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ATTORNEYS AT LAW

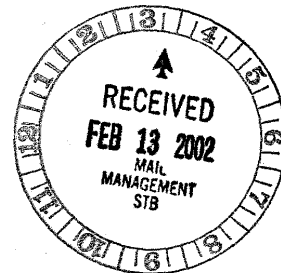
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February 13, 2002

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ENTERED
Office of the Secretary

FEB 13 2002

Part of
Public Record



Hon. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

RE: Application of Rymes Heating Oils, for certain determinations and a prescription, all related to competitive access for Petitioner to two rail carriers (Finance Docket No. 34098)

Dear Secretary Williams:

Enclosed please find an original and ten copies for each of (a) an errata sheet for the Rebuttal Statement which Petitioner filed with your office on February 8 and (b) three Verified Statements of John A. Rymes correcting two of the Verified Statements attached to that Rebuttal Statement, all in the above-captioned proceeding.

The first of the three verified statements enclosed explains some confusion in names used in the earlier two. The second and third verified statements enclosed essentially restate those earlier two, with language that corrects the problem.

Respectfully submitted,

Ernest J. Merardi, P.C.
Ernest J. Merardi, P.C.
Counsel for Petitioner

EJI:ehr

Copies: all parties

R556124.3

**Errata for Petitioner's Rebuttal Statement
of February 8, 2002**

<u>Page</u>	<u>Location</u>	<u>Change from</u>	<u>To</u>
9*	n. 34	John A. Rymes, para. 7	John A. Rymes II, para. 7
19	n. 75	See attached....	Reply at 22, first full para. See attached....
19	¶ 2, L. 2	Second Claim of its Petition	Third Claim of its Petition
22	Last ¶, L. 3	in the late 1980.	In the late 1980s.
22	n. 89	52 at ____ (1990)	52 at 7-8 (1990)

* Note: The correction to n. 34 on page 9 is intended to refer to the second of Mr. John Rymes' attached verified statements; similarly, John A. Rymes I refers to his first attached verified statement.

**Before the
Surface Transportation Board**

**Rymes Heating Oils, Inc. Petition for Declaratory
Order**

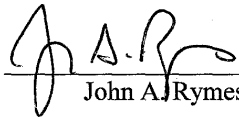
STB Finance Docket No. 34098

Verified Statement of John A.
Rymes

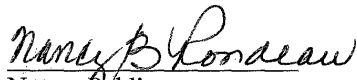
1. This relates to my two Verified Statements herein dated February 6, 2002, John A. Rymes I and John A. Rymes II.
2. East Coast Steel is the former occupant of the building south of the Rymes Distribution Center. My understanding is that its occupancy ended some time prior to 1999. Eastern Bridge LLC ("Eastern Bridge") is the present occupant of that same building. My understanding is that its occupancy began about mid-year 1999.
3. Paragraph 5 of my Verified Statement I is correct in referring to East Coast Steel.
4. The references in paragraphs 4 and 6 of that Verified Statement should also refer to East Coast Steel, not to East Coast Bridge.
5. The references in paragraphs 4 and 5 of my Verified Statement II should be to Eastern Bridge, not to East Bridge.

State of New Hampshire
County of Merimack

I, John A. Rymes, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement. Executed on February 12, 2002.


John A. Rymes

Subscribed and sworn
to before me this 12TH
day of February 2002.


Notary Public

My commission expires 12/1/04

**Before the
Surface Transportation Board**

**Rymes Heating Oils, Inc. Petition for Declaratory
Order**

STB Finance Docket No. 34098

Corrected
Verified Statement of John A.
Rymes
I

1. My name is John A. Rymes. I am, and was at the time of the events described below, a manager of Rymes Heating Oils, Inc. ("Rymes"), the Petitioner in the above-captioned proceeding. I make this Statement as part of Petitioner's Rebuttal to that part of Respondents' Reply (p. 6) which asserts that a siding near Rymes' unloading and storage facility ("Distribution Center") has been served continuously by Guilford since at least 1987.

2. On January 26, 1999, James T. Rymes, James T. Rymes, Jr. (both officers of Rymes) and I drove to our Claremont, NH rail unloading and storage facility to meet with Stan Maxwell, a representative of Guilford Transportation Industries, which operates the Springfield Terminal Railway ("ST") serving Rymes and also operated the B&M, predecessor of the ST. This meeting was set up by Paul Ouellette, sales representative from the Brodie Corporation, a track-mobile rail car moving machine distributor. We had expressed our concerns with Guilford's service and Mr. Ouellette thought that, if we brought our concerns to Mr. Maxwell's attention, he would be able to help remedy the deficiencies in service that we had been experiencing.

3. At the morning meeting, James T. Rymes explained in detail the many deficiencies in Guilford service that we had experienced. Mr. Maxwell stated in words or substance that he agreed that the service that we had been experiencing was extremely poor and that he would try to improve the poor service that ST was providing.

4. We continued the meeting over lunch at a local restaurant in Claremont. The topic of how and why Guilford had the rights to our new facility and that of our neighbor, East Coast Steel, was brought up. East Coast Steel is located south of the Rymes facility. The new Rymes spur with its switch is located beyond the switch newly constructed for use by East Coast Steel.

