BEFORE THE

SURFACE TRANSPORTATION BOARD

EX PARTE NO. 664

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

OPENING COMMENTS OF NATIONAL GRAIN AND FEED ASSOCIATION

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Dated: September 27, 2007

These comments are submitted on behalf of National Grain and Feed Association ("NGFA") in response to the Notice of the Board dated August 14, 2007. In that Notice, the Board stated that it proposes to revise its method for calculating the railroad industry's cost of capital by computing the cost of equity using a capital asset pricing model ("CAPM"). NGFA supports the Board's proposal.

NGFA is comprised of some 900 companies in the United States, Canada, and Mexico involved in all aspects of grain merchandising, processing, storage, transportation, feed manufacturing, integrated livestock operations, exporting, and importing grain and grain products. NGFA members include small country elevators, as well as the largest firms in the industry, most with access to only a single rail carrier at each of their rail-served facilities.

As the Notice indicates, the railroad industry's cost of capital plays a significant role in the variety of determinations the Board is called upon to make, including adjudications in maximum rate cases, feeder line applications, rail line abandonments, and trackage rights cases. It is used in ultimate variable cost calculations and thereby influences the question of whether specific railroad rates meet the quantitative jurisdictional threshold requirement that a rate be not less than 180 percent of variable cost in order to be challenged as unreasonably high, and has been used to provide a basis for prescribing maximum reasonable rates.

Equally important, the railroad industry's cost of capital is used to evaluate the adequacy of individual railroad revenues annually and thus is central to both regulatory and political judgments and discourse regarding statutory and policy decisions involving railroads.

The Notice concedes that the method employed until now by the Board and its predecessor, the Interstate Commerce Commission, to determine railroad cost of capital, known as Discounted Cash Flow ("DCF"), is flawed and now is considered by most experts to be an unworthy measure. These shortcomings commendably were brought to the Board's attention with a formal request for revision by the Western Coal Traffic League ("WCTL"), which proposed replacing DCF with CAPM. According to the Notice, as amended on August 20, 2007, the substitution of CAPM analysis for DCF would substantially reduce the railroad industry's measured cost of capital. In turn, those reductions can be expected to reduce railroad revenue requirements to attain revenue adequacy. It appears probable that, were cost of capital to be determined by CAPM, most if not all railroads would be revenue adequate on a current basis and more likely to be revenue adequate on an on-going basis than under a cost of capital methodology that relies on DCF.

The use of an inappropriate and outmoded DCF model, rather than the economically preferred CAPM method of calculating cost of capital, no doubt has resulted, and would continue to result, in overstatements of the level at which a given rail rate could be deemed to be unreasonable under 49 U.S.C. § 10701. Adopting a more realistic methodology, as proposed by the Board, not only would laudably eliminate that type of result, but would also portray railroad earnings in a more realistic regulatory light that would be more consistent with investors' evaluations of railroads as healthy ongoing enterprises.

NGFA applauds the Board for taking steps that will help regulators, investors, and governmental interests evaluate the railroad industry more realistically. The agricultural community is fully aware of the need for a responsive railroad industry, now and in the future. NGFA sees no reason, however, why those goals would be thwarted in the least if the Board takes the action it proposes. Even after the Notice was issued, press accounts reported that railroad investments are still maintained in high regard by both Wall Street analysts and investors. Berkshire Hathaway Corporation, for example, increased its stake in BNSF Railway Company by some 10 million shares.[1] Credit Suisse reported that the railroads would be "able to book meaningful rate increases" despite the Board's proposal.[2] There is no reason to believe that the railroad industry's access to capital will be impeded if more railroads are found to be revenue adequate under a more realistic economic model than the Board presently employs.

It is important to the integrity of the regulatory process for the Board to employ reliable principles in the discharge of its responsibilities. Moving from DCF to CAPM is a needed and welcome step in that direction.

Respectfully submitted,

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1 See Appendix A.
2 See Appendix B.

CERTIFICATE OF SERVICE

I hereby certify that I have, this 27th day of September, 2007 served a copy of the foregoing on all parties of record, by first class mail, postage prepaid.

