

BEFORE THE SURFACE TRANSPORTATION BOARD

300950

Eastside Community Rail, LLC –	)	ENTERED
Acquisition and Operation Exemption –	) F.D. 35692	Office of Proceedings
GNP RLY, Inc.	)	August 3, 2020
		Part of
		Public Record
Ballard Terminal Railroad Company, LLC	)	
-- Lease Exemption --	) F.D. 35730	
Eastside Community Rail, LLC	)	

Snohomish County’s Motion for Leave to File
a Reply to a Reply

Snohomish County (“SnoCo”) hereby moves for leave to file the Reply tendered herewith. The proposed Reply is to (a) the “Post-Remand Comments” filed by Eastside Community Railroad (ECR), (b) the letter dated July 29 by Douglas Engle, and (c) the undated letter of James Jensen, all apparently independent of each other, but filed as one docket entry on July 30, 2020 in the above-captioned proceedings.

Reasons to Grant Leave

Pursuant to the remand in Snohomish County v. STB, 954 F.3d 290 (D.C. Cir. 2020), SnoCo is anxious that its pending Petitions to Revoke in the above-captioned proceedings be granted for the reasons expressed in its pleadings to date and is tendering this motion for leave and proposed Reply promptly to avoid any

delays. In the interest of a complete record, and to correct errors and to avoid confusion arising from the ECR, Engle and Jensen filings, SnoCo requests this Board to accept the attached Reply.

1. The undated Jensen letter does not reference above-captioned F.D. 35692 and 35730 but instead F.D. 36295 and 35151. It appears to be misfiled in F.D. 35692 and 35730, and in all events is without certificate of service, unverified, and fails to make the proper showings for the relief it seeks in dockets 36295 and 35151. Jensen has not appeared before in any of the above dockets, lacks any basis for standing, and SnoCo should be allowed to point out the reasons his letter should be expunged from the record or otherwise disregarded.

2. The Engle letter also is referenced to dockets 36295 and 35151, and thus appears misfiled in F.D. 35692 and F.D. 35730. It too should be expunged from the record or disregarded. In all events, it contains additional false, misleading and/or irrelevant claims and characterizations beyond those Douglas Engle has made in the past, is unverified, and SnoCo should be allowed to respond to these additional matters.

3. The ECR “Post-Remand Comments” contain a misreading of ECR’s verified notice of exemption and an apparent claim that entities transferring rail property need not be truthful with the Board on who is selling the property, who is transferring the property, who is acquiring the property or otherwise required to

disclose actual ownership of the property at any point in time, regardless of how many violations of STB pre-authorization licensing requirements this argument implicates (covers up). SnoCo is entitled to point out that this is contrary to statute (49 U.S.C. 10901(a)(4)), other STB rulings, and federal rail policy.

For the reasons stated, SnoCo requests leave to file the attached Reply.

Respectfully submitted,

/s/ Charles Montange

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Certificate of Service

By my signature below, I certify service in accordance with 49 C.F.R. 1104.12 upon all parties of record or their attorneys of record at their addresses of record by USPS first class, and electronically by courtesy email attachment, on or by 4 August 2020, including but not necessarily limited to the following: Joshua Bower (BTRC), Matthew Cohen (Woodinville), Thomas Wilcox (CWallA), Richard Welsh (NARPO), Charles Spitulnik (King County), James Savage (GNP/NW Signal/K. Kucera), Jami Elison (ECR); Douglas Engle (for himself); James Jensen (for himself).

s/
Charles H. Montange