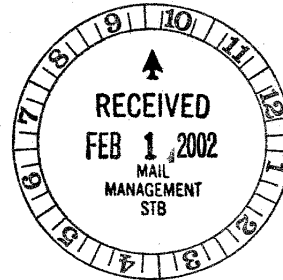




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Public Record

January 31, 2002

Hon. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street N.W.
Washington, D.C. 20423-0001

RE: Application of Rymes Heating Oils, for certain determinations and a prescription, all related to competitive access for Petitioner to two rail carriers (Finance Docket No. 34098)

Dear Secretary Williams:

Enclosed please find Petitioner's motion herein for an extension of time to file its Rebuttal Statement and for the Board to accept this motion out of time.

In view of the timing of this motion in relation to the current due date for the Rebuttal Statement, the undersigned would very much appreciate notification by phone (716-263-1526) or by e-mail (eierardi@nixonpeabody.com) of the Board's action on this request.

Thank you for your attention to this matter and to the notification request.

Respectfully submitted,

Ernest J. Ierardi, P.C.
Ernest J. Ierardi, P.C.

Counsel for Petitioner

EJI:chr

R556124.1

**Before the
Surface Transportation Board**

**Re: Application of Rymes Heating Oils, Inc.
for certain determinations and a prescription, all
related to competitive access for Petitioner to
two rail carriers (Finance Docket No. 34098)**

**Petitioner's Motion for an Extension of Time to File its Rebuttal
Statement and for Permission to File that Motion Out of Time**

Petitioner, Rymes Heating Oils, Inc., moves for an extension of time of one week to file its Rebuttal Statement in this proceeding. Petitioner moves simultaneously for permission to file this motion out of time.

In a Decision served on December 31, 2001, the Board issued a procedural schedule which called among other things for a due date of Friday, February 1, for any Rebuttal Statement which Petitioner would file. Under that same schedule, Respondents filed their Verified Reply on January 22, 2002. It is this Reply to which Petitioner desires to respond in a Rebuttal Statement.

Petitioner, its consultant and its counsel have been working on the Rebuttal Statement since receipt of Respondents' Reply, but have not been able to complete it and do not expect to be able to do so by February 1. Petitioner estimates that it will need an additional week, until Friday, February 8, to complete and file its Rebuttal Statement.

The reasons for this request are (1) that the Reply raises a number of issues and factual allegations that require consultation among individuals at different locations, (2) that several of these issues and allegations have been made known to Petitioner for the first time in Respondent's Reply and (3) a winter storm is hampering the consultation and other work in the preparation of Petitioner's Rebuttal Statement; the storm is expected to continue at least through February 1.

The reason for this request out of time is that, until this morning, Petitioner still anticipated being able to conclude and file its Rebuttal Statement on time. The storm and other difficulties have prevented this from being accomplished.

Counsel for Respondents has advised the undersigned that he consents to a one-week extension for the filing of the Rebuttal Statement.

For the foregoing reasons, Petitioner requests that the Board accept this motion out of time and grant Petitioner a one-week extension, i.e., until Friday, February 8, to file its Rebuttal Statement.

January 31, 2002

Respectfully submitted,


Ernest J. Isardi, P.C.

Nixon Peabody LLP

Attorneys for Rymes Heating

Oils, Inc., Petitioner

Clinton Square

P. O. Box 31051

Rochester, NY 14603

Tel. (716) 263-1526

Copies:

All parties

Certificate of Service

Re: Application of Rymes Heating Oils, Inc. for certain determinations and a prescription, all related to competitive access for Petitioner to two rail carriers (Finance Docket No. 34098)

I, Elizabeth Whittle, certify that I have this day served copies of the within motion upon

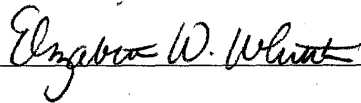
Surface Transportation Board
Federal Railroad Administration
S. Mark Lindsey
Acting Deputy Administrator
Eric L. Hirschhorn, Esq.
Attorney for Springfield
Terminal Railway Company
Robert B. Culliford, Esq.
Attorney for Springfield
Terminal Railway Company
New England Central Railroad
Boston and Maine Corporation,

entities required by the Surface Transportation Board's regulations to be served in this proceeding, by hand in the case of

Surface Transportation Board,
Federal Railroad Administration
S. Mark Lindsey
Acting Deputy Administrator and
Eric L. Hirschhorn, Esq.
Attorney for Springfield
Terminal Railway Company

and by overnight express service in the case of

Robert B. Culliford, Esq.
Attorney for Springfield
Terminal Railway Company,
New England Central Railroad and
Boston and Maine Corporation.



January 31, 2002