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ALJ

SERVICE DATE – LATE RELEASE OCTOBER 7, 2016

SURFACE TRANSPORTATION BOARD

ORDER OF PRESIDING ADMINISTRATIVE LAW JUDGE SCHEDULING ORAL
ARGUMENTS ON MOTION TO COMPEL, MOTION FOR SANCTIONS, AND MOTION
TO STRIKE

Docket No. AB 167 (Sub-No. 1189X)

CONSOLIDATED RAIL CORPORATION—ABANDONMENT EXEMPTION—IN
HUDSON COUNTY, NJ

Docket No. AB 55 (Sub-No. 686X)

CSX TRANSPORTATION, INC.—DISCONTINUANCE OF SERVICE EXEMPTION—IN
HUDSON COUNTY, NJ

Docket No. AB 290 (Sub-No. 306X)

NORFOLK SOUTHERN RAILWAY COMPANY—DISCONTINUANCE OF SERVICE
EXEMPTION—IN HUDSON COUNTY, NJ

Decided: October 7, 2016

On September 15, 2016, the City of Jersey City, Rails to Trails Conservancy, and Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition (collectively, City et al.) filed a Motion to Compel 212 Marin Boulevard, LLC, et al., (LLCs) to Answer Interrogatories, Make Admissions, and Provide Responsive Documents to Pending Document Requests (Motion to Compel) and a Motion for Sanctions Against James Riffin for Failure to Respond to Discovery Requests (Motion for Sanctions). The Motion to Compel requests an order directing the LLCs to respond fully and completely to certain document requests. The Motion for Sanctions requests discovery sanctions against James Riffin pursuant to 49 C.F.R. § 1114.31(b) (2016).

On September 23, 2016, Consolidated Rail Corporation (Conrail) filed a reply in partial support of City et al.'s Motion for Sanctions. On September 26, 2016, James Riffin filed a reply in opposition to the Motion for Sanctions and a Motion to Strike Conrail's Reply in Partial Support of City et al.'s Motion for Sanctions (Motion to Strike). On September 26, 2016, Conrail filed a reply in opposition to James Riffin's Motion to Strike. On September 27, 2016, James Riffin filed a clarification to his Motion to Strike.

The Board has signed a Memorandum of Understanding with the Federal Energy Regulatory Commission (FERC) to employ the services of FERC administrative law judges (ALJs) on a case-by-case basis to perform discrete, Board-assigned functions such as adjudicating discovery disputes between parties in cases pending before the Board.

By a decision served on July 5, 2016, the Board assigned and authorized Administrative Law Judge John P. Dring of the FERC to entertain and rule upon discovery matters and to resolve all disputes concerning discovery in these proceedings.

Notwithstanding the scheduling of the oral arguments ordered below, the parties are strongly encouraged to make intensive, good faith efforts to resolve outstanding discovery disputes without the need for judicial intervention, both prior to the conference and thereafter. Any questions pertaining to this discovery proceeding should be direct to Judge Dring's law clerk, Carlos Clemente, who may be contacted at (202) 502-8392 or Carlos.Clemente@ferc.gov.

It is ordered:

1. Oral arguments on City, et al.'s Motion to Compel and Motion for Sanctions and James Riffin's Motion to Strike are scheduled for Monday, October 24, 2016, beginning at 10:00 a.m. in a hearing room to be designated at the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. This oral argument will be held on the record. All parties to this dispute are directed to attend.

2. This decision is effective on its service date.

By the Board, John P. Dring, Administrative Law Judge.