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May 25, 2007

Via Hand Delivery

Honorable Vernon A Williams
Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

ENTERED
Office of Proceedings

MAY 25 2007

Part of
Public Record

RE: Finance Docket No. 35019
Western New York & Pennsylvania Railroad, LLC
-- Lease and Operation Exemption --
Certain Assets of Norfolk Southern Railway Company and
Chautauqua, Cattaraugus, Allegany and Steuben Southern
Tier Extension Railroad Authority

Dear Secretary Williams

This is in response to the United Transportation Union-New York State Legislative Board's ("UTU-NY") Petition to Reject or to Stay Operation of the notice of exemption filed by Western New York & Pennsylvania Railroad ("WNYP") in the above-referenced docket. UTU-NY argues that WNYP failed to file the labor notice 60 days prior to the effective date of the notice. Although the Board's regulations do not require the filing of the labor notice with the Board, the Board has interpreted the 60-day advance notice requirement in section 49 CFR §1150.42(e) to not only apply to service and posting of the required labor notice, but also to certification to the Board of the service and the posting.

Pursuant to 49 CFR §1110.9, WNYP hereby petitions the Board for waiver of the 60-day advance certification of the labor notice service and posting to the extent necessary to permit the notice of exemption to become effective on June 25, 2007. WNYP posted and served by mail the required labor notice on April 17, 2007. The United Transportation Union ("UTU") International President was among the labor representatives served with the labor notice. The purpose of 49 CFR §1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a

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line are given sufficient notice of the transaction before consummation¹ If the notice of exemption is permitted to be effective on June 25, 2007, the UTU and other labor representatives and potentially affected employees will have had more than 60-days actual notice of the transaction, and therefore, the waiver would not prejudice the unions or the employees

For the foregoing reasons, WNYP respectfully requests that the Board grant waiver and permit the notice of exemption to become effective on June 25, 2007

Respectfully submitted,



Janie Sheng
Attorney for Western New York &
Pennsylvania Railroad, LLC

cc Gordon P MacDougall (via hand delivery)

¹ See, e.g., Arkansas and Missouri Railroad Company – Lease and Operation Exemption – Union Pacific Railroad Company, STB Fin Docket No 33843 (STB served June 29, 2000)