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August 13, 2004

Chairman Roger Nober
Vice Chairman Francis P. Mulvey
Commissioner W. Douglas Buttrey
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

RE: Ex Parte No. 647

Gentlemen:

Pioneer Railcorp, and its seventeen Class III railroad subsidiaries and affiliates, would like to urge the Board to deny the Petition to exempt small carriers from the prior approval abandonment requirements of 49 U.S.C. §10903, and, in particular, to reject revising 49 C.F.R. §1152.27 (offers of financial assistance).

In our opinion, current abandonment regulations are relatively lax, and further weakening them could do substantial harm to the public interest. Except in very rare instances, abandonment is permanent. The customers and communities that lose rail service are put at a significant economic disadvantage, that cannot be remedied.

As opposed to a quarter century ago, when the abandonment regulations were eased significantly, a substantial portion of the national rail system is now operated by Class II and Class III carriers. Making it easier to abandon these lines would not serve to promote economic growth, or would, in fact, negatively impact other carriers. Very little shortline business originates and terminates on-line. Other Class II and III carriers are often in the route, and all Class I carriers now derive a significant portion of their business from interchange with Class II and III carriers, so the loss of this business affects all carriers, including Class I carriers.

In addition, many other lines have been abandoned over the past quarter century, and capacity problems have arisen in, and continue to plague, some areas. In reality, too much of the national rail system has already been abandoned. While individual railroads look to their competitive interests, the Board must consider the state of the entire industry. The national rail system functions as a whole, and depends on volume. Further weakening the system will only lead to a less viable rail system, higher transportation costs, and ultimately imperil national security.

Finally, if the Petition is granted, the new regulations will, we fear, lead to more sham transactions, in which lines are sold to “operators” whose sole objective is to liquidate the line. The Board should not encourage such schemes.

The Board’s duty to preserve and promote rail service, and protect the interests of shippers, would be served by making it easier for legitimate operators to acquire lines which are threatened with abandonment, rather than making it easier for a failed operator to deprive their communities of a an asset important to their economic future. The notion, implicit in the proposal, that just because one shortline operator cannot succeed, the line should be abandoned, is fallacious. As with any business, there are good operators, and not so good ones. The difference from other businesses is that railroads are part of the nation’s critical infrastructure. They serve a public purpose, and once abandoned, a railroad ceases to be a railroad; restoration of service is all but impossible. As such, abandonment decisions should not be made lightly or hastily.

Pioneer does not intend to participate in the oral hearing on this matter, but would like to reserve the right to make further comment on any action that comes out of that hearing.

Respectfully submitted,

/a/ Daniel A. LaKemper

Daniel A. LaKemper,
General Counsel.

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