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ENTERED
Office of Proceedings
November 29, 2016
Part of
Public Record

Before the
Surface Transportation Board

~~FD 36081~~: JR - 2

STB DOCKET NO. AB-167 (Sub-No. 1189X)

CONSOLIDATED RAIL CORPORATION – ABANDONMENT EXEMPTION –
IN HUDSON COUNTY, NJ

STB DOCKET NO. AB-55 (Sub-No. 686X)

CSX TRANSPORTATION, INC. – DISCONTINUANCE OF SERVICE EXEMPTION –
IN HUDSON COUNTY, NJ

STB DOCKET NO. AB-290 (Sub-No. 306X)

NORFOLK SOUTHERN RAILWAY COMPANY – DISCONTINUANCE OF SERVICE
EXEMPTION – IN HUDSON COUNTY, NJ

49 CFR 1115.5 and 1117. 1

PETITION(S) FOR OTHER RELIEF

~~FD 36081~~

CLARIFICATION / SUPPLEMENT

1. Comes now James Riffin, (“**Riffin**”) who herewith respectfully **Clarifies and Supplements** the Petition(s) for Other Relief that he filed on **October 31, 2016**.

2. Riffin ‘**clarifies**’ by expressly stating that his Petition(s) for Other Relief, while ‘associated’ with the AB 167 (Sub. No. 1189X), et al. (“**1189X**”) proceeding, **is a totally different proceeding**. (Which is why Riffin paid a separate filing fee. Had Riffin intended for his Petition(s) for Other Relief to be dependent upon the 1189X proceeding / to be a part of the 1189X proceeding, he would have titled it a ‘Motion,’ sought the same relief, and avoided paying an additional filing fee.)

3. Riffin ‘**supplements**’ his Petition(s) for Other Relief, by adding thereto a Finance Docket Number.

DISCUSSION

4. At the time Riffin filed his Petition(s) for Other Relief, Riffin was uncertain (and still is uncertain) how to properly title / docket his Petition(s) for Other Relief.

5. Riffin’s Petition(s) for Other Relief, is intended to be a **totally different proceeding** from the associated **1189X** proceeding.¹ (Which is why he paid a separate filing fee.)

6. Were the 1189X proceeding a bankruptcy proceeding, Riffin would have titled his petition an “adversary proceeding.” He would have obtained an ‘adversary proceeding’ docket number, which would have been noted on his petition. In addition to the associated bankruptcy petition docket number.

7. If the 1189X proceeding had been a Finance Docket proceeding (such as *CSX Corp. et. al.* – *Control – Conrail Inc. et al.*, STB FD No. 33388), then Riffin would have docketed his

¹ Riffin’s Petition(s) for Other Relief, while associated with the 1189X proceeding, addresses totally different issues, the resolution of which issues requires the STB to address, and to resolve, procedural issues of first impression. The resolution of the procedural issues requires several **policy determinations** by the STB: (A) When the task of resolving discovery issues, which arise in an abandonment proceeding, is delegated by the Director of the Office of Proceedings (as opposed to being delegated by the full ‘Board’) to an Administrative Law Judge (“**ALJ**”): (a). Are the decisions rendered by the ALJ ‘initial’ 49 CFR 1115.2 ALJ decisions? or (b) Are the decisions rendered by the ALJ ‘final’ 49 CFR 1152.25(e) STB decisions?

Petition(s) for Other Relief, as a “Sub-No.” For example: FD 33388 (Sub-No. 94). Or FD 33388 (Sub. No. 100). [Which are two proceedings independent of, but associated with, the underlying FD 33388 proceeding.]

8. However, the 1189X proceeding is an abandonment / discontinuance of service proceeding. As such, it already has Sub. Nos. in the Docket Numbers.

9. So while it would have been appropriate to assign a Finance Docket number to Riffin’s Petition(s) for Other Relief (which is what normally would have been done), doing so would not have revealed in the heading that the Petition(s) for Other Relief was associated with another proceeding.

10. Had the LLCs² not filed a ‘Reply’ (In reality a ‘Motion to Strike’), arguing that Riffin’s Petition(s) for Other Relief should be struck,³ the issue of how to docket Riffin’s Petition(s) for Other Relief might not have ever arisen.

11. But the LLCs did file a Motion to Strike (mistitled a ‘reply’), thereby raising the additional issue of how to properly docket Riffin’s Petition(s) for Other Relief.

12. The simplest way to resolve the issue is to add a Finance Docket Number to the Petition(s) for Other Relief. Which Riffin now does. (And thus ‘supplements’ his Petition(s) for Other Relief.)

13. Another alternative would be to assign a different letter (a letter other than an ‘X’) to the Sub. No. (The docket system will not accept numbers.)

² 212 Marin Blvd LLC; 247 Manila Ave LLC; 280 Erie St LLC; 317 Jersey Ave LLC; 354 Coles St LLC; 389 Monmouth St LLC; 415 Brunswick St LLC; 446 Newark Ave LLC.

³ Arguing that ALJ Dring’s October 26, 2016 served decision in the 1189X proceeding prohibited Riffin from filing any additional pleadings in the 1189X proceeding.

14. In the event the STB desires to change how Riffin's Petition(s) for Other Relief is docketed, Riffin will defer to whatever format the STB feels is most appropriate.

Respectfully,

James Riffin
P. O. Box 4044
Timonium, MD 21094
(443) 414-6210

CERTIFICATE OF SERVICE

I hereby certify that on the 28th Day of November, 2016, a copy of the foregoing Clarification of / Supplement to, James Riffin's Petition(s) for Other Relief, was served on Charles Montange, and on Daniel Horgan, both of whom have filed pleadings related to Riffin's Petition(s) for Other Relief. (The time for intervening in Riffin's Petition(s) for Other Relief proceeding, has lapsed.) A courtesy copy was also e-mailed to Jonathan Broder, Adam Sloane, Robert Jenkins, Eric Strohmeyer and Andrea Ferster.

James Riffin

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49 CFR 1115.5 and 1117.1

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SUPPLEMENTAL CERTIFICATE OF SERVICE

I hereby certify that on the 29th Day of November, 2016, the following pleadings were served on all of the parties in the AB 167 (Sub. No. 1189X), et al., proceeding, either by e-mail or by the U.S. Postal Service.

~~FD 36081~~: JR-2 With 1189X and FD 36081 docket entries on first page.

~~FD 36081~~: JR-2 With FD 36081 docket entry on first page, and no 1189X docket entries.

~~FD 36081~~: JR-3 With 1189X and FD 36081 docket entries on first page.

~~FD 36081~~: JR-3 With FD 36081 docket entry on first page, and no 1189X docket entries.

~~FD 36081~~: JR-1 With FD 36081 docket entry on first page, and no 1189X docket entries.

Note: ~~FD 36081~~: JR-1 With 1189X docket entries on first page, was served on all of the 1189X parties on or before October 31, 2016.

James Riffin
P. O. Box 4044
Timonium, MD 21094
(443) 414-6210

CERTIFICATE OF SERVICE

I hereby certify that on the 29th Day of November, 2016, a copy of the foregoing Supplemental Certificate of Service, was served on all of the parties in the AB 167 (Sub. No. 1189X), et al., proceeding, either by e-mail or by the U.S. Postal Service.

James Riffin