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**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.**

STB EX PARTE NO. 575 (Sub-No. 1)

DISCLOSURE OF RAIL INTERCHANGE COMMITMENTS

**COMMENT OF THE AMERICAN SHORT LINE AND REGIONAL
RAILROAD ASSOCIATION**

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January 22, 2008

**BEFORE THE
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STB EX PARTE NO. 575 (Sub-No. 1)

DISCLOSURE OF RAIL INTERCHANGE COMMITMENTS

**REPLY COMMENT OF THE AMERICAN SHORT LINE AND REGIONAL
RAILROAD ASSOCIATION**

The American Short Line and Regional Railroad Association ("ASLRRA") respectfully submits its Reply Comments concerning the Board's proposed interchange commitment disclosure rules. These comments are submitted in response to the October 29, 2007 Decision by the Board soliciting public comment on the proposed rules.

COMMENTS

ASLRRA files its Reply Comments in order to make a few general observations about the original Comments filed by interested parties in this matter. First, ASLRRA finds it both significant and illuminating that despite the highly-charged rhetoric that has been generated by the issue of interchange commitments over the last decade, the Board's long awaited rulemaking has been met by an underwhelming response from the shipping public. Either that constituency finds the Board's proposal so perfect that no response is necessary, or as ASLRRA suspects, the whole topic has become a non-issue for the vast, vast majority of rail shippers whose traffic is moved on a route involving an interchange commitment. Thus, it is not surprising that the less-than-handful of shipper responses

filed arose from unique, anecdotal and industry-specific or company specific circumstances that cannot be extrapolated into broad shipper distress. This comes as no surprise to ASLRRRA, as the mechanisms in place to address any shipper issues that might arise have been working effectively. As noted in more detail in our original Comment in this matter, processes such as the waiver mechanism set-up by the Railroad Industry Agreement and administered by the Railroad Industry Working Group have been so successful that virtually all interchange commitment waiver requests have been resolved without resort to the Board's final adjudication.

It is also not surprising that the few parties who did Comment urged the Board to go further and broaden its disclosure requirements to include all interchange commitments or even go beyond the scope of the proposed rulemaking and place limitations such as sunset provisions on current interchange commitments. ASLRRRA will not address the latter requests, as they clearly exceed the scope of the current rulemaking. It will, however, comment briefly on the suggestion that the Board abandon the showing of 'need' prerequisite to disclosure and require a substantive review by the Board of all existing interchange commitments.

The assumption implicit in such a suggestion is that there must be a vast universe of undiscovered interchange commitments which are impeding good rail service and competition. If there were, ASLRRRA would expect a phalanx of unhappy shippers to converge in this proceeding to demand more draconian action by the Board. After all is said, shippers are aware of the situations in which interchange commitments play a role in the routing of their traffic. ASLRRRA believes - and the muted response to this rulemaking proceeding confirms - that interchange commitments are not a culprit in

either widespread service or competition issues, and a laborious and protracted review of all interchange commitments would uncover no circumstances which would not otherwise be illuminated by the shipper-initiated procedures proposed by the Board

Even worse, implicit in the suggestion that a wholesale review of all interchange commitments should be initiated by the Board is the assumption that the Board would be better equipped than shippers themselves to judge the adverse effects of individual interchange commitments. ASLRRA believes that assumption is fundamentally misguided. Shippers are keenly aware of what transportation options are and are not available to them and which of those provide an economic benefit and which do not. If they believe beneficial options are illegally withheld from them, they will seek redress, especially when, as here, a practical tool to do so is handed to them.

In this context, for the Board to undertake a wholesale review of all interchange commitments would be much like asking courts to review all real estate sales contracts to determine which buyers paid too much. In the case of interchange commitments the standard by which the facts would be judged would be unclear, the damages to be redressed uncertain and worst of all, the effect of the remedy on transportation decisions completely unpredictable. ASLRRA believes the Board's chosen path of reviewing actual controversies through petitions brought by parties who are or believe themselves to be actually affected by them is a more measured and prudent approach.

Respectfully submitted,

American Short Line and Regional Railroad Association

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