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BEFORE THE
SURFACE TRANSPORTATION BOARD

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INTERVISTAS STUDY

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Docket No. EP 736

PETITION FOR RECONSIDERATION

WESTERN COAL TRAFFIC LEAGUE

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Dated: March 20, 2018

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PETITION FOR RECONSIDERATION

The Western Coal Traffic League (“WCTL”) files this Petition for Reconsideration pursuant to 49 C.F.R. § 1115.3. WCTL respectfully requests that the Surface Transportation Board (“STB” or “Board”) reconsider its decision in this proceeding, served on February 28, 2018 (“Decision”), and, after reconsideration release the workpapers and other supporting data identified in Attachment 1, subject to a standard protective order. In support hereof, WCTL states as follows:

BACKGROUND

1. In September 2014, the Board retained a contractor, InterVISTAS Consulting LLC (“InterVISTAS”), to prepare an analysis of the Board’s maximum rate reasonableness standards, as well as potential alternative standards, and to “provide a written report to the STB (which will be made available to the public) that . . . presents the contractor’s findings”¹ The Board agreed to pay InterVISTAS \$948,380 for the study and report.²

2. In December 2015, Congress enacted the Surface Transportation Board Reauthorization Act of 2015, Pub. L. No. 114-110, 129 Stat. 2228 (Dec. 18, 2015) (“STB

¹ Contract No. DTOS59-14-C-00441, at 4 (Sept. 5, 2014) (“Contract”).

² *Id.* at 2.

Reauthorization Act”). Section 15 of the STB Reauthorization Act directed the STB to submit a report to the Committee on Commerce, Science, and Transportation of the Senate (“Senate Commerce Committee”) and the Committee on Transportation and Infrastructure of the House of Representatives (“House T&I Committee”) by December 18, 2016 that:

- (1) indicates whether current large rate case methodologies are sufficient, not unduly complex, and cost effective;
- (2) indicates whether alternative methodologies exist, or could be developed, to streamline, expedite, and address the complexity of large rate cases; and
- (3) only includes alternative methodologies, which exist or could be developed, that are consistent with sound economic principles.

Id. at 2238.

3. In August of 2016, the Senate Commerce Committee held a field hearing on the STB’s implementation of the STB Reauthorization Act. At that hearing, then-STB Chairman Elliott informed Senate Commerce Committee Chairman Thune that the Board planned on submitting the InterVISTAS contractor study as the Board’s response to the directive in Section 15 that the Board submit a maximum rate case study.³

4. Following the Field Hearing, Chairman Thune “strongly encourage[d]” Chairman Elliott “to solicit comments from the public” on the study.⁴ Chairman Elliott

³ *Freight Rail Reform: Implementation of the Surface Transportation Board Reauthorization Act of 2015: Hearing Before the S. Comm. on Commerce, Sci. & Transp.* (“Field Hearing”), 114th Cong. 29-30 (2016) (statement of Hon. Daniel R. Elliott III, Chairman, STB).

⁴ *Id.* at 64 (response to written questions submitted by Hon. John Thune to Hon. Daniel R. Elliott III, Chairman, STB).

responded that the Board “intend[ed] to hold a public hearing at a reasonable time . . . so that all interested stakeholders can participate in this important discourse.”⁵

5. On September 22, 2016, the Board released a report authored by InterVISTAS entitled, *Surface Transportation Board, An Examination of the STB’s Approach to Freight Rail Rate Regulation and Options for Simplification, Project FY14-STB-157* (“InterVISTAS Report” or “Report”).

6. The Board also issued a press release on September 22, 2016, entitled “Independent Study on Rate Case Methodology Alternatives Released.” STB Press Release No. 16-25. In this press release, the Board stated:

- The InterVISTAS Report was being issued “pursuant to Section 15 of the [STB Reauthorization Act].”
- The purpose of the Report was to “provide an independent assessment of the Board’s stand-alone cost (SAC) rate reasonableness methodology . . . and whether the Board’s simplified methodologies were appropriate alternatives to SAC.”
- The Board would hold an “economic roundtable” to discuss the InterVISTAS Report, followed by a “public hearing . . . for all stakeholders and interested parties to participate in this important discourse . . . in open and transparent fora.”
- Then-STB Chairman Elliott emphasized: “I am pleased that the InterVISTAS report is complete, and that the Board and industry stakeholders will have an opportunity to review and discuss its findings on rate reasonableness methodologies.”

