

43365  
DO

SERVICE DATE – FEBRUARY 3, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 711

PETITION FOR RULEMAKING TO ADOPT REVISED  
COMPETITIVE SWITCHING RULES

Decided: February 3, 2014

AGENCY: Surface Transportation Board.

ACTION: Notice of rescheduled public hearing.

SUMMARY: The Surface Transportation Board (the Board) will hold a public hearing to explore further the issues surrounding the petition by The National Industrial Transportation League (NITL) and the related comments filed in this proceeding.

DATES: The hearing will be held on March 25 and 26, 2014, beginning at 9:30 a.m., in the Hearing Room at the Board's headquarters located at 395 E Street, S.W., Washington, DC. The hearing will be open for public observation. The schedule of appearances and the time provided for each party appear in the Appendix to this decision.<sup>1</sup>

INSTRUCTIONS FOR ATTENDANCE AT HEARING: All persons attending the hearing are requested to use the main entrance to Patriots Plaza I at 395 E Street, S.W. (entrance on E Street closest to 4th Street). There will be no reserved seating, except for those scheduled to present comments. The building will be open to the public at 7:00 a.m. There is no public parking in the building. The two closest Metrorail stations are Federal Center SW at 3rd and D Streets, S.W., and L'Enfant Plaza at 6th and D Streets, S.W.

Upon arrival, check in at the 1st floor security desk in the main lobby. Be prepared to produce valid photographic identification (driver's license or local, state, or Federal government identification); sign-in at the security desk; receive a hearing room pass (to be displayed at all times); submit to an inspection of all briefcases, handbags, etc.; and pass through a metal detector. Those persons testifying must check in with the Clerk at the front of the hearing room.

---

<sup>1</sup> Because the hearing was originally scheduled for last fall, the Board has already received notices of intent to participate and summaries of testimony. However, if there are any changes in intent to participate, please notify us by February 10, 2014.

Persons choosing to exit the building during the course of the hearing must return their hearing room passes to security personnel and will be subject to the above security procedures if they choose to re-enter the building. Hearing room passes also will be collected from those exiting the hearing upon its conclusion.

Laptops and recorders may be used in the hearing room, but no provision will be made for connecting personal computers to the internet. Cellular telephone use is not permitted in the hearing room; cell phones may be used quietly in the corridor surrounding the hearing room, or in the building's main lobby.

Members of the media planning to attend the hearing should contact Dennis Watson in the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0234. The Board's hearing room complies with the Americans with Disabilities Act, and persons needing such accommodations should call (202) 245-0245, by the close of business on March 24, 2014.

If a party wishes to use visual displays and/or handouts of material from the record, it may do so. Parties may copy computer presentations to a Board-supplied laptop for viewing on the hearing room's television screens. Staff will be available to demonstrate the hearing room's screen system and to assist in the copying of visual presentations onto the hearing room laptop computer on March 24, 2014, from 2:00 p.m. to 4:00 p.m. Please call (202) 245-0238 to make arrangements.

FOR FURTHER INFORMATION CONTACT: Valerie Quinn at (202) 245-0382. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

SUPPLEMENTARY INFORMATION: By decision served on July 25, 2012, the Board began a proceeding to consider a proposal submitted by NITL to modify the Board's standards for mandatory competitive switching. Under the proposal, certain captive shippers located in terminal areas would be granted access to a competing railroad if there is a working interchange within a reasonable distance (30 miles under NITL's proposal). In its decision, the Board sought empirical information about the impact of the proposal if it were to be adopted. The Board received numerous comments in response to its decision. In order to explore further NITL's proposal and the issues raised in the submitted comments, the Board scheduled a public hearing for October 22, 2013. The Board received numerous notices of intent to participate in that hearing. By decision served on October 16, 2013, the Board postponed the hearing due to the Government shutdown. The Board is now rescheduling the hearing for March 25 and 26, 2014.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. A public hearing in this proceeding will be held on March 25 and 26, 2014, at 9:30 a.m., in the Board's Hearing Room, at 395 E Street, S.W., Washington, DC, as described above.
2. Time for the hearing is allotted as reflected in the Appendix to this decision.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

**APPENDIX -- SCHEDULE OF APPEARANCES**

**TUESDAY, MARCH 25, 2014 (COMMENCING AT 9:00 A.M.)**

<b><u>Party</u></b>	<b><u>Time Allotted</u></b>
<b>Panel I</b>	
U.S. Department of Transportation Christopher S. Perry	5 minutes
<b>Panel II</b>	
The National Industrial Transportation League Bruce Carlton Karyn Booth Nick DiMichael Jay Roman TBD	50 minutes
<b>Panel III</b>	
Association of American Railroads Michael R. Baranowski William J. Rennie B. Kelly Eakin Phil C. Ireland Samuel M. Sipe, Jr.	50 minutes
American Short Line & Regional Railroad Association Richard F. Timmons	15 minutes
<b>Panel IV</b>	
Arkansas Electric Cooperative Corporation Eric Von Salzen Michael A. Nelson	20 minutes
Interested Agricultural Parties Randall Gordon	10 minutes
Joint Coal Shippers Stephanie M. Archuleta	5 minutes

**APPENDIX -- SCHEDULE OF APPEARANCES**

**WEDNESDAY, MARCH 26, 2014 (COMMENCING AT 9:00 A.M.)**

**Panel V**

BNSF Railway Company Jill K. Mulligan	10 minutes
CSX Transportation, Inc. Cressie Brown	10 minutes
The Kansas City Southern Railway Company David Konschnik	5 minutes
Norfolk Southern Railway Company Rush Bailey	10 minutes
Union Pacific Railroad Company Thomas C. Haley	10 minutes

**Panel VI**

The American Chemistry Council TBD	10 minutes
The Chlorine Institute Eddie Johnston	5 minutes
Diversified CPC International, Inc. Sandra Dearden	10 minutes
The Dow Chemical Company Don Taylor	10 minutes
Indorama Ventures EO & Glycols, Inc. Phillip C. Rine Tom O'Connor	15 minutes

**Panel VII**

United Transportation Union-New York State Legislative Board  
Gordon P. MacDougall

5 minutes

Wolfe Research  
Scott H. Group

10 minutes