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October 26, 2016

Surface Transportation Board
Attn: Docket No. EP 711 (Sub-No. 1)
395 E. Street, S.W.
Washington, DC 20423-0001

RE: Surface Transportation Board (STB) Decision: Petition for Rulemaking to Adopt Revised Competitive Switching Rules, Docket No. EP 711

Pursuant to the Surface Transportation Board (the "Board") request for formal comments on Docket No. EP 711 regarding the petition for rulemaking to adopt revised reciprocal switching regulations ("Competitive Switching"), Shell Chemical LP and its affiliated entities operating in the United States (for purposes of this document, "Shell") provide the information below for use by the Board in considering Competitive Switching. The information herein represents Shell's view with respect to Competitive Switching as of the date represented above.

Shell commends the Board's decision and supports its authority to reform and broaden the Competitive Switching regulations to facilitate increased rail competition. We appreciate this opportunity to provide comments and the Board's consideration of our comments in shaping this rulemaking.

Shell depends on reliable and affordable rail service throughout the United States to remain competitive in a global market. Reliable and affordable rail service is the outcome of access to railroad competition which is, unfortunately, not present in many of our rail networks today. Over 50% of our total rail traffic is captive to only one railroad at origin, destination or both providing limited choice for rail service. This lack of rail service alternatives often drives low incentive by servicing railroads to continuously improve performance or maintain a competitive price.

Shell also moves product by rail in Canada and has had direct experience with the Interswitching regime used in Canada for many years. The system works seamlessly to provide competitive choice to otherwise captive rail shippers based on cost and performance, operating the same as any free market. We acknowledge that the US rail network is viewed by some as not completely comparable to that in

Canada. However, it should be noted that in order to be effective, the Competitive Switching rules in the US must be as efficient as possible and provide a clear and simple process to submit and assess sites for Competitive Switching. We encourage the Board to adopt new Competitive Switching standards that include clear and strict deadlines and procedures for filing claims, rebuttal, discovery and any other procedural steps necessary to reach a decision to ensure efficient resolution of competitive switch claims. Failure to accomplish this will result in lengthy and costly litigation and discourage shippers from moving forward with claims.

Shell believes the Board should consider the following additional points and recommendations in its Competitive Switching proposal:

- Extend Competitive Switching eligibility to Class II and Class III railroads. Given the described relative lack of information of the impact on limiting the application of the proposed rules to situations where Class II/III carriers are not involved, this will ensure that all potential opportunities for Competitive Switching that otherwise meet the criteria of the proposed rules are considered. Any negative effects would be mitigated through the case by case nature of each determination as to whether to require Competitive Switching in a given instance.
- Based on industry feedback, develop firm standards for reasonable distance. We support the methodology put forth by The Shipper Coalition for Railroad Competition. This will help standardize and streamline the Competitive Switching submission process. Submissions can be rebutted as to whether the standards are truly met in the case by case assessments.
- Expand the definition of a “working interchange” to include cases where investment is required by the shipper or interchange carrier. This will ensure that opportunities requiring marginal infrastructure investments are not automatically excluded from consideration by operation of the rule. The size of investment will be naturally controlled by the economics and associated business case for the entity making the investment.
- Provide standards for access pricing to be used when carriers cannot agree on a price or when a shipper sees an access price as unreasonably high. The standard should follow a methodology based on a standard markup of actual costs incurred by the incumbent carrier. “Lost contribution” should not be used to determine access pricing.
- Include high hurdle to reverse a Competitive Switching decision. Once a location is opened through a Competitive Switching claim, a significantly material change in circumstances should be required to be shown to reopen a proceeding along with a sufficiently high burden of proof standard on the part of the party seeking to reverse the decision. This corresponds to the significant interest in having a streamlined and efficient process that does not require resources in ongoing and costly litigation proceedings to reassess or confirm a prior decision regarding Competitive Switching.

Shell appreciates this opportunity to comment on the Board's proposed Competitive Switching rules. If you have any questions concerning these comments, please feel free to contact me at 713.241.6430 or chad.mansfield@shell.com.

Sincerely,

Chad Mansfield
Americas Regional Land Logistics Manager