Id.

7. The principal analyses contained in the InterVISTAS Report are set forth

⁵ *Id.*

in Chapter 5, entitled, “Simplifying the SAC Procedure: Two Cases, Two Procedures.” In this chapter, InterVISTAS first identified two coal rate decisions where the Board had conducted a full Stand-Alone Cost (“SAC”) analysis – the STB’s 2006 decision in *Otter Tail Power Co. v. BNSF Ry.* NOR 42071 (STB served Jan. 27, 2006) and the STB’s 2009 decision in *Western Fuels Ass’n, Inc. v. BNSF Ry.*, NOR 42088 (STB served Feb. 18, 2009) (“*Western Fuels*”). InterVISTAS Report at 58.

8. InterVISTAS then “sought to determine whether use of either the Three-Benchmark procedure or the Simplified-SAC would yield outcomes that were consistent with analyses and findings of a Full-SAC test.” *Id.* The Three-Benchmark procedure and the Simplified-SAC procedure are maximum rate procedures the Board has promulgated to apply in smaller rate cases (Three-Benchmark) and in all cases (Simplified-SAC).

9. InterVISTAS proceeded to make Three-Benchmark calculations for the *Western Fuels* and *Otter Tail* case traffic and Simplified-SAC calculations for the *Western Fuels* case traffic. These computations are summarized in Chapter 5. Based on these computations, InterVISTAS reached the following conclusions:

- The “outcome using the Three-Benchmark test, based on current 2007 RSAM standards, is consistent with the outcome of the actual STB decisions using Full-SAC [in *Otter Tail*].” *Id.* at 64.
- “[U]sing the current most recent Simplified Standards, the adapted Three-benchmark provides similar results as the actual STB decision using Full-SAC case [in *Western Fuels*].” *Id.* at 67.
- “Although the team’s estimations are based on certain assumptions and projections rather than actual data, the results suggest that [the complainant shippers] could have reached the same

outcome using Simplified-SAC rather than Full SAC [in *Western Fuels*].” *Id.* at 73.

10. In a notice served on October 12, 2016, the Board instituted the instant proceeding and announced that it was going to hold a roundtable comprised of “noted economists” to discuss the InterVISTAS Report. *InterVISTAS Study*, EP 736, slip op. at 1 (STB served Oct. 12, 2016) (“Notice”). The Notice went on to state that the “roundtable discussion will be open for public observation but not public participation” and that “[t]he Board also intends to hold a public hearing on the report for all stakeholders and interested parties to participate in this important discourse.” *Id.* at 2.

11. On October 19, 2016, WCTL filed a workpaper request in this proceeding (“Workpaper Request” or “Request”). In its Request, WCTL asked the Board to produce workpapers and data sufficient to permit WCTL’s counsel and consultants to replicate the Three-Benchmark and Simplified-SAC analyses set forth in Chapter 5 of the InterVISTAS Report.

12. In its Request, WCTL informed the Board that “[p]rovision of the requested workpapers and data will facilitate WCTL’s review of the Report and is consistent with the Board’s stated desired to consider the Report findings and analyses ‘in open and transparent fora.’” *Id.* at 2 (quoting STB Press Release No. 16-25). WCTL also informed the Board that “[i]f the Board determines that any of the requested material contains confidential information, WCTL counsel is amenable to entering into standard arrangements with the Board to protect the confidentiality of this information.” *Id.*

13. The Board proceeded to hold its economists round-table on October 25, 2016 and submitted the InterVISTAS Report to the Senate Commerce Committee and the House

T&I Committee. The Board initially informed these Committees that it planned on holding a public hearing on the Report in April 2017.⁶ Then, in a letter to the Committees in April of 2017, Acting Chairman Begeman stated, “it is my preference that the Board proceed with a [public] hearing [on the InterVISTAS Report] when it is more likely a full complement of Members can consider these very important and challenging issues.”⁷

14. On January 26, 2018, WCTL asked the Board to rule on its Workpaper Request (“Renewed Request”). WCTL noted in its Renewed Request that its Workpaper Request had been pending for over fifteen months.