Andw P. Goldstein

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Andrew P. Goldstein

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APPENDIX A

BREAKING NEWS

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Buffet's Berkshire Ups Stake In Burlington Northern [BRK-A]

8/28/2007 6:49:21 AM Legendary investor Warren Buffett's Berkshire Hathaway Inc. (BRK-A) revealed in a late Monday SEC filing that it has acquired 10.1 million shares of Burlington Northern Santa Fe Corp. (BNI) since Thursday last week, increasing its stake in the railroad operator to nearly 14.8% from 11.9%.

Berkshire's National Indemnity unit bought about 4.32 million Burlington Northern shares for $79.96 apiece Thursday, 2.44 million shares for $79.97 each on Friday, and 3.32 million shares at $80 per share on Monday, according to the SEC filing.

The latest purchases give Berkshire control of 52.13 million Burlington Northern shares, with subsidiary National Indemnity now holding 26.1 million shares, and other units Columbia Insurance Co. and National Fire & Marine Insurance Co. holding 24.7 million shares and 1.3 million shares each, respectively.

At Berkshire's annual meeting in May, Buffett told investors that the railroad business' competitive prospects have shown improvement and better that what the status was 30 years ago. The billionaire investor also acknowledged that he was slow to realize that railroads were a good investment as he was prejudiced by the industry's past performance.

In May, Berkshire reported a 6.36 million share stake in railroad company Norfolk Southern Corp. (NSC) and a 10.51 million share stake in railroad operator Union Pacific Corp (UNP). On Aug 14, Berkshire filed confidential documents with the SEC regarding these holdings. So, Berkshire's current holdings in Union Pacific and Norfolk Southern stock Berkshire are not clear.

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Positive EPS Surprises

Sym	Exp. EPS	Act. EPS	% Surprise
SKIL	0.03	0.11	266.66
OTEX	0.40	0.52	30
ESL	0.56	1.49	170.90
OVTI	0.18	0.35	94.444
WIND	0.04	0.12	200

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CRH Plc First-Half Profit Rises On Strong European Sales Revenues - Update [CRH]

8/28/2007 5:18:12 AM Dublin, Ireland-based building materials manufacturer CRH Plc (CRH, CRH.L) on Tuesday reported that its profit for the first half of fiscal year 2007 climbed from the previous year, driven mainly by double-digit sales revenue growth in European divisions. First-half cash earnings per share jumped 22%. The company noted that a particularly strong start in Europe significantly outweighed more challenging conditions in the Americas. Moving forward, CRH said it expects strong full year profit growth. In addition, the company's Board decided to pay an interim dividend that is 48% higher than last year.

The company's profit for the first six months climbed to EUR 506 million from EUR 403 million a year ago. Profit attributable to equity holders grew to EUR 504 million or 92.0 cents per share from EUR 396 million or 73.0 cents per share in the previous year. First-half cash earnings per share jumped 22% to 160.9 cents from 131.7 cents a year ago.

In the period, pre-tax profit rose 27% to EUR 670 million from EUR 526 million last year. The results included profit on disposal of fixed assets of EUR 22 million that grew 29% from EUR 17 million last year.

Revenue for the period came in at EUR 9.70 billion, up 21% from EUR 8.03 billion in the previous year. Among divisions, Europe Materials sales revenue grew 26% to EUR 1.69 billion from last year's EUR 1.33 billion. In the six months, Europe Products sales revenue was EUR 1.83 billion, up 23% from EUR 1.49 billion in 2006. Europe Distribution sales revenue increased 18% to EUR 1.56 billion from EUR 1.32 billion in the previous year.

In the Americas, materials sales revenue surged 57% to EUR 2.18 billion from EUR 1.39 billion a year earlier. Meanwhile, Americas Products sales revenue dropped 1% to EUR 1.796 billion from last year's EUR 1.813 billion. Americas Distribution sales revenue also fell 5% to EUR 650 million from EUR 683 million in 2006.

First-half gross profit was EUR 2.83 billion from EUR 2.42 billion in the previous year. Earnings before interest, tax, depreciation and amortization, or EBITDA, before profit on disposal of fixed assets was EUR 1.14 billion, up 23% from $925 million last year.

Group operating profit before profit on disposal of fixed assets was EUR 771 million, up 26% from EUR 613 million in the previous year. In Europe, operating profit climbed 50% year-over-year to EUR 495 million, while operating profit in the Americas declined 2.5% to EUR 276 million.

