

consummation has not been effected by NSR's filing of a notice of consummation by March 11, 2010, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: February 27, 2009.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. E9-4878 Filed 3-10-09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 558 (Sub-No. 12)]

Railroad Cost of Capital—2008

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of decision instituting a proceeding to determine the railroads' 2008 cost of capital.

SUMMARY: The Board is instituting a proceeding to determine the railroad industry's cost of capital for 2008. The decision solicits comments on: (1) The railroads' 2008 current cost of debt capital; (2) the railroads' 2008 current cost of preferred stock equity capital (if any); (3) the railroads' 2008 cost of common stock equity capital; and (4) the 2008 capital structure mix of the railroad industry on a market value basis. Comments should focus on the various cost of capital components listed above using the same methodology followed in the *Cost 07* decision, with the exception of applying the Ex Parte No. 664 (Sub No. 1) decision in calculating the cost-of-equity.

DATES: Notices of intent to participate are due no later than March 20, 2009. Statements of the railroads are due by April 20, 2009. Statements of other interested persons are due by May 20, 2009. Rebuttal statements by the railroads are due by June 19, 2009.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should submit a document and otherwise comply with the instructions at the E-FILING link on the Board's Web site, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation

Board, *Attn:* STB Ex Parte No. 558 (Sub No. 12), 395 E Street, SW., Washington, DC 20423-0001.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez (202) 245-0333. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: The Board's decision is posted on the Board's Web site, <http://www.stb.dot.gov>. In addition, copies of the decision may be purchased by contacting the office of Public Assistance, Governmental Affairs, and Compliance at (202)-245-0235. Assistance for the hearing impaired is available through FIRS at 1-800-877-8339.

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10704(a).

Decided: March 5, 2009.

By the Board, Chairman Nottingham, Vice Chairman Mulvey, and Commissioner Buttrey.

Kulunie L. Cannon,
Clearance Clerk.

[FR Doc. E9-5138 Filed 3-10-09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34554 (Sub-No. 11)]

Union Pacific Railroad Company— Temporary Trackage Rights Exemption—BNSF Railway Company

AGENCY: Surface Transportation Board, DOT.

ACTION: Partial revocation of exemption.

SUMMARY: The Board, under 49 U.S.C. 10502, revokes the class exemption as it pertains to the modified trackage rights described in STB Finance Docket No. 34554 (Sub-No. 10)¹ to permit the

¹ On December 23, 2008, Union Pacific Railroad Company (UP) concurrently filed a verified notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(7). The notice covered the agreement by BNSF Railway Company (BNSF) to extend the expiration date of the local trackage rights granted to UP over BNSF's line of railroad between BNSF milepost 579.3 near Mill Creek, OK, and BNSF milepost 631.1 near Joe Junction, TX, a distance of approximately 51 miles. UP submits that the trackage rights are only temporary rights, but, because they are "local" rather than "overhead" rights, they do not qualify for the Board's class exemption for temporary trackage rights under 49 CFR 1180.2(d)(8). See

trackage rights to expire on or about December 31, 2009, in accordance with the agreement of the parties,² subject to the employee protective conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

DATES: This exemption is effective on April 10, 2009. Petitions to stay must be filed by March 23, 2009. Petitions to reopen must be filed by March 31, 2009.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 34554 (Sub-No. 11) must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of all pleadings must be served on petitioner's representative: Gabriel S. Meyer, Union Pacific Railroad Company, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

FOR FURTHER INFORMATION CONTACT: Julia Farr (202) 245-0359. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision.

Union Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF Railway Company, STB Finance Docket No. 34554 (Sub-No. 10) (STB served Jan. 8, 2009).

² The trackage rights were originally granted in *Union Pacific Railroad Company—Temporary Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 34554 (STB served Oct. 7, 2004). Subsequently, the parties filed notices of exemption several times based on their agreements to extend expiration dates of the same trackage rights. See STB Finance Docket No. 34554 (Sub-No. 2) (decision served February 11, 2005); STB Finance Docket No. 34554 (Sub-No. 4) (decision served March 3, 2006); STB Finance Docket No. 34554 (Sub-No. 6) (decision served January 12, 2007); and STB Finance Docket No. 34554 (Sub-No. 8) (decision served January 4, 2008). Because the original and subsequent trackage rights notices were filed under the class exemption at 49 CFR 1180.2(d)(7), under which trackage rights normally remain effective indefinitely, in each instance the Board granted partial revocation of the class exemption to permit the authorized trackage rights to expire. See STB Finance Docket No. 34554 (Sub-No. 1) (decision served November 24, 2004); STB Finance Docket No. 34554 (Sub-No. 3) (decision served March 25, 2005); STB Finance Docket No. 34554 (Sub-No. 5) (decision served March 23, 2006); STB Finance Docket No. 34554 (Sub-No. 7) (decision served March 13, 2007); and STB Finance Docket No. 34554 (Sub-No. 9) (decision served March 20, 2008). At the time of the extension authorized in STB Finance Docket No. 34554 (Sub-No. 8), the parties anticipated that the authority to allow the rights to expire would be exercised by December 31, 2008. However, the parties filed on December 23, 2008 in STB Finance Docket No. 34554 (Sub-No. 10) their most recent notice of exemption so that the trackage rights could be extended to December 31, 2009, and in STB Finance Docket No. 34554 (Sub-No. 11) their latest petition to partially revoke the class exemption to permit expiration, which we are addressing here.