15. In its Decision served on February 28, 2018, the Board granted in part, and denied in part, WCTL’s Workpaper Request. Specifically, the Board provided some responsive workpapers the Board deemed to be public in nature, but denied WCTL access to “confidential” workpapers.

⁶ STB Status Letter to Senate Commerce Committee at 2 (Jan. 3, 2017), available at <https://www.stb.gov/stb/docs/Reauthorization/Monthly%20Implementation%20Reports/STB%20Status%20Letter%20to%20U.S.%20Senate%20Committee%20on%20Commerce,%20Science%20and%20Transportation,%20January%203,%202017.pdf>; STB Status Letter to House T&I Committee at 2 (Jan. 3, 2017), available at <https://www.stb.gov/stb/docs/Reauthorization/Monthly%20Implementation%20Reports/STB%20Status%20Letter%20to%20U.S.%20House%20Committee%20on%20Transportation%20and%20Infrastructure,%20January%203,%202017.pdf>.

⁷ STB Status Letter to Senate Commerce Committee at 2 (Apr. 3, 2017), available at <https://www.stb.gov/stb/docs/Reauthorization/Quarterly%20Correspondence/STB%20Status%20Letter%20to%20U.S.%20Senate%20Committee%20on%20Commerce%20Science%20and%20Transportation%20April%203%202017.pdf>; STB Status Letter to House T&I Committee at 2 (Apr. 3, 2017), available at <https://www.stb.gov/stb/docs/Reauthorization/Quarterly%20Correspondence/STB%20Status%20Letter%20to%20U.S.%20House%20Committee%20on%20Transportation%20and%20Infrastructure%20April%203%202017.pdf>.

16. The “confidential” workpapers the Board has refused to release are specifically identified in Attachment 1 and appear to encompass, among other things, the data and methodology InterVISTAS used to develop the R/VC_{COMP} ratios in its Three-Benchmark analyses and the discounted cash flow (“DCF”) data and methodology InterVISTAS used in its Simplified-SAC analysis.

ARGUMENT

The Board should reconsider its Decision to deny WCTL access to “confidential” workpapers because that Decision is predicated on an incorrect legal analysis. If the Board applies the correct legal analysis on reconsideration, it must grant WCTL’s request for access to all “confidential” workpapers identified in Attachment 1.

A. The Board’s Decision Erroneously Ignores Board Precedent Governing the Production of Workpapers

The Board instituted EP 736 for two purposes: (1) to hold an expert roundtable; and (2) to obtain stakeholder comments on the InterVISTAS Report.⁸ To date, the record in EP 736 includes, among other things, the InterVISTAS Report, as well as the InterVISTAS Report workpapers.

As the Board knows, the first step in responding to a study analysis is to replicate that analysis. InterVISTAS Simplified-SAC and Three-Benchmark analyses cannot be replicated based on the limited information contained in the Report itself, so WCTL requested that the Board provide it with the underlying workpapers and supporting data. Such requests are

⁸ Notice at 1-2.

standard operating procedure (“SOP”) in STB proceedings and, as WCTL emphasized in its Renewed Request, are routinely granted by the Board.⁹

WCTL also anticipated that its Request might involve access to information the Board deemed confidential. The Board’s SOP in dealing with access to confidential and highly confidential information is to require the requesting party to enter into a protective order as a condition precedent to obtaining the information. The Board has standard form protective orders that, among other things, limit access to highly confidential data to a party’s outside counsel and consultants. WCTL informed the Board in its Request, and reiterated in its Renewed Request, that it would abide by standard protective order terms as a condition precedent to obtaining any confidential or highly confidential workpaper information.

