

SERVICE DATE - LATE RELEASE OCTOBER 7, 1997

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC.,  
NORFOLK SOUTHERN CORPORATION AND  
NORFOLK SOUTHERN RAILWAY COMPANY  
--CONTROL AND OPERATING LEASES/AGREEMENTS--  
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

Decision No. 43

Decided: October 7, 1997

NOTICE TO THE PARTIES:

On August 19, 1997, a Notice to the Parties (Decision No. 21) was served in this proceeding. The service list was attached to the Notice. The Notice directed that corrections to the service list be filed with the Board by August 29, 1997. The Notice also directed that all persons actively participating as a Party of Record in this proceeding must serve a copy of all filings submitted so far on all persons listed as Parties of Record, to the extent such filings have not previously been served upon such other parties.<sup>1</sup>

The Board received several timely-filed additions and corrections to the service list, and these additions/corrections are noted in the attached Appendix.

In the August 19, 1997 Notice, the Board stated that parties may file a motion for leave to late-file a notice of intent to participate certifying that they have served all other Parties of Record on the service list, and that the Board will address each request on a case-by-case basis.

**Late-filed motions/requests for leave to late-file a notice of intent to participate.**

The Board has received motions or requests for leave to late-file a notice of intent to participate in this proceeding from several parties, including: (1) Alice C. Saylor, Vice President & General Counsel, American Short Line Railroad Association received August 26, 1997; (2) F. Ronalds Walker, Associate Counsel, Citizens Gas & Coke Utility received September 2, 1997;<sup>2</sup> (3) M. W. Currie, United Transportation Union GO-851, General Chairperson received September 3, 1997; (4) Leo J. Wasescha, Transportation Manager, Gold Medal Division, General Mills Operations, Inc., received September 5, 1997; (5) Martin T. Durkin, Esq., counsel for the Village of Ridgefield Park, New Jersey, received September 8, 1997; (6) Samuel J. Nasca, Legislative Director, State of New York Legislative Board, United Transportation Union, received October 2, 1997. These motions and requests for leave to late-file a notice of intent to participate in this proceeding are granted, and the names will be added to the service list as Parties of Record representing the specific entity, as noted.

On September 5, 1997, the Board received from Michael F. McBride, Attorney for The Ohio Valley Coal Company and Ohio Mining and Reclamation Association, a notice of intent to participate for the Ohio Mining and Reclamation Association (OMRA-1), a motion for leave to late file a notice of intent to participate (OMRA-2), and an amended notice of intent to participate by the Ohio Valley Coal Company (Ohio Valley-3). The notice and motion of the Ohio Mining and

---

<sup>1</sup> On September 8, 1997, the Board received from Party of Record, the City of Lakewood, Ohio (Lakewood), a motion for leave to file a Certificate of Service in compliance with Decision No. 21, and serve a copy of its only filing, the notice of intent to participate, upon all Parties of Record. In addition, Lakewood moves for leave to file with the Board the Certificate of Service required by Decision No. 21. The motions are granted, and the Board accepts the late-filed Certificate of Service. (Lakewood's timely-filed correction to its address is noted on the attached Appendix).

<sup>2</sup> Mr. Walker previously submitted a timely-filed notice of intent to participate received on August 19, 1997, and is already shown on the service list as a Party of Record.

Reclamation Association are granted, and OMRA will be shown on the service list as being represented by Mr. McBride. The Ohio Valley Coal Company filed a notice of intent to participate in this proceeding on June 12, 1997 (See AEP, et al.-1). It is filing an amendment to its notice of intent to participate to include The American Coal Sales Company as an affiliated party. This notice is accepted, and Ohio Valley and The American Coal Sales Company will be shown on the service list as being represented by Mr. McBride.

