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BEFORE THE
SURFACE TRANSPORTATION BOARD

In the Matter of:)

METHODOLOGY TO BE EMPLOYED)
IN DETERMINING THE RAILROAD)
INDUSTRY COST OF CAPITAL)

STB Ex Parte No. 664

WC'TL REPLY IN OPPOSITION TO
AAR MOTION TO MODIFY PROCEDURAL SCHEDULE

Of Counsel:

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(202) 347-7170

Dated: August 22, 2007

WESTERN COAL TRAFFIC LEAGUE

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Its Attorneys

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**WCTL REPLY IN OPPOSITION TO
AAR MOTION TO MODIFY PROCEDURAL SCHEDULE**

The Western Coal Traffic League ("WCTL") respectfully submits this reply in opposition to the Motion to Modify Procedural Schedule ("Motion") filed by the Association of American Railroads ("AAR") on August 21, 2007.

1. In the circumstances of this proceeding, the requested 45-day extension is excessive.
2. In no sense can AAR be considered a stranger to the Capital Asset Pricing Model ("CAPM"), as AAR was submitting CAPM material in the annual cost of capital proceedings 25 years ago. Moreover, WCTL submitted considerable CAPM material in response to the 2005 cost of capital proceeding, the Advanced Notice of Proposed Rulemaking ("ANPR") that preceded the Notice in this docket, and the 2006 cost of capital proceeding. AAR itself addressed CAPM in its response to the ANPR, at the STB's hearing, and in its post-hearing materials. Under the circumstances, an extended time period is not required for AAR to respond to the Board.
3. The fact that AAR requested and obtained a 32-day extension to submit comments in response to the ANPR provides no basis for affording the AAR a similar or longer extension requested here. AAR's earlier request was premised in part

on the pendency of three other active proceedings at the time (fuel surcharges, simplified standards for rate cases, and grain rates). No other proceedings should distract the AAR at this time.

4. WCTL does agree with the AAR that the issue of the cost of capital is important, but it disagrees that this importance is a valid basis for the requested delay. Note that the AAR opposed WCTL's efforts at the D.C. Circuit to hold the WCTL appeal of the 2005 cost of capital decision in abeyance pending the outcome of the rulemaking proceeding on the grounds that the "delay and uncertainty ...would not serve the public interest," especially as the cost of capital is "integral" to the Board's activities in a number of areas, including revenue adequacy, URCS, and rate reasonableness. Indeed, a WCTL member has a pending rate case where the 2006 URCS costs are an issue of major significance. The delay and uncertainty inherent in an extended schedule should be avoided for the very reasons the AAR itself previously noted.

For the reasons stated, the Board should not grant the AAR's requested extension. While a modest extension of one or two weeks may be in order, 45 days, under the circumstances presented by the Notice, is unwarranted and opposed by WCTL.

Respectfully submitted,

WESTERN COAL TRAFFIC LEAGUE

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of August 2007, I have caused true and accurate copies of the foregoing WCTL Reply in Opposition to AAR Motion to Modify Procedural Schedule to be served upon all parties on the service list in this proceeding by first class mail, postage prepaid or more expeditious method of delivery.

/s/ Robert D. Rosenberg