responded to all STB requests for empirical analysis to better understand the impact of Ex Parte 711, THE AAR DID NOT

Analysis	NITL	AAR
240% RVC and 75% Market share presumption	Yes	No
Potential access fee	Yes	No
Apply revenue factors	Yes	No
Identified captive shippers served by competitive stations	Yes	No
Results based on different mileage ranges	Yes	No
Results based on RSAM RVC's	Yes	No

# STB Questions #3(a): How much would CSP Lower Rates/Reduce Railroad Revenue?

## Full Competition Scenario

CSP Condition	Shipper Savings (in billions)	Percent of Big 4 Total Revenue <sup>(1)</sup>	Percent of Big 4 Net Revenue <sup>(2)</sup>
240% RVC Condition	\$1.294		
75% of Traffic Condition	\$0.115		
<b>Total Shipper Savings</b>	<b>\$1.408</b>	<b>2.6%</b>	<b>9.8%</b>

(1) 2010 Total revenue for BNSF, CSXT, NS and UP is \$52.92 billion on the Waybill.

(2) 2010 Net Revenue Before Taxes as reported by the four major US railroads is \$14.3 billion.

# STB Questions #3(a): How much would CSP Lower Rates/Reduce Railroad Revenue?

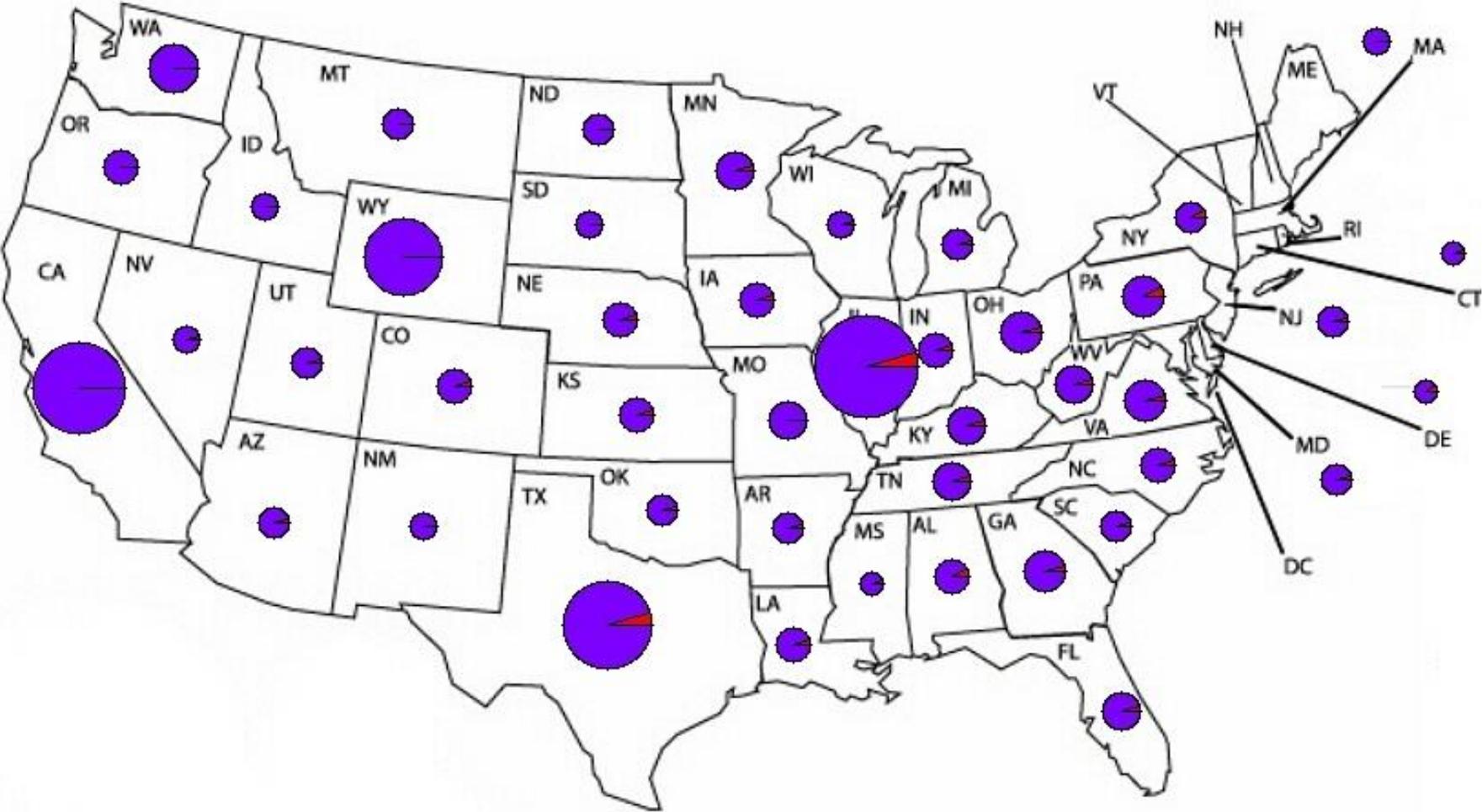
## Less than Full Competition Scenario

CSP Condition	Shipper Savings (in billions)	Percent of Big 4 Total Revenue <sup>(1)</sup>	Percent of Big 4 Net Revenue <sup>(2)</sup>
240% RVC Condition	\$0.908		
75% of Traffic Condition	\$0.038		
<b>Total Shipper Savings</b>	<b>\$0.946</b>	<b>1.8%</b>	<b>6.6%</b>

(1) 2010 Total Revenue for BNSF, CSXT, NS and UP is \$52.92 billion on the Waybill.

