

STB Hearing: Ex Parte No. 711

235706

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Testimony of BNSF Railway Company

Jill Mulligan, Associate General Counsel

March 26, 2014

Key Principles

- **The Board should promote competition by allowing market forces to govern. Regulatory intervention should be limited to addressing actual abuses of market power.**
- **Reliance on R/VCs to measure market power—much less market abuse—is invalid and disincentivizes efficiency investments.**
- **Movements not subject to STB regulation could not be subject to the NITL switching regime.**
- **The Board cannot ignore the effect of reciprocal switching remedies on market dominance in rate reasonableness cases.**

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