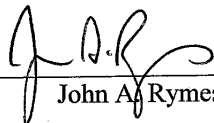
5. During this discussion, Mr. Maxwell stated in words or substance: When B&M heard about what the requirements were to protect their rights at facilities on the line, B&M elected to fill a number of junk sand rail cars and distribute them throughout the area. One such car was delivered to a track at East Coast Steel where it remained unemptied for years. Mr. Maxwell also stated that he was one of the engineers on the line at the time these cars were placed. He then laughed about how clever B&M was to have done this.

6. The discussion included whether, if this one car had not been placed on the siding, Rymes and East Coast Steel would have been free to use any other rail company available. Mr. Maxwell stated that was correct.

7. My understanding is that this car remained stationary until it was pulled out in the mid-1990s.

State of New Hampshire
County of Merrimack

I, John A. Rymes, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement. Executed on February 12, 2002.



John A. Rymes

Subscribed and sworn
to before me this 12TH
day of February 2002.



Nancy B. Londeau
Notary Public

My commission expires 12/1/04

**Before the
Surface Transportation Board**

**Rymes Heating Oils, Inc. Petition for Declaratory
Order**

STB Finance Docket No. 34098

Corrected
Verified Statement of John A.
Rymes
II

Communications with ST.

1. For the last year, my duties have included the responsibility for purchasing our propane and moving it from the supplier to the Distribution Center at Claremont. During that period, our off-season shipments declined from 109 cars delivered by ST in 2000 to none delivered by that carrier in 2001.

2. Essentially, Rymes built up a substantial inventory purchasing product (a) imported on seagoing ships at substantially greater cost than could be obtained by rail delivery from our traditional suppliers who ship by rail and (b) from pipeline terminals in the Northeast. In both cases, we bought from these sources and brought the product to our Distribution Center by truck because we were unwilling to rely on ST rail service.

3. All during this period, ST never called Rymes to ask about the absence of business we were providing it. I do not even know the name of the ST sales representative serving our account and, to my knowledge, have never spoken to that individual.

Northbound service.

4. For several years, we have tried to have ST deliver loaded cars and pull empty cars on its northbound run. The ST claim has always been that it's not possible. In January, we had a loaded car at East Deerfield. ST had a shipment there to be delivered to Eastern Bridge, our neighbor, and offered to drop off our car at the same time, during its northbound run.

5. Our representative said that leaving the car at Eastern Bridge would be all that would be necessary, that we would make arrangements to bring it from there to the Distribution Center. Instead, ST delivered our car right on our receiving track.

January 2002 loaded/empties incident.

6. On January 7, 2002, I received a call from our Distribution Center Manager, Tim Smith. He informed me that he had just been told by a ST representative that we had eight loaded cars consigned to Rymes sitting in the yard at Brattleboro.

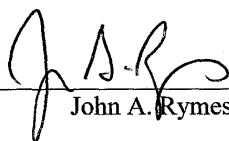
7. This didn't sound right to me, as we expected no more than one car per week during this period. However, cars are frequently not delivered on time and other mistakes do occur. I then called both our suppliers who ship by rail, BP Canada and Conoco, and asked each to verify the cars that they had sent to us in the current season.

8. After a long verification process, each got back to me with information on the prior two months' shipments. Comparing that to our own car receipt and release information, I still could not account for that many loaded cars in transit to us.

9. At that point, I dispatched Tim Smith to Brattleboro so we could have first-hand information on this matter. An hour or so later he called and told me he had been advised by ST that the cars were in fact all empties.

State of New Hampshire
County of Merimack

I, John A. Rymes, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement. Executed on February 12, 2002.


John A. Rymes

Subscribed and sworn
to before me this 12TH
day of February 2002.


Notary Public

My commission expires 12/1/04

Certificate of Service

Re: Application of Rymes Heating Oils, Inc. for certain
determinations and a prescription, all related to
competitive access for Petitioner to two rail carriers
(Finance Docket No. 34098)

I, Elizabeth Whittle, certify that I have this day served copies of an errata sheet
for Petitioner's Rebuttal Statement and three Verified Statements of John A. Rymes upon

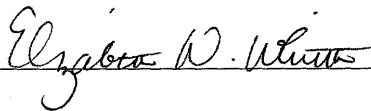
Surface Transportation Board
Federal Railroad Administration
S. Mark Lindsey
Acting Deputy Administrator
Eric L. Hirschhorn, Esq.
Attorney for Springfield
Terminal Railway Company
Robert B. Culliford, Esq.
Attorney for Springfield
Terminal Railway Company
New England Central Railroad
Boston and Maine Corporation,

entities required by the Surface Transportation Board's regulations to be served in this
proceeding, by hand in the case of

Surface Transportation Board,
Federal Railroad Administration
S. Mark Lindsey
Acting Deputy Administrator and
Eric L. Hirschhorn, Esq.
Attorney for Springfield
Terminal Railway Company

and by overnight express service in the case of

Robert B. Culliford, Esq.
Attorney for Springfield
Terminal Railway Company,
New England Central Railroad and
Boston and Maine Corporation.



February 13, 2002