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BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34662

RESPONSE OF THE DISTRICT OF COLUMBIA TO
PETITION OF CSX TRANSPORTATION, INC. FOR EXPEDITED HANDLING

Pursuant to 49 C.F.R. § 1104.13, the District of Columbia ("the District"), hereby respectfully requests the full twenty (20) days provided in the rules of the Board to respond to petitioner CSX Transportation, Inc.'s ("CSXT") emergency petition for declaratory order, filed yesterday, February 7, 2005.

As CSXT correctly indicated, legislation was promulgated by the Council of the District of Columbia on Tuesday, February 1, 2005. Pursuant to District law, that legislation was then sent to the Mayor. D.C. Official Code § 1-204.04(e) (2001 ed.). The Mayor has ten (10) days to approve or disapprove the legislation. *Id.* Only if the Mayor signs the legislation, or the legislation otherwise is approved, will it become effective. *See id.* at § 1-204.12(a).

Because the Mayor has not yet acted, the legislation is not effective. CSXT's request seeks no more than an advisory declaration on a hypothetical issue. Additionally, there is no "emergency" here which would give this Board jurisdiction to preemptively invalidate proposed local legislation.

Moreover, CSXT has spent considerable time researching and briefing this matter, and the District only learned yesterday of this proceeding. Consequently, in the interests

of fairness, the District should be allowed the time permitted by the rules of this Board to craft an appropriate submission detailing the complex arguments implicated here.

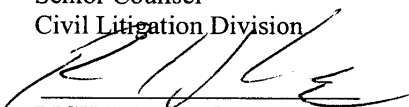
DATE: February 8, 2005

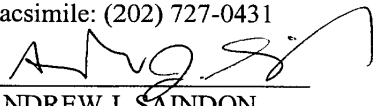
Respectfully submitted,

ROBERT J. SPAGNOLETTI
Attorney General, D.C.

GEORGE C. VALENTINE
Deputy Attorney General, D.C.
Civil Litigation Division


ROBERT UTIGER
Senior Counsel
Civil Litigation Division


RICHARD S. LOVE
Chief, Equity I
441 Fourth Street, N.W., 6th Floor South
Washington, D.C. 20001
Telephone: (202) 724-6635
Facsimile: (202) 727-0431


ANDREW J. SAINDON
Assistant Attorney General
Equity 1
441 Fourth Street, N.W., 6th Floor South
Washington, D.C. 20001
Telephone: (202) 724-6643
Facsimile: (202) 727-0431
andy.saindon@dc.gov

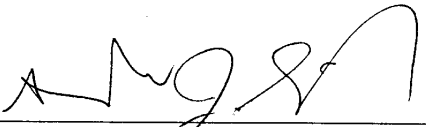
Attorneys for the District of Columbia

CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the foregoing Response of the District of Columbia were delivered by facsimile and by U.S. Mail, postage prepaid, this 8th day of February, 2005, to:

Terence M. Hynes, Esq.
Sidley Austin Brown & Wood LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8711 (f)

Mary Gabrielle Sprague, Esq.
Arnold & Porter LLP
555 12th Street, N.W.
Washington, D.C. 20004-1205
(202) 942-5999 (f)



ANDREW J. SAINDON