On August 12, 1997, the Board received from Jay Westbrook, President of the Council of the City of Cleveland, Ohio, a request for additional time to file, on behalf of the City of Cleveland, a notice of intent to participate in this proceeding. Thereafter, on September 12, 1997, the Board received from Richard F. Horvath, Chief Assistant Director of Law, City of Cleveland, Ohio, a motion for leave to late-file a notice of intent to participate. On October 3, 1997, the Board received from Robert P. vom Eigen, of the Hopkins & Sutter law firm, a letter indicating, in essence, that Mr. vom Eigen would be representing the City of Cleveland in this proceeding. The City of Cleveland's motion for leave to participate is granted, with the understanding that its representative is now Mr. vom Eigen. Mr. vom Eigen's name will be added to the service list, and Mr. Westbrook's name will be deleted from the service list. Because Mr. Westbrook has already received filings from other Parties of Record, it will not be necessary for Parties of Record to serve copies of previous filings on Mr. vom Eigen. **Future filings**, however, should be served on Mr. vom Eigen.

The Board received on September 30, 1997, a motion for leave to late-file a notice of intent to participate filed by George R. Mesires, Assistant Attorney General, State of New York, by and through the State of New York Attorney General, Dennis C. Vacco. Mr. Mesires called the Board after he filed the motion to clarify his intent in filing the motion. A Board representative also contacted Mr. Mesires to obtain a further clarification. The State of New York Department of Transportation is represented in this proceeding by William L. Slover of the law firm, Slover & Loftus. The Attorney General's Office will be joining the State of New York Department of Transportation for any future filings submitted by Mr. Slover, but Mr. Mesires does not want a separate listing on the service list for the Attorney General's Office. Any future filings submitted by Mr. Slover, on behalf of the State of New York Department of Transportation, will have a signature block for the Attorney General's Office. The motion is granted and the clarification made by Mr. Mesires is duly noted. Mr. Slover will be jointly representing the State of New York Department of Transportation and the State of New York Office of the Attorney General, as specified in the Appendix attached.

On October 1, 1997, the Board received from Edward J. Fishman, counsel for Vermont Railway, Inc., a motion (VTR-1), for leave to file late a notice of intent to participate in this proceeding, and a notice of intent to participate in this proceeding (VTR-2). The motion and notice of intent are granted to permit Vermont Railway, Inc., to participate in this proceeding. Vermont Railway, Inc., will be added to the service list as being represented by Mr. Fishman.

**Late-filed corrections.** On September 4, 1997, the Board received a late-filed correction to the service list from William A. Mullins on behalf of Gary Edwards of Somerset Railroad Corporation (Somerset), stating that Somerset is representing themselves in this proceeding, and that the previously listed counsel representing Somerset, Michael F. McBride, should be deleted from the service list. The late-filed correction is accepted, and Mr. Edwards will be added to the service list as a Party of Record representing Somerset. Somerset will also be deleted as one of the entities represented by Mr. McBride.

On September 5, 1997, the Board received a late-filed correction to the service list from Andrew R. Plump of the law firm, Zuckert, Scoutt & Rasenberger, L.L.P., requesting that his name and Scott M. Zimmerman's name be removed from the service list because his clients are already represented on the service list by Richard A. Allen of this firm. The late-filed correction is accepted, and Mr. Plump's name and Mr. Zimmerman's name will be removed from the service list as Parties of Record, as specified in the Appendix attached.

**Motion to serve late on all parties of record a notice of intent to participate/correction to mailing address.** On September 10, 1997, the Board received a motion (RETR-3) from Harry C. Barbin, Esq., counsel for the Former Employees of Consolidated Rail

Corporation (Retirees), for permission to serve late on all Parties of Record in this proceeding their notice of intent to participate, and to correct their mailing address. The motion is granted and the mailing address for the Retirees will be corrected, as specified in the Appendix attached.

In some instances, because of the Board's new one party-one representative policy for service lists, the names of certain Parties of Record that were shown on the service list attached to Decision No. 21 have been deleted from the service list, even though the Board was not notified of the duplicate representation. See Surface Transportation Board Press Release No. 97-68, dated August 18, 1997.

