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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36734

SOO LINE RAILROAD COMPANY a/k/a CPKC
PETITION FOR DECLARATORY ORDER

MOTION TO LIFT ABEYANCE BY THE STATE OF WISCONSIN

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The State of Wisconsin (the State) submits the following motion to lift the abeyance on Soo Line Railroad Company a/k/a CPKC's (Petitioner) Petition for Declaratory Order (Petition), submitted on October 30, 2023. As grounds for the motion, it states the following:

1. On October 27, 2023, Petitioner filed a petition seeking a declaratory order that certain actions by the State of Wisconsin related to the placement of "grout mats" on a stream bed to repair a railroad bridge are subject to federal preemption.

2. On January 10, 2024, the State filed its Reply in opposition to the petition in which the State indicated a desire to resume settlement negotiations.

3. On February 5, 2024, the Board's Director of Proceedings granted a joint motion to hold the proceeding in abeyance so that the parties could resume settlement discussions.

4. Over the course of the last year the parties have engaged in settlement discussions that have included conversations and correspondence amongst counsel and one meeting involving the parties and their experts.

5. Regrettably, the State believes that the parties are not very close to reaching a settlement and that further settlement negotiations are not likely to be fruitful. While the State would welcome the opportunity for further discussions with the Petitioner, it does not want the unlikely prospects of potential successful negotiations to cause any further delay in the Board's decision on the pending petition, which the State respectfully requests that the Board deny.

6. Therefore, the State ask that the Board lift the stay. The State does not believe that further briefing is necessary as circumstances are largely unchanged, with one noted exception. The State asserted in its Reply that the Board should deny the petition as premature because the parties had just begun settlement negotiations. The State maintains that the petition is premature but, as indicated above, believes that settlement negotiations have run their course, at least as of now. Notwithstanding, the State maintains that the petition is premature because there are numerous disputed issues that a state court can ably resolve, thus ensuring a more informed decision on preemption. The State is happy to provide additional briefing upon the Board's request.

Dated this 9th day of December, 2024.

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Electronically signed by Zachary B. Corrigan

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AMENDED CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of December, 2024, a copy of the foregoing was served via e-mail upon the following:

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