The Board inexplicably ignored WCTL’s Request for fifteen months. Then, when the Board finally got around to addressing the Request, it denied WCTL access to “confidential” workpapers, despite WCTL’s offer to enter into a standard confidentiality protective order – the same kind the Board has used in hundreds of prior proceedings.

⁹ See Renewed Request at 1, citing *W. Fuels Ass’n, Inc. v. BNSF Ry.*, NOR 42088 (Sub-No. 1), slip op. at 10 (STB served July 27, 2009) (STB makes rate case workpapers available to parties “upon request”); *Review of Commodity, Boxcar, & TOFC/COFC Exemptions*, EP 704 (Sub-No. 1), slip op. at 2 (STB served May 6, 2016) (STB grants party request for the workpaper underlying its proposed revocation of the class exemption for specified commodities); *R.R. Cost Recovery Procedures*, EP 290 (Sub-No. 2), slip op. at 1 (STB served Jan. 5, 2000) (Board grants WCTL’s request “to inspect all RCAF workpapers used in developing the Rail Cost Adjustment Factor”); *Adoption of the Unif. R.R. Costing Sys. As A Gen. Purpose Costing Sys. for All Regulatory Costing Purposes*, 5 I.C.C. 2d 894, 897 n.7 (1989) (noting that the “underlying workpapers, computer programs, and data bases used [by the ICC’s contractor] to develop the URCS regressions, have been subjected to an extensive review by the parties”).

WCTL cannot replicate InterVISTAS Three-Benchmark and Simplified-SAC analyses without access to the information that the Board has deemed confidential and withheld;¹⁰ so, while the Board characterizes its Decision as granting WCTL’s Request “in part,” because the Board released some InterVISTAS workpapers, for practical purposes, the Board has denied WCTL’s request.

Denying WCTL access to the confidential workpapers arbitrarily impedes WCTL’s ability to comment on the InterVISTAS Report – a result that not only contravenes the Board’s longstanding precedent on workpaper production, but also violates WCTL’s basic administrative due process rights. *See United States v. Nova Scotia Food Prods. Corp.*, 568 F.2d 240, 252 (2d Cir. 1977) (“To suppress meaningful comment by failure to disclose the basic data relied upon is akin to rejecting comment altogether.”).

In its Decision, the Board does not even address the law governing access to study workpapers in a Board proceeding; instead, the Board cites legal authorities that are not on point, and, even if they were, provide no legally valid excuse for the Board’s refusal to release “confidential” Report workpapers.

**B. The Board Should Release the
 Withheld Simplified-SAC Workpapers**

The Board states that it cannot produce two “confidential” workpapers containing the DCF model and model inputs that InterVISTAS used in its Simplified-SAC analysis because it is precluded from doing so under the terms of the protective order in *Western Fuels*. Decision

¹⁰ WCTL assumes that the withheld information will allow it to replicate InterVISTAS’ analyses, but reserves its rights if that is not the case.

at 2. That order, as construed by the Board, permits “only parties and outside counsel or consultants who sign the undertakings . . . to review information submitted to the Board that is designated confidential or highly confidential.” *Id.*

The Board’s reliance on the protective order in *Western Fuels* is misplaced. WCTL is not asking the Board to issue an order directing the parties in *Western Fuels* to produce information subject to the protective order in that proceeding. Instead, WCTL is asking the Board to produce Simplified-SAC workpapers that are part of the record in this proceeding (EP 736). These workpapers are clearly subject to disclosure under governing Board precedent and basic principles of administrative due process.

The Board’s construction of the *Western Fuels* protective order also produces absurd results. Under the Board’s interpretation, both the Board and InterVISTAS violated the order because the Board provided information to InterVISTAS that the *Western Fuels* parties designated as confidential or highly confidential, even though InterVISTAS was not a party in *Western Fuels*, InterVISTAS is not part of, or an agent of, the Board, and the information provided to InterVISTAS was not being used to decide *Western Fuels*.

