

**Surface Transportation Board Issues Decision Finding No Reduction in Rail Competition in Buffalo Area Following 1998 "Conrail Merger;" Agency Thus Concludes, on Schedule, Its 3-Year Study of Buffalo-Area Rail Rates**

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued a decision concluding, as scheduled, the agency's three-year study of rail rates and switching fees in the Buffalo, New York area (Buffalo Rate Study). The Buffalo Rate Study was ordered by the Board as a condition to its 1998 approval of the "Conrail merger."

**Background.** In its July 1998 decision, the Board approved, subject to certain conditions, the acquisition of control of Conrail Inc. and Consolidated Rail Corporation (collectively, "Conrail") by CSX Corporation and CSX Transportation, Inc. (collectively, "CSX") and by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "NS"), and the division of Conrail's assets between CSX and NS. Prior to the merger, Conrail had dominated Buffalo-area rail service. The Board determined in its 1998 decision 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 merger, as conditioned by the Board, would improve competition in the Buffalo area. As a precautionary measure, the Board imposed a condition calling for a three-year study of rail rates in the Buffalo area following the June 1, 1999 division of Conrail's assets implementing the merger.

In its December 1999 decision instituting the Buffalo Rate Study, the Board required CSX and NS to submit information sufficient to enable the agency to determine if the railroads were 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 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 had available the switching rates to which they were entitled [see Decision No. 1 issued to the public on December 15, 1999 in STB Finance Docket No. 33388 (Sub-No. 90); Surface Transportation Board "News" release No. 99-54 also issued that date; and the December 20, 1999 *Federal Register* (64 FR 71188)].

In its first annual decision (February 2001) in the Buffalo Rate Study proceeding, the Board found that CSX and NS had developed a reasonable methodology that enabled them to use rail waybill data (information prepared by railroads relative to calendar-year transportation) to calculate year-to-year rate changes for those rail line-haul (longer-distance) movements into and out of the Buffalo area that occurred in both the year immediately preceding and the year following the June 1, 1999 division of Conrail's assets. The Board also found that CSX, NS and the United States Department of Transportation (DOT) had appropriately applied this methodology to show that line-haul rates on traffic transported by CSX and NS to and from the Buffalo area in the initial full year following the integration of Conrail into CSX and NS had, on the whole, declined relative to rates for comparable movements in the prior year (see Decision No. 6 issued February 2, 2001, in STB Finance Docket No. 33388 (Sub-No. 90), and Surface Transportation Board "News" release No. 01-5 also issued that date).

In its second annual decision (December 2001), the Board found that CSX and NS rail rates in the Buffalo area had not changed significantly over the past year; overall, Buffalo rail rates continued to be lower than those rates in effect prior to the 1999 division of Conrail's assets; and, thus, that the Conrail merger had not resulted in higher rail rates for Buffalo-area shippers. After making this assessment, the Board established a schedule for the third and final round of the Buffalo Rate Study proceeding, and directed CSX and NS to report their final year's analysis and a full overview of the proceeding (see Decision No. 7 issued December 17, 2001, in STB Finance Docket No. 33388 (Sub-No. 90), and Surface Transportation Board "News" release No. 01-69 also issued that date).

**Today's Decision.** In the Buffalo Rate Study decision issued today, the Board found, based on evidence submitted by CSX, NS and DOT, that CSX and NS rail freight rates in the Buffalo area have not changed significantly over the past year and that, after adjusting for inflation, these railroads' Buffalo-area rates are generally lower than those rates in effect for comparable movements prior to the June 1, 1999 division of Conrail's assets by CSX and NS. Because these results affirm the Board's original determination in the Conrail merger proceeding that the acquisition and division of Conrail by CSX and NS would not result in significantly higher rates for Buffalo-area shippers, and that the Conrail merger would not reduce rail competition in the Buffalo area, the Board concluded--as scheduled--its formal oversight of Buffalo-area rail rates.

The Board issued its Buffalo Rate Study 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. 8. A printed copy of the decision is available for a fee by contacting **D~ 2 D~ Legal Copy Service, Suite 405, 1925 K Street, N.W., Washington, DC 20006, telephone (202) 293-7776**, or via [da2dalegal@earthlink.net](mailto:da2dalegal@earthlink.net). The decision also is available for viewing and downloading via the Board's website at <http://www.stb.dot.gov>.

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