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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 35692

**EASTSIDE COMMUNITY RAIL, LLC
-- ACQUISITION AND OPERATION EXEMPTION --
GNP RLY, Inc.**

**CITY OF WOODINVILLE, WASHINGTON --
REPLY IN SUPPORT OF
SNOHOMISH COUNTY REQUEST FOR A DEFAULT ORDER**

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August 23, 2018
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Public Record

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On August 6, 2018 Snohomish County (“the County”) filed a motion for a default order against Eastside Community Rail, LLC (“ECR”), granting the County’s petition to revoke ECR’s acquisition and operation exemption for a 14.45 mile line of railroad running between Woodinville and Snohomish, Washington (“the Freight Segment” or “the Line”).¹ The City of Woodinville, Washington (“the City”) files this reply in support of the County’s motion.

On August 14 Douglas Engle filed a long and rambling *pro se* reply, purportedly on behalf of ECR, in which Mr. Engle disputes the merits of the County’s petition.² Mr. Engle’s pleading is neither signed nor verified.³ Mr. Engle is not an attorney.⁴ The unsigned reply

¹ Petition to Revoke, *Eastside Community Rail, LLC -- Acquisition and Operation Exemption -- GNP RLY, Inc.*, FD 35692 (filed July 12, 2018).

² Reply To Snohomish County, *Eastside Community Rail, LLC -- Acquisition and Operation Exemption -- GNP RLY, Inc.*, FD 35692 (filed August 14, 2018) (“Engle Reply”).

³ Mr. Engle declined to execute several of the documents that he now offers into evidence, including his Reply filed in this docket, the 2011 agreement in which his relatives purportedly agreed to convey the Freight Easement back to GNP, Ex. 2 to the Engle Reply, the

(continued . . .)

declares that it is “Submitted by Douglas Engle for Eastside Community Rail and the scores of supporters for continued rail operations in this valuable corridor.” Engle Reply at 18.

The Board’s procedural rules require that any document containing allegations of fact filed on behalf of a corporation must be signed in ink and verified under oath by an authorized officer of the corporation. 49 CFR § 1104.4(b). The Board often gives parties an opportunity to cure violations of the verification rule,⁵ but in this case more time to comply would not enable ECR to defend its actions.

ECR, a Washington limited liability company, was administratively dissolved by the Washington Secretary of State on July 1, 2016.⁶ Under Washington law an administratively dissolved Washington LLC has no authority to carry on any activities except as necessary to wind up its affairs, liquidate its assets or apply for reinstatement. RCW 23.95.610(3) states: “A domestic entity that is dissolved administratively continues its existence as an entity but may not carry on any activities except as necessary to wind up its activities and affairs and liquidate its assets in the manner provided in its organic law or to apply for reinstatement under RCW 23.95.615.” RCW 25.15.297(1) states: “A limited liability company continues after dissolution only for the purpose of winding up its activities.” ECR has no capacity to operate an ongoing

(. . . continued)

deed through which Mr. Engle’s relatives purportedly conveyed the Freight Easement back to GNP, Ex. 2 to the Engle Reply, and the divorce settlement between Mr. Engle and his former spouse. Ex. 5 to Engle Reply.

⁴ “I am not a lawyer . . .” Engle Reply at 2.

⁵ See, e.g. *Transport Handling Specialists, Inc. -- Continuance In Control Exemption -- RSL Railroad, LLC*, FD 35726 (STB served May 15, 2013)

⁶ Declaration of Thomas P. Stowe In Support of Snohomish County Petition to Revoke, Ex. 9 (filed July 12, 2018) (hereafter “Stowe Declaration”).

business. Perhaps for this reason, Mr. Engle does not identify his current position with ECR. Instead, the Reply reads as a first person declaration (though unsigned and unverified), apprising the Board of Mr. Engle's personal views on the opportunities for rail service on the Line, as well as Mr. Engle's frustrations with Snohomish County, the owner of the northern segment of the Line.

ECR currently has no "authorized officer" to verify factual representations made to the Board on ECR's behalf. Mr. Engle can speak only for himself -- precisely the course he followed in his Reply. The County's Petition To Revoke, which challenges ECR's authorization to provide common carrier rail service on the line on grounds that ECR misrepresented to the Board its ownership of the Freight Easement, remains uncontested.