The protective order in *Western Fuels* is correctly interpreted as an agreement binding the parties in *Western Fuels* to abide by its terms. The Board itself has repeatedly held in other contexts that it is not bound by the terms of the parties’ protective order agreements.¹¹

¹¹ See, e.g., *State of Montana v. BNSF Ry.*, NOR 42124, slip op. at 2 n.3 (STB served Apr. 26, 2013) (“the Board reserves the right to rely upon and disclose [information the parties have designated as confidential or highly confidential] in [Board] decisions when necessary.”); *Consumers Energy Co. v. CSX Transp., Inc.*, NOR 42142, slip op. at 1 n.2 (STB served Jan. 11, 2018) (“*Consumers*”) (same).

Furthermore, the Board evidently concluded that it had the legal authority to release the information that the parties designated in *Western Fuels* as confidential or highly confidential under the *Western Fuels* protective order to InterVISTAS for InterVISTAS' use in preparing the Simplified-SAC analyses set forth in the Report. What the Board cannot do now is un-ring the bell and deny WCTL access to the data it needs to prepare fully responsive comments in this proceeding.

Moreover, even if WCTL had filed a request in this proceeding seeking access to confidential material in *Western Fuels* that was not already in the record in this proceeding (which, of course, is not the case), the fact that the material is subject to a protective order in *Western Fuels* does not prevent the Board from granting the request. The Board has the legal authority to grant WCTL access to information the parties in *Western Fuels* designated as confidential or highly confidential and to allow WCTL to use that information in this proceeding.¹²

Granting WCTL access to the InterVISTAS DCF model workpapers may be particularly beneficial to the Board, and other interested stakeholders, because it appears from publicly available information that InterVISTAS' Simplified-SAC analysis is fundamentally flawed. For example, InterVISTAS states in Chapter 5 of its Report that its Simplified-SAC traffic group transports 42.3 million tons. See InterVISTAS Report at 69. However, as

¹² See *Ark. Elec. Coop. Corp. – Pet. for Declaratory Order*, FD 35305, slip op. at 4 (STB served Nov. 22, 2011) (“If any party believes that confidential or highly confidential material produced in Docket No. FD 35305 would be useful in making a case in Docket No. FD 35557, that party may petition the Board to modify the protective order of the previous proceeding to extend to the new proceeding.”).

InterVISTAS acknowledges in the Report, the Board's Simplified-SAC test requires the modelling of a SARR traffic group that includes "all traffic actually moving on the issue traffic route." *Id.* at 68. The public record in *Western Fuels* shows that this "all traffic" figure would be approximately 200 million tons.¹³

If InterVISTAS' DCF analysis did, in fact, model a Simplified SARR using a traffic group transporting 42.3 million tons (not 200 million tons), its resulting Simplified-SAC DCF calculations, and the conclusions it draws from those calculations, are worthless.

**C. The Board Should Release the
Withheld Three-Benchmark Workpapers**

The InterVISTAS Report contains Three-Benchmark calculations for the *Western Fuels* and *Otter Tail* traffic. It appears, based on the Board's response to WCTL's Workpaper Request, that the Board granted InterVISTAS access to the some confidential waybill sample data and InterVISTAS relied on some of this data in calculating the R/VC_{COMP} ratio component, which was then used in developing the Three-Benchmark maximum rate R/VC ratios set forth in Chapter 5 of its Report.

In its Decision, the Board mistakenly characterizes WCTL's request for InterVISTAS confidential workpapers – workpapers that are already part of the record in EP 736 – as a request by WCTL to access to the Board's confidential waybill sample so that the material can be introduced by WCTL into the record in this proceeding. Decision, slip op. at 2. WCTL

¹³ *Western Fuels*, slip op. at 30 (STB served Sept. 10, 2007).

of course did not make such a request, nor was there any need for WCTL to do so, since the waybill data is already in the EP 736 record.

