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February 2, 2007

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Washington, DC 20423

Re: Finance Docket No. 34982, *James Riffin, dba The Northern Central Railroad—Acquisition and Operation Exemption—Former Maryland and Pennsylvania Railroad Right-Of-Way*

Dear Secretary Williams:

CSX Transportation, Inc. (“CSXT”) has assisted with the creation of numerous short line railroad companies. CSXT recognizes that the railroad system of the United States is a network, and that for one portion of the network to work, it must connect effectively and efficiently with other parts of the network. In spinning off short line railroads, CSXT assures the effective and efficient meshing of the network by entering agreements with the short line covering all of the economic and operating interaction between CSXT and the new short line. Without such agreements there is no basis for CSXT to receive or deliver traffic from or to a new short line.

When CSXT does not spin off a short line, CSXT has developed standardized agreements reflecting its economic and operating relation with the new short line. The bare minimum agreements that CSXT expects to enter with new short lines are an Industrial Rail Carrier Agreement (“IRC”) and an Interchange Agreement (“ICA”). These agreements will govern the commercial and operating relation between CSXT and the short line. Without these agreements, CSXT has no basis to provide service to or from the new short line.

In the instant proceeding, Mr. Riffin dba The North Central Railroad (“NCR”) filed a Notice of Exemption under 49 C.F.R. §1150.41 (the “Notice”), in which NCR proposes to acquire property and operate a rail line in Baltimore City. It is CSXT’s belief that the property is owned by the Baltimore Streetcar Museum and used to operate historic streetcars. NCR also indicates that it intends to interchange traffic with CSXT or the Norfolk Southern Railway Company. There is no physical connection with CSXT. The lines cross at a grade separation of about 25-feet. In addition, NCR has not negotiated, much less entered an IRC or ICA with CSXT. Therefore, CSXT will be unable to receive from or deliver to NCR traffic because there is no physical connection and there are no agreements between the parties governing commercial, operation or liability issues.

In addition, the Notice does not even indicate who NCR will be purchasing the property from, where an interchange with CSXT will occur, whether the property being acquired is an active line of railroad or an abandoned railroad. As the Board astutely noted in the decision served on January 26, 2007 “NCR describes the line it wishes to acquire as part of the ‘former Maryland and Pennsylvania Railroad.’ If, indeed, the line is not part of an existing line of railroad, a verified notice must be filed under 49 U.S.C. 10901 and 49 CFR 1150.31, rather than 49 U.S.C. 10902 and 49 CFR 1150.41.” The property sought to be acquired by NCR was authorized to be abandoned nearly half a century ago (*Maryland & P. R. Co. Abandonment*, 295 I.C.C. 719 (1958)), and therefore, the Board is correct that NCR has filed its notice under the wrong statute and rules. In addition, since the line has apparently been abandoned, NCR requires authority to construct a line in addition to authority to acquire and operate the property. See *Wallkill Valley Railroad Company—Operation Exemption—Between Kingston and New Paltz, NY*, ICC Finance Docket No. 31909 (ICC served December 28, 1992).

The Board has recently recognized that once a party is granted authority to operate, that party has the right to operate, even if those rights are not exercised, and that the common carrier obligation cannot be extinguished without Board authorization or exemption. *Consolidated Rail Corporation—Abandonment Exemption—in Mercer County, NJ*, STB Docket No. AB-167 (Sub-No. 1185X) (STB served January 26, 2007) at 4. CSXT urges the Board to adopt this policy with regard to new entrants seeking authority under 49 U.S.C. §§10901 and 10902 and the regulations at 49 C.F.R. §1150.31 and .41.

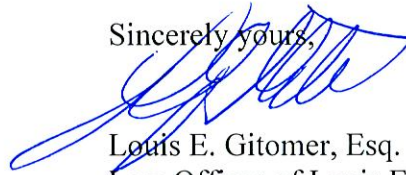
CSXT is not seeking the Board’s assistance in dealing with new short line railroads. CSXT is amply able to protect itself, and will negotiate appropriate agreements. However, CSXT believes that the Board has an obligation to ensure that a new short line is able to comply with the rail transportation policy (49 U.S.C. §10101) and the other provisions of 49 U.S.C. Part A. CSXT contends that the Board cannot fulfill those obligations (especially where an acquisition under 49 U.S.C. §10901 or §10902 is proposed) if the seller/lessor of the property is unknown, there is no way to measure the likelihood of an agreement with that seller/lessor, and the new short line has not entered any agreements with its connecting Class I railroads so that it will be able to connect to the remainder of the national rail system. In such an instance, CSXT suggests

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that the Board either stay the effectiveness of the transaction until the new short line can demonstrate compliance with these necessary requirements to the Board, or that the Board reject the filing and order the new entity not to refile until it can demonstrate compliance to the Board.

CSXT is efileing this letter and serving it on the parties identified below by first class mail, postage pre-paid.

Sincerely yours,



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cc: Mr. Riffin
Mr. Spitulnik