

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 711

PETITION FOR RULEMAKING TO ADOPT REVISED
COMPETITIVE SWITCHING RULES

Digest:¹ This decision defers consideration of whether to start a rulemaking proceeding that has been requested by The National Industrial Transportation League while the Board reviews similar issues and arguments presented in another proceeding.

Decided: November 3, 2011

In Competition in the Railroad Industry, EP 705 (STB served Jan. 11, 2011), the Board issued a notice seeking comments and announcing a public hearing to explore the current state of competition in the railroad industry and possible policy alternatives to facilitate more competition, where appropriate. In the notice, the Board urged the parties to focus on, among other things, reciprocal switching, inviting the parties to discuss “how to construe [49 U.S.C. § 11102(c)] in light of current transportation market conditions.” Id. at 6.

On April 12, 2011, The National Industrial Transportation League (NITL) filed individual and joint comments in EP 705. In its filings, NITL urged the Board to implement changes to its rules on reciprocal switching.² On June 22 and 23, 2011, after the submission of numerous other written comments in EP 705, the Board held a public hearing in that proceeding.

On July 7, 2011, NITL filed a petition for rulemaking, in which it proposes revised competitive switching rules and urges the Board to seek public comment on its proposal. Numerous replies were filed in response to NITL’s petition.

Although EP 705 has been formally discontinued,³ we continue to consider the extensive arguments presented in EP 705 regarding competitive access, including reciprocal switching.⁴ In

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² Interested Parties Comments at 67; NITL Comments at 12.

³ See Review of the STB’s Gen. Costing Sys., EP 431 (Sub-No. 3) et al., slip op. at 3 (STB served Jan. 19, 2010) (stating that informational hearing dockets would be automatically

an effort to conserve and use efficiently the Board's resources, we will defer a decision granting or denying NITL's request to institute a rulemaking pending our review of the issues and arguments presented in EP 705.

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

It is ordered:

1. A decision on NITL's petition to institute a rulemaking is deferred pending our review of the issues and arguments presented in EP 705.
2. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.

(. . . continued)

discontinued once the record closes, unless the Board announces otherwise prior to the close of the record).

⁴ Should we proceed with any rulemakings on the issues raised in that informational hearing, the proceeding would be announced in a new docket.