The final service list incorporates the additions, deletions, and revisions shown in the Appendix attached to this Notice. All Parties of Record who have filed pleadings in this proceeding must, within 5 days of the service date of this Notice, serve a copy of those pleadings on the designated Parties of Record that are **added** to the service list, and submit an original and 10 copies of a certificate of service to the Secretary of the Board indicating that service has been accomplished.

All future filings must each have a certificate of service indicating that all Parties of Record have been properly served with a copy of the filing. **Parties are reminded that, in addition to submitting an original and 25 paper copies of each document filed with the Board, parties are also requested to submit, on diskettes (3.5-inch IBM-compatible floppies formatted for WordPerfect 7.0 or formatted so that they can be converted into WordPerfect 7.0) or compact discs, one electronic copy of each such document.** (See Decision No. 12, served July 23, 1997, and published that day in the Federal Register at 62 FR 39577).

Discovery-related pleadings need only be served on parties on the restricted service list established in the Administrative Law Judge's Order Adopting Discovery Guidelines, served June 27, 1997 (Decision No. 10).

Vernon A. Williams  
Secretary

#### APPENDIX

THE FOLLOWING NAMES SHOULD BE **ADDED** TO THE SERVICE LIST AS PARTIES OF RECORD:

**PARTY OF RECORD**

Christopher J. Burger, President  
Central Railroad Company of Indianapolis  
500 North Buckeye  
Kokomo, IN 46903-0554

Represents: Central Railroad Company of Indianapolis

PARTY OF RECORD

M. W. Currie  
UTU GO-851, General Chairperson  
3030 Powers Avenue, Suite 2  
Jacksonville, FL 32250

Represents: United Transportation Union GO-851

PARTY OF RECORD

Martin T. Durkin  
Durkin & Boggia, Esqs.  
Centennial House  
71 Mt. Vernon Street  
P.O. Box 378  
Ridgefield Park, NJ 07660

Represents: Village of Ridgefield Park, New Jersey

PARTY OF RECORD

Gary Edwards  
Superintendent of Railroad Operations  
Somerset Railroad Corporation  
7725 Lake Road  
Barker, NY 14012

Represents: Somerset Railroad Corporation

PARTY OF RECORD

Peter A. Gilbertson  
Louisville & Indiana Railroad Company  
Suite 350, 53 W. Jackson Boulevard  
Chicago, IL 60604

Represents: Louisville & Indiana Railroad Company

PARTY OF RECORD

R. Lawrence McCaffrey, Jr.  
New York & Atlantic Railway  
405 Lexington Avenue, 50<sup>th</sup> Floor  
New York, NY 10174

Represents: New York & Atlantic Railway

PARTY OF RECORD

Samuel J. Nasca  
Legislative Director  
State of New York Legislative Board  
United Transportation Union  
35 Fuller Road, Ste. 205  
Albany, NY 12205

Represents: State of New York Legislative Board, United Transportation Union

PARTY OF RECORD

Scott A. Roney, Esq.  
Archer Daniels Midland Company  
P.O. Box 1470

4666 Faries Parkway  
Decatur, IL 62525

Represents: Archer Daniels Midland Company

PARTY OF RECORD  
Alice C. Saylor, Vice President & General Counsel  
American Short Line Railroad Association  
1120 G Street, N.W., Suite 520  
Washington, D.C. 20005-3889

Represents: American Short Line Railroad Association

PARTY OF RECORD  
Thomas E. Schick  
Chemical Manufacturers Association  
1300 Wilson Boulevard  
Arlington, VA 22209

Represents: Chemical Manufacturers Association

PARTY OF RECORD  
Robert P. vom Eigen  
Hopkins & Sutter  
888 16<sup>th</sup> Street, N.W., Suite 700  
Washington, D.C. 20006

Represents: City of Cleveland, Ohio

PARTY OF RECORD  
Leo J. Wasescha  
Transportation Manager  
Gold Medal Division  
General Mills Operations, Inc.  
Number One, General Mills Blvd.  
Minneapolis, MN 55426

Represents: General Mills, Inc.