Moreover, even if WCTL's workpaper request is miscast as a request for waybill information not included in the EP 736 record, the Board's explanation for denying that request is wrong. According to the Board, it grants requests for access to confidential waybill data only if the requesting party demonstrates a "compelling need" to obtain this information. *Id.* The Board goes on to hold that WCTL has not demonstrated a "compelling need" to obtain the confidential waybill data InterVISTAS used in its Three-Benchmark analyses because "[c]urrently, there is no Board proposal (preliminary or otherwise) that relies upon the InterVISTAS Report or a request from the Board for specific data analysis based on the Report." *Id.*

WCTL has a "compelling need" to obtain InterVISTAS Three-Benchmark confidential workpapers because, without access to these workpapers, WCTL cannot replicate InterVISTAS Three-Benchmark calculations and, without replication, WCTL will not be able to address whether the calculations are valid. In this context, it is disingenuous for the Board to say it plans to receive public comments on the Report, and then say it has not requested parties to analyze the analyses set forth in that Report.

Similarly, while the Board may not have made any proposals that rely on the InterVISTAS Report, at least one of the two current Board Members appears to be looking at the Report for ideas on new maximum rate standards. *See Consumers*, slip op. at 76 (Vice-Chairman

Miller commenting that the Board may want to consider increased use of the Three-Benchmark test based upon the findings in the InterVISTAS Report).

In any event, what the Board may or may not decide to do in response to the Report does not change the fact that the Board has instituted a proceeding to receive comments on the Report, nor excuse the Board from its duty to provide stakeholders with the information they need to present informed comments concerning the Report to the Board.

The Board also expresses concern that granting WCTL’s request for access to the confidential Three-Benchmark workpapers would “create a precedent that unduly expands access to confidential waybill data.” Decision, slip op. at 2. This assertion is incorrect. The Board would not be setting any new precedent at all, but simply reaffirming a longstanding tenant of STB practice, firmly rooted in basic principles of administrative law, that requires disclosure of study workpapers.

**C. The Board Will Benefit By Granting
WCTL’s Reconsideration Petition**

The Board will be the ultimate beneficiary if it grants WCTL’s reconsideration petition. The Board benefits by permitting the InterVISTAS Report – a report that the Board spent nearly \$1 million to obtain and one which it has submitted to Congress – to be the subject of rigorous stakeholder analysis and comment. This is input that should be very valuable to the Board – and is input that Commerce Committee Chairman Thune has “strongly encouraged” that the Board receive.¹⁴

¹⁴ Field Hearing at 64 (response to written questions submitted by Hon. John Thune to Hon. Daniel R. Elliott III, Chairman, STB).

Conversely, the Board loses if it allows its expressed concerns about release of confidential data – concerns that can be easily addressed by an appropriate protective order – to trump the public’s ability to fully and properly evaluate, and comment on, the Report’s findings and conclusions.

CONCLUSION

WCTL requests that the Board reconsider its Decision and, on reconsideration, release to WCTL’s counsel the previously withheld Study workpapers identified in Attachment 1, subject to standard protective order conditions.

Respectfully submitted,

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Three-Benchmark Adaptation - Supporting Files

The following are the supporting files for InterVISTAS' adapted analysis of the Three-Benchmark methodology.

Files for the Western Fuels Association (WFA) v. BNSF case (Docket No. 42088)

1. "Summary of 3-B Results – WFA – New RSAM and RV180 Figures"
2. "Summary of 3-B Results – WFA"
3. "WFA Comparable Traffic Data"
4. "STB Upper Boundary Model (3 Benchmark Small Rate Cases) – WFA (Set 1-6)" (6 files)

Files for the Otter Tail v. BNSF case (Docket No. 42071)

1. "Summary of 3-B Results – Otter Tail – New RSAM and RVC180 Figures"
2. "Summary of 3-B Results – Otter Tail"
3. "Otter Tail Comparable Traffic Data"
4. "STB Upper Boundary Model (3 Benchmark Small Rate Cases) – Otter Tail (Set 1-6)" (6 files)
5. "Otter Tail – Belle Ayr – 2002 VC Estimate"
6. "Otter Tail – Belle Ayr – 2003 VC Estimate"
7. "Otter Tail – Eagle Butte – 2002 VC Estimate"
8. "Otter Tail – Eagle Butte – 2003 VC Estimate"

The summary files include the maximum R/VC estimates from the Three-Benchmark Adaptation (based on the 6 different comparable group sets). The difference between the two files is the RSAM and R/VC>180 figures used.

