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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. FD 35984

EXPEDITED HANDLING REQUESTED

OHIO RIVER PARTNERS, LLC – ACQUISITION AND OPERATION EXEMPTION
– HANNIBAL DEVELOPMENT, LLC

MOTION OF OHIO TERMINAL RAILWAY COMPANY FOR LEAVE TO FILE
REBUTTAL TO THE SEPTEMBER 22, 2017 REPLY OF
OHIO RIVER PARTNERS SHAREHOLDER, LLC

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Date: October 2, 2017

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. FD 35984

EXPEDITED HANDLING REQUESTED

OHIO RIVER PARTNERS, LLC – ACQUISITION AND OPERATION EXEMPTION –
HANNIBAL DEVELOPMENT, LLC

MOTION OF OHIO TERMINAL RAILWAY COMPANY FOR LEAVE TO FILE
REBUTTAL TO THE SEPTEMBER 22, 2017 REPLY OF
OHIO RIVER PARTNERS SHAREHOLDER, LLC

On September 5, 2017, Ohio Terminal Railway Company (“OTRC”) filed a Petition for Deferment of Rail Operations to afford OTRC and Ohio River Partners Shareholder, LLC (“ORPS”) the opportunity to determine necessary state property interests under which the Board’s grant of ORPS’s permissive operating authority had been conditioned in the Board’s Order of March 30, 2016.

While OTRC and ORP have discussed various proposals for joint operating arrangements and joint interchange arrangements with NS at Pohattan Point, Ohio, the parties have yet to resolve their differences regarding state property law interests. On September 22, 2017, ORPS¹ filed an extensive reply to OTR’s Petition contending that the Board should impose ORPS’ operating terms and conditions and interchange arrangements on OTRC well in advance of any determination by Ohio courts that ORP possessed the necessary property rights to warrant the exercise of the Board’s permissive exempt acquisition and operating authority.

¹ The Reply was filed on behalf of ORPS, not ORP even though it was ORP that was granted the conditional acquisition and operation exemption to the OMAL Line by the STB. ORPS and ORP are separate legal entities.



OTRC therefore requests leave to file a rebuttal statement in support of its Petition. OTRC submits that such a rebuttal is warranted and should be accepted in keeping with Board precedent. As this agency has long recognized, absent good cause, it will allow the parties seeking relief under an individual petition to close the record in view of the burden of proof that the Petitioner must carry. See e.g. Grand Trunk Western Railway Company – Acquisition of Operating Easement – CSX Transportation, Inc., Docket No. FD-35661 (STB served September 12, 2012).

In light of ORPS' mischaracterization of OTRC's Petition, the facts and the applicable law, a rebuttal statement is particularly warranted to ensure a just determination of the issues presented in this proceeding.

The rebuttal accompanying the present motion provides for a more complete development of the legal issues in the interest of facilitating an expeditious decision on the merits of the Petition in keeping with OTRC's request for prompt agency action.

WHEREFORE, OTRC respectfully requests leave to file the accompanying rebuttal in response to the September 22, 2017 Reply of ORPS.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby state that on this 2nd day of October 2017, I caused a copy of the foregoing Petition for Deferment of Rail Operations to be served by first-class U.S. Mail on the following persons:

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