

Surface Transportation Board Issues Decision Completing 2nd Phase of Its 3-Year Review of Buffalo-Area Rates & Switching Fees Following "Conrail Merger"

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued a decision completing the second annual round of the Board's 3-year study of railroad rates and switching fees in the Buffalo, New York area (Buffalo Rate Study). The Buffalo Rate Study was imposed 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[FOOTNOTE 1: Conrail Inc. and Consolidated Rail Corporation] by CSX[FOOTNOTE 2: CSX Corporation and CSX Transportation, Inc.] and NS[FOOTNOTE 3: Norfolk Southern Corporation and Norfolk Southern Railway Company.], 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 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, as conditioned by the Board, the merger would improve competition in the Buffalo area significantly. As a precautionary measure, the Board 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.

In its decision[FOOTNOTE 4: The Board initiated the Buffalo Rate Study proceeding 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. 1, issued to the public on December 15, 1999, and published in the December 20, 1999 *Federal Register* at 64 FR 71188.] instituting the Buffalo Rate Study, the Board required CSX and NS to submit information sufficient to enable the agency 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 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.

In its first annual decision[FOOTNOTE 5: *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. 6, issued February 2, 2001.] in the Buffalo Rate Study proceeding, the Board found that, in the initial full year following the integration of Conrail into CSX and NS, rail line-haul rates on traffic transported by CSX and NS to and from the Buffalo area, on the whole, declined relative to rates for comparable movements in the prior year. In reaching its decision, the Board found that criticisms of the rate-assessment methodology made by certain parties were not valid and that requests for expanded or modified data were unnecessary and beyond the study's intended scope. The Board also found CSX and NS to be in compliance with all of the conditions related to switching that it had imposed in the Buffalo area.

Today's Decision. In the Buffalo Rate Study decision issued today, the Board found that CSX and NS rates for rail movements into and out of the Buffalo area have not changed significantly over the past year and, overall, are generally somewhat lower than the rates in effect for comparable movements prior to the June 1, 1999 division of Conrail's assets by CSX and NS, and thus that the merger has not resulted in higher rates for Buffalo-area shippers. The Board noted that no party to this phase of the proceeding had submitted evidence or argument to the contrary.

The Board issued its Buffalo Rate Study decision today 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. 7. **A printed copy of the decision is available for a fee by contacting Da-2-Da Legal, Room 405, 1925 K Street, N.W., Washington, DC 20006, telephone (202) 293-7776, or via [http://Da To Da@Hotmail.com](mailto:Da_To_Da@Hotmail.com).** The decision also is available for viewing and downloading via the Board's website at <http://www.stb.dot.gov>.

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