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October 25, 2016

Allison Davis  
Surface Transportation Board  
Attn: Docket No EP 711 (Sub-No. 1)  
395 E Street SW  
Washington, DC 20423-0001

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**Re: Petition for Rulemaking to Adopt Revised Competitive Switching Rules;  
Reciprocal Switching**

Ms. Davis:

The National Mining Association (NMA) submits the following comments on the Surface Transportation Board's (STB) notice to grant in part a petition for rulemaking filed by the National Industrial Transportation League (NITL) seeking revised reciprocal switching regulations. NMA is a national trade association that includes the producers of most of the nation's coal, metals, industrial and agricultural minerals; the manufacturers of mining and mineral processing machinery, equipment and supplies; and the engineering and consulting firms, financial institutions and other firms serving the mining industry. NMA members rely on rail transportation to ship coal and minerals throughout the nation, and benefit from shipping rates and access generated by market competition.

NMA members are frequently served by single carriers and without alternative options for transit. The proposed rule has the potential to introduce much needed competition in the shipment of mine products if properly implemented. To this end, any competitive switching framework adopted by STB should be predictable, reliable, and effective for shippers seeking competitive switching for cargo transit. The elements of the rule proposed by STB are a positive step in this direction, but could benefit from increased clarity and reliability. Specifically, the proposed two-prong framework for seeking competitive switching appears to rely too heavily on the agreement and support of both the existing carrier and the substitute carrier.

NMA recognizes the need for operational feasibility and safety to play a role in determining whether switching is appropriate. NMA is concerned however with language that would appear to prevent the approval of competitive switching if a carrier can make a cursory showing of perceived impacts to its ability to serve existing shippers. NMA is concerned that such a broad exception would limit the utility of the proposal by nullifying

otherwise viable requests for switching. Furthermore, it is unclear how the proposed case-by-case analysis can be relied upon to compel competitive switching where appropriate. STB should consider integrating steps, definitions of key terms, and timelines that would make the competitive switching review process more concrete and transparent.

NMA supports STB's proposal to abandon NITL's suggested 30-mile threshold for competitive switching. This standard excludes some captive shippers who are otherwise appropriate candidates for service made possible by competitive switching. As an example, in Illinois the mileage for an alternate Class I carrier to gain access to certain NMA member operations ranges from 16 miles to 65 miles. In Kentucky, mileage ranges from 76 miles to 140 miles for the same operator. Including these shippers in the competitive switching framework is a critical component of a successful rule.

NMA also believes that competitive switching should not be limited to Class I carriers. Many NMA members rely on single short line railroads for shipment in many cases. Competitive switching could produce increased access and competitive rates in these scenarios as well. NMA recommends that STB consider expanding its proposal to Class II carriers in the final rule.

Finally, STB should consider the potential costs of competitive switching that are likely to be passed on to shippers. In addition to the costs associated with making the market based case that the proposed switch is feasible, safe, and not likely to alter rates for existing shippers, the switching fee imposed on the substitute carrier will likely be passed on to shippers. In order to make a competitive switching framework viable, STB should include in the final rule a process to ensure that the costs of achieving a requested switch do not eclipse the benefits provided.

Thank you for your consideration of these comments.

Sincerely,



Adam Eckman  
Associate General Counsel  
National Mining Association