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**Before the
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36833 (Sub-No. 1)

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Office of Chief Counsel
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LAMPWRIGHTS LLC – PETITION FOR DECLARATORY ORDER

MOTION FOR PARTIAL EXPEDITED CONSIDERATION

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Lampwrights LLC (“Lampwrights”) has simultaneously filed with this motion for expedited consideration a Petition for Declaratory Order filed pursuant to 5 U.S.C. § 554(e) and 49 U.S.C. § 1321 seeking a Board order finding that a right-of-way that it seeks to re-develop for common carrier rail service is already under the Board’s jurisdiction because the prior operator of the rail line, the Erie Lackawanna Railway Company (“EL”) never formally abandoned the right-of-way. Further Lampwrights is seeking a declaratory order that certain applications of state law to the right-of-way are preempted because the right-of-way remains under the Board’s jurisdiction. In total, Lampwrights is asking the Board for relief on eight specific but related propositions.

Lampwrights is seeking its declaratory order due to controversies that have developed over its redevelopment of a rail line in FD 36833 (the “Proposed Line”). One of the controversies has been caused by statements to the Office of Environmental Analysis (“OEA”) that has caused OEA to suspend the environmental review of the Lampwrights Proposed Line. Lampwrights would, of course, prefer expedited consideration on all eight of the declarations it is seeking from the Board. However, Lampwrights understands that the Board has a full docket. Therefore, Lampwrights respectfully requests that the Board expedite its review of two specific issues that – once resolved – will allow the environmental review to proceed. First, Lampwrights asks the Board to declare that the Trustees of the Erie Lackawanna Railroad never abandoned the segment of right-of-way

from milepost 3.9 – milepost 6.2 that is part of the Proposed Line, as set forth in Section IV(A)(1) of the Lampwrights Petition for Declaratory Order.

Second, once the Board concludes that the segment was not abandoned, that the Board declare that the Brockway Area Sewage Authority’s (“BASA”) continued occupation of its easements on and over right-of-way is preempted, and that BASA’s statements to OEA in FD 36833 contending that construction of the Proposed Line on the right-of-way is not feasible — to the extent those statements depend on the existence of the preempted easement — should be removed from the record in that proceeding. Once the Board strikes BASA’s statements, OEA would no longer be compelled to suspend its environmental review of Lampwrights petition in FD 36833.

Expedited consideration of these narrow issues is appropriate because the question of whether the EL or the EL Trustees ever properly abandoned is straightforward. Lampwrights Petition for Declaratory Order clearly demonstrates that for the segment where BASA has located its sewer line, the right-of-way remains under the Board’s jurisdiction.

Expedited consideration is further appropriate because BASA has made assertions on the record to OEA that have caused OEA to suspend its review of the Lampwrights Proposed Line in FD 36833. Specifically, in a May 20, 2025, letter to OEA, BASA asserted “[t]here is also insufficient right-of-way within the existing railroad easement to relocate a sewer line parallel to the proposed tracks that would provide adequate cover, slope protection, and access for service and maintenance.” The BASA letter further claims that “on both sides of the railroad bed in question, wetlands exist and the Sewer Authority would be unable to access those areas for the

relocation of the existing line.” And the letter concludes, “[f]inally, there does not appear to be a feasible site for relocation of the sewer line to maintain services to existing customers.”¹

Understandably, OEA is sensitive to BASA’s concerns and would not want to waste OEA’s limited staff resources developing an environmental analysis of a proposed line that would be “infeasible.” As such, entirely based on the BASA letter, OEA, on February 9, 2026, informed Lampwrights that it would suspend the environmental review of the Lampwrights Proposed Line until Lampwrights had reached a settlement with the BASA to move the sewer line outside of the proposed-right-of-way.² OEA stated that due to statements from BASA’s May 20, 2025 letter, the Lampwrights “proposed alignment appears to no longer be feasible.”

Lampwrights has already prepared a new proposal that demonstrates that the sewer line can be relocated within the available right of way and its proposal meets a design specification that BASA submitted to the Board on January 14, 2026.³ Yet BASA, to date, has yet to withdraw its previous statement and acknowledge that moving the sewer line within the right-of-way is in fact feasible. As such, the environmental review has now been suspended for three months. Because BASA has not informed OEA that a technical solution is viable and appears to be using its easement within the right-of-way as leverage to prevent the environmental review of the Proposed Line, Lampwrights is filing its Petition for Declaratory Order to establish that the right-of-way was

¹ Letter from Jeffrey M. Gordon, Solicitor, Brockway Area Sewage Authority to Elizabeth Webster, Office of Environmental Analysis, Surface Transportation Board (May 20, 2025)(on file in Docket No. FD 36833 - EI-33965).

² Letter from Danielle Gosselin, Director, Office of Environmental Analysis, Surface Transportation Board to Justin Marks, Clark Hill PLC, Lampwrights Counsel (Feb. 9, 2026)(on file in Docket No. FD 36833 - EO-4081).

³ Letter from the Brockway Area Sewage Authority to the Surface Transportation Board (dated January 13, 2026)(on file in Docket No. FD 36833 - ID-310730)(stating that “BASA would not permit the proposed rail to run parallel to our existing infrastructure within 10ft of our existing sewer lines.”).

not abandoned, that BASA's acquisition of its easement was preempted, and BASA has no right to occupy the right-of-way or prevent the development of the Proposed Line.

BASA's letter to OEA has now led to a three-month delay to the environmental review and counting. The design and development of the Proposed Line – to provide a rail- served landfill to shippers – was progressing forward until OEA interpreted BASA's May 20, 2025 letter as a statement that the rail line is infeasible. Substantial progress has already been made by Lampwrights, it has invested resources into property acquisition, engineering, and design, and it has brought its proposal to the Board.

The other issues presented in the Lampwrights Declaratory Order are also important, but those issues have not caused OEA to suspend the environmental review of this project. In conclusion, Lampwrights respectfully requests expedited consideration of the BASA-related issues presented in its Petition for Declaratory Order so that OEA will reinstate the environmental review process on the Proposed Line.

Respectfully submitted,



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