Moving forward, Liam O'Mahony, Chief Executive, said, "CRH's geographic, sectoral and product balance continues to deliver in 2007 both in terms of overall trading performance and development activity. With an ongoing focus on price

APPENDIX B

CREDIT SUISSE

17 August 2007
Americas/United States
Equity Research
Railroads / OVERWEIGHT

Track Work

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SECTOR REVIEW

A Mixed Bag in Service

- **Class I Traffic**— Total carloads fell 2.7% for the week ending August 11th, driven by weakness in Forest Products (-11.5%), Metallic Ores and Minerals (-13.1%), Non-metallic Minerals (-7.7%) and Intermodal (-3.3%). We note, however, that slight improvements in Agricultural Products (+3.7%) and Chemicals (+2.3%) helped offset some of the weakness. Of the individual rails, CSX had the worst showing for the third week in a row as overall carloads fell 7.1% year-over-year on the heels of sharp declines in Forest Products (-13.9%), Agricultural Products (-13.4%) and Intermodal (-13.8%). NSC just slightly outperformed its Eastern counterpart, posting only a 5.3% decrease in carloads driven by decreases in Metallic Ores and Minerals (-18.8%), Forest Products (-7.3%) and Intermodal (-6.1%). Weakness at NSC was offset by gains in Agricultural Products (+3.8%) and Motor Vehicles and Equipment (+7.3%). In the West, traffic at BNI was down 3.5%—driven by declines in Non-metallic Minerals (-10.7%), Intermodal (-10.6%), and Forest Products (-22.1%). Also in the west, UNP posted a mere 0.7% decrease in traffic on strength in Intermodal (+1.5%) and Motor Vehicles and Equipment (+2.8%), but weakness in Forest Products (-11.7%) and Agricultural Products (-4.0%). The Canadian rails reported a slight collective loss of 0.3% in traffic—6.0% growth at CP and a 3.7% decline at CNI.

- **Service Metrics**—Overall performance was mixed last week as terminal dwell hours worsened 0.6% while train speed grew 0.6 %. Total cars on line declined a marginal 0.1%. Of the individual rails, CNI posted the most favorable results—terminal dwell (-3.4%), train speed (+2.0%) and cars on line (-1.0%). Similarly, UNP reported favorable results—terminal dwell (-0.9%), train speed (+0.4%) and cars on line (flat). In contrast, results at CSX were weak as terminal dwell worsened 1.8%, train speed fell 0.9% and cars on line dropped 0.7%. NSC also posted an increase in terminal dwell (+1.9%), a decline in train speed (-0.9%) and slight growth in cars on line (+0.2%). KSU posted the following results—terminal dwell (-3.0%), train speed (-0.9%) and cars on line (+0.2%). BNI reported a 0.8% worsening in terminal dwell, a 0.4% rise in train speed and a 0.4% increase in cars on line. Lastly, NSC posted a 2.1% increase in terminal dwell, a 4.6% jump in train speed and a 1.5% decline in cars on line.

- ***Continued on next page...***

- **GWR Posts July Carload Data**—Genesee & Wyoming, Inc. reported July volumes of 71.924 carloads--a year-over-year decrease of 3,399 carloads (or 4.5%). "Same-railroad" traffic in July declined a notable 4.8%. Pulp & Paper volumes declined nearly 14% due to reduced carloads in Oregon and Southern Regions. Additionally, severe drought conditions in Australia in 2006 continue to pressure carload growth in Farm & Food Products (-25%). In contrast, we observed positive momentum in Minerals & Stone (+13.2%) and Lumber & Forest Products (+7.6%).

- **STB Proposes Change to Cost of Capital**—The Surface Transportation Board (STB) submitted a proposal this week to change the methodology for calculating the railroad industry's cost of capital—which it computes annually as a proxy for the determination of railroad revenue adequacy. Specifically, the STB proposed that the cost of equity be calculated using a more widely used capital asset pricing model instead of the currently employed discounted cash flow methodology. The implications of this change could drastically reduce the overall cost of capital calculation, thereby making more of the rail business appear revenue adequate. We do not believe there will be any near term risks associated with this proposal; however rates may suffer somewhat over the longer term as more shippers may be more apt to bring rate cases against the railroads (cases can take a few years to resolve). There is also a risk that the rails themselves may become less aggressive in setting rates in the future. Nevertheless, we believe the rails should be able to continue to book meaningful rate increases over the next few years as legacy contracts continue to roll over.