

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

301499

ENTERED
Office of Proceedings
January 21, 2021
Part of
Public Record

Finance Docket No. 36463

THE LOUISVILLE AND JEFFERSON COUNTY RIVERPORT AUTHORITY -
PETITION FOR DECLARATORY ORDER

MOTION FOR LEAVE TO FILE A REBUTTAL

The Louisville and Jefferson County Riverport Authority, d/b/a Louisville Riverport Authority (“LRA”), respectfully moves the Surface Transportation Board (“STB” or “Board”) for leave to file a rebuttal in the above-captioned proceeding. On November 18, 2020, LRA filed a Verified Petition for Declaratory Order (“Petition”) to eliminate uncertainty pursuant to the STB’s authority under 5 U.S.C. § 554(e) and 49 U.S.C. § 1321. In this filing, LRA asked the Board to find (1) the New Albany Main Street Properties, LLC, which does business as the Port of Louisville (“Port of Louisville”), has been improperly operating on rail lines in and around this port without the required authorization from the STB, (2) the Port of Louisville should cease rail operations immediately on said rail lines, and (3) LRA can seek authority from the STB to have another railroad operate on said rail lines.

On January 6, 2021, the Port of Louisville filed its Reply to the Petition. One of the overriding arguments in opposition by the Port of Louisville was its rail operations only occur on the loop tracks in the Port Facility, thereby making it a private switching contractor not subject to

the jurisdiction of the Board. In support, it claims to have never held itself out to the public as a railroad that operates as a common carrier. It also makes various allegations about a conspiracy and inaccurate statements to the Federal Railroad Administration by LRA.

While LRA believes it did provide sufficient information regarding the rail operations at issue to demonstrate that the Port of Louisville requires STB authorization here, it is now providing supplemental information in its Rebuttal to describe in more detail why the Port of Louisville's rail operations, even assuming it only operates on the loop tracks, still clearly require STB authorization. It also would like the opportunity to address the Port of Louisville's unfounded accusations about why LRA has filed its Petition.

While LRA understands that a reply to a reply is not permitted under 49 C.F.R. § 1104.13(c), it believes this filing will only be helpful to the Board and will not prejudice the other party. Therefore, LRA asks the STB to accept its Rebuttal being filed simultaneously herewith into the record.

/s/ Daniel Elliott
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January 20, 2021

CERTIFICATE OF SERVICE

In accordance with 49 C.F.R. § 1104.12, I hereby certify that on January 20, 2021, I served a copy of this Motion for Leave to File a Rebuttal on counsel known to represent the parties of record by the most expedient method.

/s/Daniel R. Elliott