

**Before the  
Surface Transportation Board**

**JR - 15**

**STB DOCKET NO. AB-156 (Sub-No. 27X)**

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**DELAWARE AND HUDSON RAILWAY COMPANY, INC. –  
DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION --  
IN NY, PA, NJ, MD, VA AND DC**

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Office of Proceedings  
July 13, 2015  
Part of  
Public Record

**NOTICE OF INTENT TO FILE AN OFFER OF FINANCIAL ASSISTANCE**

Filed July 13, 2015 by:

James Riffin  
P. O. Box 4044  
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(443) 414-6210

## JAMES RIFFIN'S NOTICE OF INTENT TO FILE

### AN OFFER OF FINANCIAL ASSISTANCE

1. James Riffin herewith provides his Notice of Intent to File an Offer of Financial Assistance (“OFA”) in the above entitled proceeding.

2. Normally, in a trackage rights discontinuance proceeding, the only type of OFA that may be filed, is an offer of financial assistance to subsidize operation of the line(s) for one year. See *Delaware and Hudson Railway Company, Inc. – Discontinuance of Trackage Rights Exemption – In PA and NY*, STB Docket No. AB-156 (Sub-No. 25X), Served March 30, 2005, wherein the STB explained:

“From a regulatory standpoint, when trackage rights are discontinued, a common carrier obligation remains with the line owner. Only when a full abandonment (**or discontinuance by the only party with a common carrier obligation**) is approved is a complete loss of service threatened. It is this loss of service that may be forestalled by purchase of the line, in the case of an abandonment, or by subsidy of existing operations, in the case of a discontinuance.” Bold added.

3. In this proceeding, there are a number of line segments where the Delaware and Hudson Railway Company (“D&H”) is **“the only party with a common carrier obligation.”**

### LINE SEGMENTS RIFFIN OFFERS TO ACQUIRE

4. The D&H has trackage rights between MP 1.7 (Oak Island) and MP 72.1 (Phillipsburg, NJ), on the former CNJ main line. See paragraph IV, in Exhibit B to the D&H’s Exemption.

5. On information and belief, Conrail received discontinuance authority over the CNJ main line between MP 11 (Spring Street, West End of Elizabeth Port Yard), to MP 15 (Aldene) several decades ago. Circa 1985.

6. On information and belief, Conrail connected the CNJ to the LVRR at MP 66 (a bit East of Warren Glen Road in Warren County, NJ. See NJ Map 8.), then discontinued service on the CNJ between MP 66 and MP 70.48 (Kent Street, Phillipsburg, NJ. See NJ Map 6.), several decades ago. Circa 1985. This was alluded to in Paragraph IV of the D&H's Exhibit B to its Exemption. ("The line west of Glen Gardner, NJ [See NJ Map 12.] was removed following construction of the I-78 extension near Alpha, NJ." [See NJ Map 7.]

7. On information and belief, where Conrail connected the CNJ and LVRR at MP 70.48 (Kent Street, Phillipsburg, NJ. See NJ Map 6.), Conrail began using the CNJ line exclusively between MP 70.48 (Kent Street) and MP 72.5, which is in Easton, PA. (See NJ Map 6.) After this connection between the CNJ and LVRR at MP 70.48 was made, Conrail discontinued its common carrier obligation over the former LVRR between Kent Street, in Phillipsburg, NJ, and the West end of the LVRR bridge that carried the LVRR over the Delaware River at Phillipsburg, NJ / Easton, PA, several decades ago. Circa 1985. See NJ Map 6.

**AB 167 (Sub. No. 864N)**

8. Conrail's AB 167 (Sub. No. 864N) **application was filed on October 31, 1983.**

9. **Abandonment authority was granted on July 19, 1984,** over the following segment of CNJ Main Line:

"The Raritan Valley Line from the south side of Main Street in High Bridge (approximately Milepost 52.24) to Valuation Station 3170+00 in Bethlehem Township (approximately Milepost 60.1). This line is owned by New Jersey Transit."

