

SURFACE TRANSPORTATION BOARD ISSUES DECISION COMPLETING INITIAL PHASE OF ITS 3-YEAR REVIEW OF BUFFALO-AREA RAIL RATES, SWITCHING FEES FOLLOWING IMPLEMENTATION OF "CSX-NORFOLK SOUTHERN-CONRAIL" RAILROAD MERGER

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued a decision completing the initial phase of a 3-year study of Buffalo, New York-area rail rates and switching fees (Buffalo Rate Study). The Buffalo Rate Study is a precautionary measure imposed by the Board as a condition to its approval of the application of CSX[FOOTNOTE 1: CSX Corporation and CSX Transportation, Inc.] and NS[FOOTNOTE 2: Norfolk Southern Corporation and Norfolk Southern Railway Company.] to acquire control of Conrail[FOOTNOTE 3: Conrail Inc. and Consolidated Rail Corporation.] and divide its assets between them (the "merger").

Today's decision finds that: (1) CSX and NS appear to have applied an acceptable methodology for measuring pre- and post-merger rail linehaul rate trends for Buffalo-area movements; (2) the railroads have presented evidence to show that, through the first 6 months prior to the merger, those rates have declined on average; and (3) the railroads are complying with all Board-imposed conditions relating to Buffalo-area switching.

Background. In a decision issued in July 1998, the Board approved, subject to certain conditions, the acquisition of control of Conrail by CSX and NS, and the division of Conrail assets by and between CSX and NS. Previously, Conrail had dominated Buffalo-area rail service. The Board determined that, while the method it had approved for the division of Conrail's Buffalo-area assets--with the largest share going to CSX--would not create direct, two-railroad service for all shippers in the Buffalo area, the transaction as conditioned by the Board would improve local competition significantly. As a precautionary measure, the Board also imposed a condition calling for a 3-year study of rail rates in the Buffalo area following the June 1, 1999 division of Conrail's assets implementing the merger transaction.

In an earlier decision in the Buffalo Rate Study proceeding,[FOOTNOTE 4: The Board initiated the Buffalo Rate Study proceeding in *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company--Control and Operating Leases/Agreements--Conrail, Inc. and Consolidated Rail Corporation [Buffalo Rate Study]*, STB Finance Docket No. 33388 (Sub-No. 90), Decision No. 1, issued December 15, 1999, and published in the December 20, 1999 *Federal Register* at 64 FR 71188.] the Board had required CSX and NS to submit information sufficient to enable the Board to determine if the railroads are in compliance with all Board-imposed switching conditions in the Buffalo area and to determine the trend in rates for rail movements into and out of the Buffalo area. The Board had also sought comments and evidence from shippers and their representatives, from other railroads, and from other interested parties, concerning trends in Buffalo-area rail rates and information as to whether local businesses and other railroads have available the switching rates to which they are entitled.

Today's Decision. In the decision issued today, the Board announced that it had completed the initial phase of the Buffalo Rate Study encompassing a review of Buffalo-area rail rates and switching fees during the first 6 months following the June 1, 1999 integration of Conrail into CSX and NS. The Board found that CSX and NS appear to have set out and applied an acceptable methodology for measuring rail linehaul rate trends for movements into and out of the Buffalo area for the period preceding and following the division of Conrail's assets by and between CSX and NS. The Board noted that the railroads presented evidence to show that, through the first 6 months following the division of Conrail, those rates have, on average, been reduced. The Board also found CSX and NS to be in compliance with all conditions related to switching that it imposed in the Buffalo area.

In its review of the record, the Board noted that CSX had made its principal evidentiary submission in its reply comments and that the Erie-Niagara Rail Steering Committee had submitted a survey concentrating on service concerns of Buffalo-

area rail shippers. The Board stated that it looked forward to the next round of comments as the Buffalo Rate Study moves into its next phase, rebased on a 12-month period ending May 31, 2000, and annually thereafter for the 3-year period of the study. In this next phase, CSX and NS comprehensive filings are due by **July 14, 2000**; comments from all interested parties are due by **August 14, 2000**; and CSX and NS replies to those comments are due by **August 29, 2000**.

The Board issued its decision today in the case entitled *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company--Control and Operating Leases/Agreements--Conrail, Inc. and Consolidated Rail Corporation [Buffalo Rate Study]*, STB Finance Docket No. 33388 (Sub-No. 90), Decision No. 4. A printed copy of the decision is available for a fee by contacting: **Da-To-Da Office Solutions, Room 405, 1925 K Street, N.W., Washington, DC 20006, telephone (202) 466-5530**. Today's decision is also available for viewing and downloading via the Board's website at **www.stb.dot.gov**.

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