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September 23, 2013

VIA ELECTRONIC FILING

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

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ENTERED
Office of Proceedings
September 23, 2013
Part of
Public Record

RE: STB Ex Parte No. 711, Petition for Rulemaking to Adopt Revised Competitive Switching Rules

Dear Ms. Brown:

Pursuant to the Board's notice served August 13, 2013 in the above-captioned proceeding, this is to inform the Board that Jill K. Mulligan, Associate General Counsel – Regulatory for BNSF Railway Company requests to participate in the public hearing scheduled by the Board for October 22, 2013. Ms. Mulligan plans to address the issues set out in the attached outline and requests that she be allotted 10 minutes to address the Board.

Sincerely,

Richard E. Weicher

**STB EX PARTE NO. 711
PETITION FOR RULEMAKING TO ADOPT REVISED
COMPETITIVE SWITCHING RULES**

**OUTLINE OF TESTIMONY OF
JILL K. MULLIGAN, BNSF RAILWAY COMPANY**

- The Board should promote competition by allowing market forces to govern, and regulatory intervention should be limited to circumstances where market forces have failed to protect shippers from abuses of market power.
- The reliance of the NITL proposal on R/VC ratios as a measure of market power and as the justification for increased regulation is invalid.
- The Board should affirm that movements not subject to STB regulation would not be subject to a switching regime such as described in the NITL proposal.
- The Board should reject NITL's and others' request to maintain the availability of a rate reasonableness remedy as an additional litigation option for shippers who obtain a reciprocal switching remedy under NITL's proposal.