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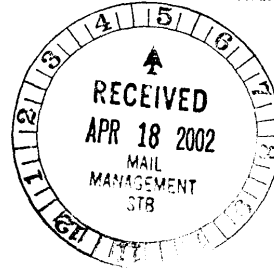
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April 18, 2002



Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423

Re: Finance Docket No. 34052, Green Mountain Railroad Corporation
-- Petition for Declaratory Order.

Dear Secretary Williams:

Green Mountain Railroad Corporation ("GMRC") strenuously opposes the April 15, 2002 request of the State of Vermont ("State") that the Board "abstain from ruling on the petition for Declaratory Ruling (sic) in the above-referenced docket until the Federal Court [considering Green Mountain Railroad Corp. v. State of Vermont, et al.] has completed its consideration of the issues...."

On February 12, 2002, GMRC filed a Supplemental Petition in this proceeding, requesting the Board to resume consideration of the issues presented and to no longer hold the case in abeyance as the Board said it would in its Decision of October 18, 2001.

The reasons for GMRC's request were set forth in great detail in the Supplemental Petition. In essence, GMRC had been confronted with the actual loss of significant business, and the inability to attract necessary new business, by the uncertainties attendant to

the State's assertion of jurisdiction over rail operations at GMRC's Riverside Yard, in conflict with what GMRC perceives to be the Board's preemptive jurisdiction. GMRC advised the Board that GMRC will be injured commercially if the Board does not promptly clarify the extent of its jurisdiction over the activities asserted by the State to be subject to state or local jurisdiction.

The State responded to the Supplemental Petition by asking the court to "clarify" that an earlier decision of the court had resolved the issues on which GMRC seeks a declaratory ruling from the Board and by asking the Board to defer further action until the court had responded to the "clarification" request. The court responded almost immediately, rebuffing the State's request for clarification in peremptory fashion. The current State pleading is another improper effort to seek delay by the Board on the pretext of the court case.

Although the State has now filed two pleadings in opposition to GMRC's Supplemental Petition, first on March 1, 2002 and most recently on April 15, 2002, the State has offered no refutation of GMRC's claims that it has lost and is hampered in replacing interstate rail business because of publicity accorded the State's jurisdictional assertions in local media and the unwillingness of potential GMRC rail customers to commit themselves to use of the Riverside facility in the face of an unknown outcome to the local permitting procedures which the State asserts to be applicable.

Ignoring GMRC's description of the injury it is suffering as a result of jurisdictional uncertainty, the State's most recent letter to the Board reasserts the State's view that the Board has no role to play in the resolution of its own jurisdiction and that those questions should be left for determination by the federal district court in Vermont. In an ap-

parent effort to provide a timeliness dimension for its position, the State has placed before the Board a proposed discovery and scheduling order in the Federal court case, calling for the conclusion of all pre-trial matters by December 2, 2002.

The Board, however, should not be deterred by the State's tactics from responding to GMRC's Supplemental Petition. The State makes no effort to contest the Board's statutory jurisdiction, which exists whether or not the parties to the court case have agreed on, or are subject to, a scheduling order. The State offers no reason -- not to mention any sound reason -- why the Board should not exercise that jurisdiction notwithstanding the pendency of the court proceeding.

Without prejudging the negotiations that GMRC will undertake with the State regarding the federal court scheduling order, it is appropriate to observe that the proposed scheduling order is not entirely realistic and that seldom are all pre-trial matters concluded in accordance with an initial scheduling order. However, even assuming, arguendo, that the court case could proceed under the scheduling order proposed by the State, the case would simply be ready for trial in early December, and not necessarily in trial. And, even a trial will not mark the end of the court case, for the court will be called upon to render a written decision that will follow the conclusion of the trial by an indeterminate period of time. In short, it could well be a year before the court renders a decision, even assuming that the State's newly proposed scheduling order is adopted.

GMRC urges the Board to proceed expeditiously in response to the declaratory relief sought by GMRC. The Board has no control over the timetable of a proceeding pending in a civil court, and it would be unjust and erroneous to withhold the exercise of the Board's legitimate jurisdiction in anticipation that a court proceeding will be con-

cluded in a timely manner. The Board does have control over the processing of its own cases, and GMRC urges the Board to rely on the control of its own docket to provide guidance in a situation that is threatening the economic health of a rail carrier subject to the Board's jurisdiction.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew P. Goldstein".

Andrew P. Goldstein
John M. Cutler, Jr.
Attorneys for
Green Mountain Railroad Corporation

cc: All Parties

APG/rmm