

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.



STB Finance Docket No. 34483

ENTERED
Office of Proceedings

SMS RAIL SERVICE, INC.

JUL 15 2004 - PETITION FOR DECLARATORY ORDER

Part of
Public Record

211585

PETITION TO INTERVENE
OF
AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

Petitioner, American Short Line and Regional Railroad Association ("ASLRRA"), pursuant to 49 C.F.R. 1112.4, seeks leave to intervene in this proceeding for the limited purpose of filing the attached Statement. ASLRRA's intervention and the Board's receipt into evidence of ASLRRA's Statement will not duly disrupt the schedule for filing verified statements, the last of which are not due to be filed until August 2, 2004, and will not unduly broaden the issues raised in this proceeding. ASLRRA is an association of over 400 regional and short line railroads, and it is concerned that the rights and obligations of short line railroads as common carriers be preserved in the disposition of the Petition now before the Board. Thus, ASLRRA favors the grant of the relief that the Petition for Declaratory Order seeks.

Respectfully submitted,

AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

By its attorney,

Keith T. Borman

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STATEMENT
OF
AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

Intervenor, American Short Line and Regional Railroad Association ("ASLRRA"), is an association of over four hundred regional and short line railroads. Its members are situated throughout the country and vary in size from significant Class II railroads to small Class III railroads. ASLRRA presents its comments in this proceeding to support a principle which is critical to the viability of Class II and Class III railroads as an integral part of the interstate rail transportation system.

The law both grants important rights and imposes serious obligations upon those entities granted common carrier status. Those rights and obligations are keystones of an efficient, predictable and safe interstate rail transportation network and should not be diminished or marginalized in the process of adjudicating disputes before the Surface Transportation Board. ASLRRA urges the Board to protect and uphold the significance of "common carrier" status as

well as the rights and obligations inherent therein in its ultimate disposition of the Petition now before it.

WHEREFORE, ASLRRA supports the relief sought by the Petition for Declaratory Order.

Respectfully submitted,

AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

By its attorney,

A handwritten signature in black ink, reading "Keith T. Borman". The signature is written in a cursive, flowing style with a large initial "K".

Keith T. Borman

General Counsel.

Dated: July 14, 2004

CERTIFICATE OF SERVICE

I certify that I this day have served copies of the foregoing Petition to Intervene and Statement upon each of the parties by facsimile transmitting copies to their counsel, Richard A. Allen, Esq. (202) 342-0683, Donald G. Avery, Esq. (202) 347-3619 and Fritz R. Kahn, Esq. (202) 331-8330.

Dated at Washington, DC, this ^{15th} ~~14th~~ day of July 2004

A handwritten signature in black ink, appearing to read "Keith T. Borman". The signature is fluid and cursive, with the first name "Keith" and last name "Borman" clearly distinguishable.

Keith T. Borman