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*Via E-Filing*

Ms. Cynthia T. Brown, Chief  
Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423-0012

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BUSINESS & GOVERNANCE  
Admitted in OH - Not Admitted in FL  
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**Re: Grafton & Upton Railroad Co.--Petition for Declaratory Order  
Finance Docket No. 35779**

Dear Ms. Brown:

CSX Transportation, Inc. ("CSXT") submits this letter in support of the petition for a declaratory order and request for preliminary relief filed by Grafton & Upton Railroad ("G&U") in the above captioned proceeding. As a general matter, 49 U.S.C. 10501(b) and 10907 preempt most state and local regulation of the construction or expansion of yards by railroads.

For the reasons outlined below, CSXT believes that it is important and appropriate for the Board to determine that state and local permitting and preclearance regulations relied upon by the Town of Grafton are preempted so that G&U may promptly construct additional yard tracks near the interchange with CSXT in North Grafton, Massachusetts.

In North Grafton, CSXT provides the only interchange for rail traffic moving to or from the line of G&U. The existing G&U yard at North Grafton is very small, especially in relation to the substantial growth of traffic moving to and from G&U. At the present time, it is operationally difficult, due to the lack of sufficient yard tracks and car storage space, to move cars in and out of the existing G&U facilities. As a result, the interchange of cars is sometimes delayed, resulting in complaints from customers and increased operating costs for CSXT and G&U. Furthermore, the ability of G&U and CSXT to handle additional growth and traffic, which is anticipated, will be severely limited or completely lost without additional yard tracks.

An example of an existing problem at North Grafton due to the lack of sufficient yard tracks relates to the provision of empty cars for the use of customers of G&U. CSXT

delivers empties as requested by G&U, but there is often inadequate track space at North Grafton for the empties. In these situations, CSXT may have to move the empties to another location or make them available to other interchange partners. In either case, customers of G&U are forced to wait for a new delivery of empty cars.

As explained in the petition, G&U is attempting to complete the excavation and site work at a five- acre property that it owns in North Grafton in order to construct additional yard tracks. The yard tracks are necessary to provide efficient service to existing and future customers and to facilitate the interchange of rail cars between G&U and CSXT. In addition, additional yard tracks will improve the operation of the national rail network by increasing car utilization and reducing transit times.

As explained in the petition, the Town of Grafton has taken the position that its regulations require G&U to obtain permits and preclearance prior to constructing the additional yard tracks. CSXT believes that the Board should continue to facilitate such infrastructure investment and thereby encourage rail service improvements by confirming that federal preemption applies to efforts by state and local authorities to restrict or prohibit rail transportation. The construction work undertaken by G&U is being done by the railroad on property that it owns, and there are no other facts that would call into question the applicability of the principles of preemption to the situation. This is clearly a situation involving "transportation" by a "rail carrier" to which preemption applies.

CSXT also supports the request by G&U for the entry of an interim order confirming the railroad's right to continue with the project pending a final decision on the preemption issue. As explained above and in the petition, there is an immediate need for these additional tracks. An interim order would further the objective of improved rail service and is appropriate in view of the fact that the issues now before the Board are straightforward and hopefully can be resolved promptly.

For the reasons outlined above, therefore, CSXT respectfully urges the Board to act promptly and to grant the petition, including the request for an interim order. Thank you very much for your consideration of this letter of support.

Respectfully,



Paul R. Hitchcock

cc: Parties of Record