Were the Board inclined to delve into the merits of Mr. Engle's contentions, Mr. Engle's Reply undercuts his assertion that ECR holds an interest in the Freight Easement. There is no dispute that in January 2011 GNP, the original grantee from BNSF of the Freight Easement, conveyed the Easement to Mr. Engle's relatives, Joanne and Earl Engle.⁷ Mr. Engle, at that time the CFO of GNP, never apprised the Board of that conveyance. Mr. Engle now contends that in October 2011 his relatives conveyed the easement back to GNP, before GNP's bankruptcy trustee conveyed it to ECR. Engle Reply at 3. To prove these conveyances he submits (1) an unrecorded and half-executed quit claim deed from his relatives to GNP,⁸ and (2) a one paragraph "Record of Transfer" from GNP's bankruptcy trustee to "Douglas Engle, Eastside

⁷ Stowe Declaration, Ex. 2. Mr. Engle signed that deed as the CFO of GNP. *Id.*

⁸ Quit Claim Deed from Earl and Joanne Engle to GNP, Ex. 2 to Engle Reply. Mr. Engle did not include in his exhibit the description of the property transferred by the deed. Mr. Engle also failed to execute the deed.

Community Rail.”⁹ The “Record of Transfer” recites that “The assets of GNP RLY Inc. are now transferred to the control and ownership of EASTSIDE COMMUNITY RAIL, LLC,” but the “Record of Transfer” does not enumerate those assets. The June 2018 title report that Snohomish County filed in support of its Petition To Revoke shows no conveyance from Mr. Engle’s relatives back to ECR. It shows title to the Freight Easement vested in “Earl L. Engle and Joanne Engle, as their respective separate estate.”¹⁰

Mr. Engle presents no evidence that his relatives ever conveyed the Freight Easement to GNP. To the contrary, Mr. Engle suggests that he and his father retained the Freight Easement as late as 2017. Exhibit 4 to the Engle Reply purports to be a December 2017 quit claim deed from “Earl Engle and Doug Engle,” conveying a “portion” of the Freight Easement to a company called NW Signal Maintenance. In Mr. Engle’s words: “In October 2017 my father and I sold the freight easement to NW Signal . . . while I maintain the passenger rights.” Engle Reply at 6. This would be the same Freight Easement that Mr. Engle insists his father and wife conveyed back to GNP in 2011. Mr. Engle also refers to a parking space lease agreement of October 2017, in which “Doug Engle” (not ECR) purports to lease part of the Line to a business that is not a shipper, as a parking lot.¹¹

In short, the Engle Reply corroborates the County’s documented and verified showing that ECR holds no property interest in the Freight Easement. The County’s assertion that ECR

⁹ Ex. 3 to Engle Reply.

¹⁰ Fidelity National Title, ALTA Commitment For Title Insurance, Schedule A at page 2, Ex. 7 to Stowe Declaration.

¹¹ See Stowe Declaration, Ex. 19 (Parking Space Lease Agreement between “Doug Engle” and Darling Sons Intl, LLC) and Engle Reply, Ex. 1 (correspondence between Snohomish County and Douglas Engle over the parking lease).

misled the Board in contending that ECR acquired sufficient property interests from the estate of GNP to lawfully operate a common carrier railroad is undisputed.

Mr. Engle's reply demonstrates why the County's motion should be granted. His current use of the Line consists of renting parking space to businesses that are not shippers, and diverting revenue from the failing railroad that actually serves a handful of customers in Snohomish County.¹² ECR is a classic example of a shadow enterprise that calls itself a railroad, and invokes the Board's jurisdiction to shield Mr. Engle's business operations from regulation by the local governments that own the Line. The Board should not countenance this conduct.

August 23, 2018

Respectfully Submitted,



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¹² See Comments of Ballard Terminal Railroad Company at 2 (filed August 7, 2018).

CERTIFICATE OF SERVICE

I certify that on August 23, 2018, I served an e-filed copy of the foregoing document upon all parties of record in this proceeding, as listed below per the STB service list, by e-mail and first class U.S. mail.

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