THE FOLLOWING NAMES SHOULD BE **DELETED** FROM THE SERVICE LIST AS  
PARTIES OF RECORD:

Norman H. Barthlow  
Detroit Edison Company  
2000 Second Aveue  
Detroit, MI 48226

Represents: Detroit Edison Company

Dinah Bear  
Executive Office of the President  
Council on Environmental Quality  
Washington, D.C. 20503

Thomas C. Brady  
Brady, Brooks & O'Connell, L.L.P.  
41 Main Street  
Salamanca, NY 14779-0227

Represents: Southern Tier West Regional Planning and Development Board

Nicole E. Clark  
Wachtell, Lipton, Rosen & Katz  
51 West 52<sup>nd</sup> Street  
New York, NY 10019-6150

J. Doyle Corman  
Main Line Management Services, Inc.  
520 Fellowship Road, Ste A-105  
Mount Laurel, NJ 08054-3407

Jean M. Cunningham  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036

Jo A. DeRoche  
Weiner, Brodsky, Sidman & Kider  
1350 New York Avenue, N.W., Suite 800  
Washington, D.C. 20005-4797

Represents: Louisville & Indiana Railroad Company

J. T. Holland  
Eastern Shore Railroad, Inc.  
P.O. Box 312  
Cape Charles, VA 23310

Represents: Eastern Shore Railroad, Inc.

Gerald P. Norton  
Harkins Cunningham  
1300 19<sup>th</sup> Street, N.W.  
Washington, D.C. 20036

Andrew R. Plump  
Zuckert, Scoutt & Rasenberger, L.L.P.  
888 Seventeenth Street, N.W.  
Washington, D.C. 20006

Charles M. Rosenberger  
CSX Transportation  
500 Water Street  
Jacksonville, FL 32202

Denise J. Sejna, City Attorney  
City of Hammond  
5925 Calumet Avenue  
Hammond, IN 46320

Represents: City of Hammond, Indiana

William C. Sippel

Oppenheimer, Wolff & Donnelly  
180 N. Stetson Avenue  
Two Prudential Plaza, 45<sup>th</sup> Floor  
Chicago, IL 60601

Represents: Bessemer & Lake Erie RR Co.  
Elgin, Joliet and Eastern Railway Company  
Transtar, Inc.

Mary Gabrielle Sprague  
Arnold & Porter  
555 Twelfth Street, N.W.  
Washington, D.C. 20004-1202

Scott N. Stone  
Patton Boggs, L.L.P.  
2550 M Street, N.W.  
Washington, D.C. 20037

Jay Westbrook  
City Hall, Room 216  
601 Lakeside Avenue, N.E.  
Cleveland, OH 44114

Represents: City of Cleveland, Ohio

Scott M. Zimmerman  
Zuckert, Scoutt & Rasenberger, L.L.P.  
888 Seventeenth Street, N.W.  
Washington, D.C. 20006

THE FIRM NAME, ADDRESS, AND/OR REPRESENTED ENTITY FOR THE FOLLOWING PARTIES OF RECORD SHOULD BE **REVISED** AS FOLLOWS (**REVISIONS ARE SHOWN IN BOLD AND UNDERSCORED**).

PARTY OF RECORD

Harry C. Barbin, Esquire

**PA I.D. No. 08539**

**William M. O'Connell, III, Esquire**

**PA I.D. No. 20023**

Barbin, Lauffer & O'Connell

608 Huntingdon Pike

Rockledge, PA **19046**

Represents: Paul J. Engelhart, William J. McIlpatrick, H. C. Kohout, Thomas F Meehan, **Jr.**,  
Lawrence Cirillo, Charles D. Nester, Jacqueline A. Mace, Donald E. Kraft, and  
Robert E. Graham.