(2) 2010 Net Revenue Before Taxes as reported by the four major US railroads is \$14.3 billion

# Impacted Revenue as Percent of Total Rail Revenue by State (Full Comp)



# STB Question #4: Impact on Existing Captive Shippers

- Rates would not increase:
  - Union Pacific comments stated “UP believes widespread rate increases would be unlikely . . . UP already has every incentive to price traffic to maximize contribution.”
- No danger of regulatory effects:
  - SARRs not likely to be affected
  - Few captive shippers bring rate cases

# STB Question #5: Effect of CSP on Rail Network Efficiency

- Key factors are:
  - (1) Number of cars potentially eligible for switching under the CSP
  - (2) Percent of eligible cars that are likely to actually switch carriers
  - (3) Ability of rail carriers to handle the traffic swing from one carrier to another

# Number of Potentially Eligible Cars

- NITL's study results in a credible estimate of carloads potentially eligible for switching under the CSP (1.44 million)
  - AAR carload estimate is not credible
- This estimate is only a small fraction (4.6%) of the railroads' total traffic (31 million cars)

# Number of Cars Likely To Be Switched

- NITL analyzed Canadian inter-switching data to estimate the number of cars that are likely to switch carriers
- Canadian experience indicates that only a small fraction (10% - 17%) of eligible carloads will actually switch carriers
- The incumbent is usually in the stronger competitive position

# Number of Cars Likely to be Switched

- The estimated number of cars likely to be switched under the CSP is <250,000
- This is an extremely small percentage of the 5.4 million cars actually interchanged in 2010

# Railroads Can Handle the Traffic Swings Expected Under the CSP

- Traffic patterns constantly change and railroads routinely deal with these changes
- Estimated <250,000 cars re-routed under CSP is much less than ordinary year-to-year swings in railroad traffic

# Actual Year-to-Year Traffic Changes Far Exceed the CSP

U.S. Railroads – Carloads Originated			
Year	Total Carloads Originated	+ / - From Previous Year	% + / - From Previous Year
2011	30,000,000	<b>790,000</b>	2.7%
2010	29,210,000	<b>3,204,652</b>	12.3%
2009	26,005,348	(4,619,425)	(15.1%)
2008	30,624,773	(834,158)	(2.7%)
2007	31,458,931	(655,468)	(2.0%)
2006	32,114,399	<b>972,182</b>	3.1%
2005	31,142,217	<b>1,047,421</b>	3.5%

Source: *AAR Railroad Facts* and AAR website

# Impacts Will Be Muted

- Traffic swings under CSP will take place gradually
- Many cars move in blocks
- CSP traffic takes place at existing interchanges: RR personnel, equipment and procedures are already in place
- RRs have modern routing tools
- Competition encourages efficiencies

# Canadian Interswitching Provides A Reasonable Basis for Analyzing Impacts

- Regulated Interswitching in Canada has existed for decades
- A small fraction of eligible cars in Canada actually switch carriers
- No material impacts on operations or service
- RRs in Canada are highly profitable and have become more efficient and productive over time

# AAR is Wrong that CSP Will Harm RR Networks – Carloads Overstated

- AAR relies on absurd estimate that 7.5 million carloads are eligible for switching under CSP
- AAR relies on an unsubstantiated estimate that 25% of eligible carloads will be diverted
- Applying AAR's est. 25% diversion percentage to NITL's est. of impacted cars (1.4 million) results only in diversion of <400,000 cars per year
- Impact of <400,000 cars is vastly smaller than AAR's diversion estimate of nearly 2 million cars

# AAR is Wrong that CSP Will Harm RR Networks – Capabilities Understated

- AAR examples are highly speculative and do not estimate probability of occurrence
- AAR estimate of number of interchanges per carload is wrong
- RR productivity gains do not depend solely on reductions in interchanges and interchanges do not necessarily result in lost productivity
- RR have easily handled new interchanges in the past, *e.g.*, Conrail Shared Asset Areas, shortline spinoffs
- “America Has the Best Freight Rail System in the World” (AAR quote) and it will easily accommodate the modest impacts of CSP

# Conclusions Regarding Effect of CSP on Rail Network Efficiency

- The number of cars potentially eligible for the CSP is far smaller than RRs estimate
- Only a small number of cars are expected to “switch” to a new carrier (<250,000)
  - Less than usual swing in rail traffic year to year
- Railroads can easily handle the expected diversions
- NITL evidence is more credible

# CSP Provides for Evaluation of Adverse Operational Impacts

- Under CSP, carrier can contest request for competitive switching
- Carrier must show that competitive switching:
  - would not be feasible
  - would be unsafe or
  - would unduly hamper the ability of the rail carrier to serve its own customers

# Overall Conclusions

- Board's existing rules are unworkable and inconsistent with statutory purpose
- STB has broad discretion to adopt the CSP
- CSP is reasonable, balanced and narrowly-drawn to provide relief to captive shippers
- CSP would inject a reasonable amount of competition into system, without harming railroads
- Record strongly supports action by STB to promptly issue a NPR on the CSP