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May 13, 2020

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
May 13, 2020
Part of
Public Record

By Electronic Filing

RE: STB Docket No. NOR 42168
TWIN CITY METALS, INC. – COMPLAINT – KET, LLC

Respondent KET, LLC (“KET”) hereby submits the accompanying Motion to Stay the Complaint in the within matter.

We thank the Board for its time and consideration.

Respectfully submitted,
James H. M. Savage

/s/ James H. M. Savage

Attorney for Respondent
KET, LLC

cc: Daniel R. Elliott III (by electronic mail)

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. NOR 42168

**TWIN CITY METALS, INC.
-- COMPLAINT --
KET, LLC**

MOTION FOR STAY

KET, LLC (“KET”), a limited liability company of the State of Washington, having a principal place of business at in Walla Walla, WA, by way of Motion to Stay the Complaint of Twin City Metals, Inc. (“TCM”), respectfully moves as follows:

KET is a federally licensed common carrier by rail pursuant to a class exemption taking effect December 5, 2018. See, KET LLC-Operation Exemption-Lines of Railroad in Benton County, WA, Docket No. FD 36244 (STB served Nov. 21, 2018).

On or about April 24, 2020, TCM filed a formal Complaint in the within proceeding pursuant to 49 C.F.R. § 1111.1. Counts 1 through 5 of the Complaint seek relief under the I.C.C. Termination Act, 49 U.S.C. § 10101*et seq.*

Count 6 of the Complaint seeks partial revocation of KET’s class exemption under 49 U.S.C. §10105(d). As such, Count 6 constitutes a *de facto* petition to revoke.

In companion with filing this Motion for Stay, KET is about to file an Answer to the Complaint raising as an Affirmative Defense, *inter alia*, TCM’s failure to comply with requirements of 49 C.F.R. § 1111.9(d). As pertinent hereto, the regulation states: “If a Complaint is filed simultaneously with a petition to revoke a class exemption, the Board will take no action on the complaint, and the [proceeding] will be held in abeyance automatically until the petition to revoke is adjudicated.”

Wherefore, in the interests of justice, KET requests the Board stay this proceeding until TCM's petition to partially revoke KET's class exemption has been adjudicated.

Respectfully submitted

/s/ James H. M. Savage

James H. M. Savage
Attorney for KET, LLC

Dated: May 13, 2020

CERTIFICATE OF SERVICE

I, James H. M. Savage, hereby certify that a copy of the within Motion for Stay was served upon Daniel R. Elliott III at Daniel Elliott PLLC, 2000 Pennsylvania Avenue NW, Suite 7000, Washington, DC 20006 by first class mail to the above address.

James H. M. Savage

/s/ James H. M. Savage

Attorney for KET, LLC

Dated: May 13, 2020