



and use of corporate forms can not dictate interpretation of the Interstate Commerce Act, control the Board's decision-making, or determine the Board's treatment of the instant acquisition as a Section 10901 transaction or as a Section 11323 transaction. The Unions also seek opportunity to respond to RCP&E's assertion that the statements of GWI and those of its top officers describing the holding company and carrier subsidiaries as integrated or consolidated entities, and as a conglomeration of carriers, that were relied on by the Unions in their petition to revoke the exemption, which the Unions believe are significant admissions, are somehow irrelevant to the issues before the Board. And the Unions believe it will be helpful to the Board for the Unions to briefly respond to RCP&E's claim that its use of the so-called "two step" acquisition and control transaction process and its reliance on the so-called indicia of independence test are dispositive of the issues raised by the Unions. Finally, the Unions seek to respond to RCP&E's request that the Board expedite its handling of the Unions' petition and issue a decision before RCP&E's planned start of operations on or shortly after June 1, 2014, notwithstanding the substantial issues raised in the petition to revoke.

The Unions respectfully submit that they should be granted leave to file their reply to the RCP&E reply because the issues and arguments that they seek to address include new arguments that they could not have addressed or anticipated in their petition to revoke (that the Section 10901 amendments bar the Unions' arguments, that the statements by GWI and its officers are irrelevant), mischaracterizations of their contentions that they seek to clarify (that the Unions contend that RCP&E is the alter ego of GWI and its creation was illegitimate or improper) and a request by RCP&E not previously made (since no petitions for revocation had been filed) that the Board expedite its decision on the petitions for revocation. The Unions further submit that allowing them leave to file their reply will sharpen and clarify the issues in this case. Additionally, the Unions submit that it will be helpful to the Board to have the benefit of additional brief (and to hold oral argument as requested by the Unions) because the issues in this

matter involve policy determinations and precedent developed by the Interstate Commerce Commission when the circumstances of the railroad industry were very different, the entities acquiring rail lines under Section 10901 and their corporate affiliates were very different from RCP&E and the current GWI, and the issues in dispute have not been substantively addressed by the Board in over ten years,.

For all of these reasons, the Unions respectfully request that this motion be granted and that they be allowed to file their reply in support of their petition and in response to RCP&E's reply that is submitted along with this motion.

Respectfully submitted,

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Dated: May 23, 2014

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused to be served one copy of the foregoing Motion for Leave to File a Reply in Support of Petition for Revocation of Exemption by First Class Mail, to the offices of the following:

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