The computation file "STB Upper Boundary Model" can be used to compute the estimate of the maximum allowable R/VC ratio using the RSAM and R/VC>180 figures (pre- or post-2007 methodologies). Simply update the tab "RSAMRVC>180" with the chosen RSAM and R/VC>180 figure.

The comparable traffic file contains the filters used to create the 6 comparable sets, with the filters explained in the first worksheet of the file.

There are 4 additional files for the Otter Tail test. They are the output from the Railroad Cost Program, used to estimate the unadjusted R/VC ratios of the issue traffic; the unadjusted ratios were not available in the case filings. The "Summary of 3-B Results" also contains a summary of the output, including the movement characteristic inputs used.

Simplified-SAC Adaptation - Supporting Files

The following are the supporting files for InterVISTAS' adapted analysis of the Simplified SAC methodology.

Files for the Western Fuels Association (WFA) v. BNSF case (Docket No. 42088)

1. "WFA Rail costs analysis - 13 November 2015.xlsx"
2. "Simplified - SAC DCF Analysis - WFA Eagle Butte- 13 November 2015.xls"
3. "BNSF2004_SSAC-After Modification.xlsx"
4. "URCS 2004 Modified Data.xml"
5. "Modified URCS Cost for crossover traffic.pdf"
6. "Modified URCS Cost for issue traffic (using Eagle Butte data).pdf"

Detailed Contents

1. The file "WFA Rail costs analysis - 13 November 2015.xlsx" contains the data used to estimate the RPI and operating expenses to be included in the DCF analysis.
 - a. **First sheet: 1. WFA Case Traffic Group:** Contains all the data related to the traffic at issue, the SARR configuration, traffic, tonnage used in the estimation process
 - b. **Second sheet: 2. WFA Cross-Over Traffic:** Describes the estimation of the crossover traffic based (tonnage and revenue) on the data gathered.
 - c. **Third sheet: 3. WFA Operating Expenses:** Presents the data used in Modified URCS to estimate the operating expenses associated with the estimated traffic group.
 - d. **Fourth sheet: 4. WFA RPI Estimation:** Contains the results of the RPI calibration using OLS regression coefficients estimated with RPI data from past cases.
 - e. **Fifth sheet: 5. WFA RPI Categories:** Contains the RPI estimation split by category to be used in the DCF Analysis.
2. The file "Simplified - SAC DCF Analysis – WFA - 13 November 2015.xls" is the DCF spreadsheet used in the Full-SAC case which has been adapted to estimate the result of the Simplified-SAC adaptation. The operating expenses and RPI numbers have been updated in the sheets "Construction \$" and "Operating SAC". Parameters used for the calculation (cost of capital, inflation index, construction schedule, amortization schedule, replacement cost and taxes) are the same as those used in the Full-SAC analysis. The discounted Cash flow model has been adapted to reflect the new values (sheet Investment SAC). Results of the DCF analysis are presented in the sheet "Netting".

3. The file "BNSF2004_SSAC-After Modification.xlsx" is the xls file sent by STB's staff that includes the URCS tables and formulas used to create the modified URCS data. The file has been adapted following instructions provided by STB's staff. The data from the "summary" sheet has been inserted in the XML file to be used in the URCS program.
4. The file "URCS 2004 Modified Data.xml" contains the modified URCS data for BNSF. This is the file that was used to estimate the operating expenses.
5. The file "Modified URCS Cost for crossover traffic.pdf" contains the output of Modified URCS data calculation for the crossover traffic using the URCS program.
6. The file "Modified URCS Cost for issue traffic (using Eagle Butte data).pdf" contains the output of Modified URCS data calculation for the crossover traffic using the URCS program.