PARTY OF RECORD

Sara J. Fagnilli

City of Lakewood  
**12650** Detroit Avenue  
Lakewood, OH 44107

Represents: City of Lakewood, Ohio

PARTY OF RECORD

Edward J. Fishman  
Oppenheimer, Wolff & Donnelly  
1020 Nineteenth St., N.W., Suite 400  
Washington, D.C. 20036

Represents: New Jersey Department of Transportation  
New Jersey Transit Corporation  
Northern Virginia Transportation Commission-Potomac and  
Rappahannock Transportation Commission  
**Vermont Railway, Inc.** (Please add)

PARTY OF RECORD

Douglas S. Golden  
**Main Line Management Services, Inc.**  
**520** Fellowship Road, **Suite A-105**  
**Mount** Laurel, NJ 08054-3407

Represents: Pennsylvania Senate Transportation Committee

PARTY OF RECORD

Andrew P. Goldstein  
McCarthy, Sweeney & Harkaway, P.C.  
1750 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

Represents: National Grain and Feed Association  
**[Archer Daniels Midland Company]** (Please delete)

PARTY OF RECORD

Paul H. Lambole  
1020 **Nineteenth** Street, N.W., Suite 400  
Washington, D.C. 20036

Represents: Resources Warehousing & **Consolidation** Services, Inc.  
Transportation Intermediaries Association  
**Southern Tier West Regional Planning & Development Board** (Please add)

PARTY OF RECORD

C. Michael Loftus  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036

Represents: Centerior Energy Corporation  
East Chicago, Indiana, Hammond, Indiana, Gary, Indiana, and  
**Whiting, Indiana** — The Four City Consortium (Please add **Whiting, Indiana**)  
Potomac Electric Power Company  
The Detroit Edison Company

PARTY OF RECORD

George W. Mayo, Jr.

Hogan & Hartson **L.L.P.**  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004-**1109**

Represents: Canadian Pacific Railway Company  
Delaware and Hudson Railway Company, Inc.  
Soo Line Corp.  
St. **Lawrence** & Hudson Railway Company Limited

PARTY OF RECORD  
Michael F. McBride  
LeBoeuf, Lamb, Greene & MacRae, L.L.P.  
1875 Connecticut Avenue, N.W.  
Washington, D.C. 20009-5728

Represents: American Electric Power  
Atlantic City Electric Company  
Delmarva Power & Light Company  
The Fertilizer Institute  
The Ohio Valley Coal Company **and affiliated party The American  
Coal Sales Company (Please add)  
Indianapolis Power & Light Company (Please add)  
Ohio Mining and Reclamation Association (Please add)  
[Somerset Railroad Corporation] (Please delete)**

PARTY OF RECORD  
William A. Mullins  
Troutman Sanders L.L.P.  
1300 I Street, N.W., Suite 500 East  
Washington, D.C. 20005-3314

Represents: New York State Electric & Gas  
**The Kansas City Southern Railway Company, Gateway Eastern Railway  
Company, Gateway Western Railway Company (Please add)**

PARTY OF RECORD  
Mark H. Sidman  
Weiner, Brodsky, Sidman & Kider  
1350 New York Avenue, N.W., Suite 800  
Washington, D.C. 20005-4794

Represents: Central Railroad Company of Indiana  
**[Central Railroad Company of Indianapolis] (Please delete)  
[New York & Atlantic Railway] (Please delete)**

PARTY OF RECORD  
William L. Slover  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036-3003

Represents: State of New York Department of Transportation **jointly with the State of New York Office of the Attorney General (Please add)**

PARTY OF RECORD

Robert A. Wimbish  
Rea, Cross & Auchincloss  
1920 N Street, N.W., Suite 420  
Washington, D.C. 20036

Represents: Connecticut Central Railroad  
**Eastern Shore Railroad, Inc. (Please add)**

PARTY OF RECORD

Edward Wytkind, Executive Director  
**Larry I. Willis, Esq.**  
Transportation Trades Department, AFL-CIO  
**1000 Vermont Ave., N.W., Suite 900**  
Washington, D.C. **20005**

Represents: Transportation Trades Department, AFL-CIO