

- EXPEDITED CONSIDERATION REQUESTED -

233421

ENTERED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Office of Proceeding
November 28, 2012
Part of Public
Record

PETITION OF THE ASSOCIATION OF)
AMERICAN RAILROADS TO INSTITUTE)
A RULEMAKING PROCEEDING TO)
REINTRODUCE INDIRECT COMPETITION)
AS A FACTOR CONSIDERED IN MARKET)
DOMINANCE DETERMINATIONS FOR)
COAL TRANSPORTED TO UTILITY)
GENERATION FACILITIES)

STB Ex Parte No. 717

**MOTION FOR EXTENSION OF TIME OF
THE WESTERN COAL TRAFFIC LEAGUE**

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|  GRANTED Office of Proceedings | DECISION ID NO.: <u>42800</u> |
| | DECIDED DATE: <u>12/3/12</u> |
| | SERVICE DATE: <u>12/3/12</u> |
| | APPROVED: <u>Kathel D Campbell</u> Director |
| | <input checked="" type="checkbox"/> <u>Due date for replies</u> <u>extended to 1/14/13.</u> |

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*Attorneys for the Western Coal
Traffic League*

Dated: November 29, 2012

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SURFACE TRANSPORTATION BOARD**

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**MOTION FOR EXTENSION OF TIME OF
THE WESTERN COAL TRAFFIC LEAGUE**

In accordance with 49 C.F.R. § 1104.7(b), the Western Coal Traffic League (“WCTL”) respectfully requests that the Board extend the due date for filing replies to the Association of American Railroads’ (“AAR”) Petition¹ to January 14, 2013. In support thereof, WCTL states as follows.

1. The AAR filed its Petition on November 19, 2012. The Petition asks the Board to “initiate a rulemaking proceeding and propose the reintroduction of product and geographic competition as factors that may be considered in market dominance analyses under 49 U.S.C. § 10707 for complaints involving the transportation of coal to coal-fired electric generation facilities.” Petition at 1.

¹ STB Ex Parte No. 717, Petition of the Association of American Railroads to Institute a Rulemaking Proceeding to Reintroduce Indirect Competition as a Factor Considered in Market Dominance Determinations for Coal Transported to Utility Generation Facilities (filed Nov. 19, 2012) (“Petition”).

2. On November 26, 2012, Norfolk Southern Railway Company (“NS”) filed Comments in Ex Parte No. 717 that “supplement and support the AAR’s Petition.” NS Comments at 1.

3. Replies to the AAR Petition currently are due on December 10, 2012. *See* 49 C.F.R. § 1104.13.

4. WCTL seeks an extension in order to have sufficient time to review and respond to the AAR Petition. WCTL notes that the Petition is 162 pages long, and NS’s supplemental Comments are even longer (216 pages). In addition, counsel for WCTL are engaged in other matters pending before the Board including several where filings were made shortly after the AAR filed its Petition, or are due over the next several weeks, including the Premium Case² (reply comments filed on November 28); the M&G Case³ (comments filed on November 28); the Rate Regulation Reforms Case⁴ (reply comments due on December 7, 2012 and rebuttal comments due on January 7, 2013); the Coal Dust Case⁵ (rebuttal evidence and argument due on December 17, 2012); and the IPA Case⁶ (opening evidence due on December 17, 2012). Finally, AAR filed its Petition three days before the Thanksgiving Holiday and the requested extension encompasses the December/January Holiday season.

² *Western Coal Traffic League – Petition for Declaratory Order*, STB Finance Docket No. 35506.

³ *M&G Polymers USA, LLC v. CSX Transp., Inc.*, STB Docket No. 42123.

⁴ *Rate Regulation Reforms*, STB Ex Parte No. 715.

⁵ *Reasonableness of BNSF Ry. Co. Coal Dust Mitigation Tariff Provisions*, STB Finance Docket No. 35557.

⁶ *Intermountain Power Agency v. Union Pac. R.R.*, STB Docket No. 42136.

5. Counsel for WCTL has contacted counsel for AAR and is authorized to state that the AAR has no objection to the Board granting WCTL's requested extension. Granting the requested extension should not adversely impact any other member of the public.

WHEREFORE, for the reasons set forth above, WCTL respectfully requests that the Board grant the requested extension.

Respectfully submitted,

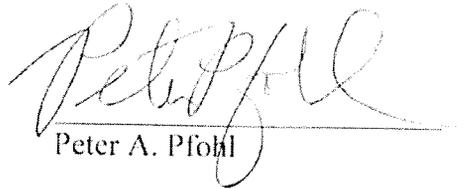
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*Attorneys for Western Coal
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Dated: November 29, 2012

CERTIFICATE OF SERVICE

I hereby certify that this 29th day of November, 2012, I have served a copy of the foregoing by e-mail and by first-class mail, postage prepaid, upon all parties of record to this case.


Peter A. Pfohl