



THE
NATIONAL
INDUSTRIAL
TRANSPORTATION
LEAGUE

May 23, 2011

The Honorable Daniel R. Elliott III
Chairman
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

RE: BNSF Acquisition Premium/STB Finance Docket No. 35506

229602

Dear Chairman Elliott:

The Western Coal Traffic League ("WCTL") recently filed a Petition for Declaratory Order with the Surface Transportation Board ("Board") in Finance Docket No. 35506, requesting that the Board exclude for regulatory costing purposes the \$7,625,000,000 premium paid by Berkshire Hathaway Inc. to acquire the BNSF Railway in 2010 from BNSF's net investment base. The National Industrial Transportation League ("League") strongly supports this petition, and respectfully requests that the Board take appropriate steps to prevent rail customers from bearing the burden of this massive acquisition premium.

We understand that BNSF included the \$7,625,000,000 write-up in its net investment base when it submitted its Class I Railroad Annual Report to the STB for the year ending December 31, 2010. The League shares the concerns of WCTL that inclusion of the billion dollar write-up in the BNSF rate base, as reflected in the Board's costing systems, will grossly inflate the railroads' service costs, resulting in serious impacts on market dominance, rate reasonableness and revenue adequacy determinations, to the detriment of captive shippers. We believe it would be unreasonable for captive shippers to bear the burden of this unprecedented acquisition premium.

Rather, the STB should follow the approach of other regulated industries which exclude merger premiums from the rate base as a means of consumer protection, as explained in the WCTL petition. American businesses that depend on rail services are already bearing the cost of rising railroad rates, and allowing the BNSF acquisition premium to be included in that carrier's rate base would only make it more difficult for such companies to access the Board's regulatory remedies to ensure that their rail rates are "reasonable."

Accordingly, the League respectfully urges the Board to exercise its authority to prevent the pass-through of the BNSF multi-billion dollar acquisition premium on to captive shippers.

Sincerely,

Bruce J. Carlton
President & CEO
The National Industrial Transportation League

ENTERED
Office of Proceedings

MAY 24 2011

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Public Record

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing letter was served via regular mail postage pre-paid
on May 25, 2011 upon all parties of record.


Ellie Gilanshah
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