

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.**

STB EX PARTE NO. 673

PETITION TO INSTITUTE A RULEMAKING

**REPLY OF THE AMERICAN SHORT LINE AND REGIONAL
RAILROAD ASSOCIATION TO PETITION OF BNSF RAILWAY COMPANY,
CANADIAN NATIONAL RAILWAY COMPANY, CANADIAN PACIFIC
RAILWAY COMPANY, CSX TRANSPORTATION, INC., NORFOLK
SOUTHERN RAILWAY COMPANY, AND UNION PACIFIC RAILROAD
COMPANY**

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June 25, 2007

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The American Short Line and Regional Railroad Association (ASLRRA) submits this Reply in response to the Petition of six class I railroads filed on June 6, 2007 in which they request the Board to open rulemaking proceedings to amend Sections 1150.33, 1150.34, 1150.43 and 1150.44 of Title 49 of the Code of Federal Regulations, inter alia, to increase the information required in such notices of exemption. ASLRRA represents approximately 440 class II and class III railroads, most of whom regularly make use of the notice exemption procedures in the ordinary course of their businesses.

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The American Short Line and Regional Railroad Association (ASLRRA) shares the concern of Petitioners that abuses of the Board's Notice Exemption Procedures are harmful both to the railroad industry and the public. These streamlined procedures for

acquiring a new rail carrier have been an important component of the regulatory framework that has allowed the class II and class III railroad industry to flourish. Nevertheless, the 440 active carriers who compose the railroad membership of ASLRRA understand that using those tools for any purpose other than to establish legitimate, operating common carriers undermines public support for the deregulated, market oriented policies that are vital to their continued success. ASLRRA supports a frank public dialogue about the abuses and potential solutions to them. For that reason ASLRRA supports Petitioners' request in EP 673 that the Board open a Rulemaking Proceeding to explore these issues in depth. ASLRRA encourages the Board to fashion rules which will end abuses without causing harm to current and future legitimate rail carriers.

At this stage ASLRRA is not prepared to suggest what specific actions the Board should take other than to emphasize that any rulemaking that emerges from the proceeding should be as narrow as possible to eliminate the identified abuses. Class II and Class III railroads use the Notice Exemption process day in and day out without controversy to build and strengthen the national freight rail infrastructure and to bring new common carrier services to shippers who would otherwise have no rail access. ASLRRA urges the Board to do no harm to the ability of existing carriers to operate efficiently and effectively in that task. In addition, the ability of new common carriers to enter the market place in response to the ever-changing commercial landscape should not be inadvertently or otherwise compromised in an overly broad attempt to weed out the charlatans who would pervert the intent of the notice exemption procedures. For example, some data is far more easily obtained in a transaction creating a new small

railroad from a class I spin-off than it is for building an altogether new line of railroad. The latter may be even more important to creating a vital and responsive rail infrastructure than a spin-off and should not be discouraged administratively. If the Board does undertake rulemaking, ASLRRA will condition its support of any solutions that arise upon the principle that legitimate common carriers will not be forced to pay a price for the abuses of those who only pose as rail carriers. ASLRRA is eager to play a constructive role with Class I railroads, shippers and communities in finding solutions which will benefit all constituencies who seek a healthy rail system to move the nation's freight.

Respectfully Submitted,

AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION



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Dated: June 25, 2007

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of June, 2007, I served copies of the foregoing
REPLY OF THE AMERICAN SHORT LINE AND REGIONAL
RAILROAD ASSOCIATION TO PETITION OF BNSF RAILWAY COMPANY,
CANADIAN NATIONAL RAILWAY COMPANY, CANADIAN PACIFIC RAILWAY
COMPANY, CSX TRANSPORTATION, INC., NORFOLK SOUTHERN RAILWAY
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record in this proceeding by first class United States mail, postage prepaid.

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