**AB 167 (Sub. No.931N)**

10. Conrail's AB 167 (Sub. No. 931N) **application was filed on January 21, 1986.**

11. **Abandonment authority was granted on May 1, 1986**, over the following segment of CNJ Main Line:

“The Raritan Valley Line owned by New Jersey Transit, from a point in Bloomsbury 1954 feet east of the center line of the Bloomsbury-Warren Glen Road, County Route 639 (approximately Milepost 66.53) to the projection of the Westerly side line of Market Street in Phillipsburg (approximately Milepost 72.23).”

### **LVRR LINE SEGMENT BETWEEN MP 98.0 AND MP 119.3**

12. In the April 25, 1979 Operating Agreement between the D&H and Conrail, [see Exhibit 2 of the D&H’s May 8, 2015 Reply to Riffin’s Petition to Revoke: p. 1 of 3 of Ex. A, Line Code 503A], the D&H was granted trackage rights over that portion of the Lehigh Valley Railroad’s (“**LVRR**”) Line Code 503A, that lies between Allentown, MP 93.3, and Lehigh, MP 119.1.

13. The line segment between LVRR MP 98.0 and MP 119.3 was the subject of AB 167 (Sub. No. 451N).

14. The AB 167 (Sub. No. 451N) **application was filed on November 30, 1981.**

15. **Abandonment authority was granted on March 11, 1982**, over the following segment of LVRR Main Line:

“[B]etween Catasauqua (milepost 98.0) and Leighton (sic) (milepost 119.3) in Lehigh and Carbon Counties, PA.”

16. Since Conrail abandoned its common carrier rights and obligations over the LVRR Line Code 503A, between MP 98.0 and MP 119.1, upon the discontinuance of the D&H’s trackage rights over this line segment, **“the affected line will [NOT] continue to be operated.”**

## **LVERR LINE SEGMENT BETWEEN MP 96.6 AND MP 98.0**

17. In the April 25, 1979 Operating Agreement between the D&H and Conrail, [see Exhibit 2 of the D&H's May 8, 2015 Reply to Riffin's Petition to Revoke: p. 1 of 3 of Ex. A, Line Code 503A], the D&H was granted trackage rights over that portion of the Lehigh Valley Railroad's ("**LVERR**") Line Code 503A, that lies between Allentown, MP 93.3, and Lehigh, MP 119.1.

18. The line segment between LVERR MP 96.6 and MP 98.0 was the subject of AB 167 (Sub. No. 623N).

19. The AB 167 (Sub. No. 623N) **application was filed on May 25, 1984.**

20. **Abandonment authority was granted on July 19, 1984**, over the following segment of LVERR Main Line:

“The Lehigh Secondary Track in Catasauqua from 200 feet west of the west side of Race Street Bridge, UG #96.59 (approximately Milepost 96.6), to point of prior abandonment (approximately Milepost 98.0);”

21. Since Conrail abandoned its common carrier rights and obligations over the LVERR Line Code 503A, between MP 96.6 and MP 98.0, upon the discontinuance of the D&H's trackage rights over this line segment, **“the affected line will [NOT] continue to be operated.”**

22. When Conrail received its abandonment authority over the segments described above, the only carrier left with a common carrier obligation on the CNJ segments described above, and on the Phillipsburg LVERR segment described above, and on the Allentown - Lehigh segment described above, was the D&H.

23. Consequently, if the STB were to grant the D&H authority to discontinue its trackage rights on the above segments, there would no longer be a carrier with a common carrier obligation over these segments.

24. When the last carrier on a line files to discontinue its common carrier obligations on a line, that is when the OFA remedy becomes available.

#### **LVRR LINE SEGMENT BETWEEN MP 93.3 AND MP 96.6**

25. In the April 25, 1979 Operating Agreement between the D&H and Conrail, [see Exhibit 2 of the D&H's May 8, 2015 Reply to Riffin's Petition to Revoke: p. 1 of 3 of Ex. A, Line Code 503A], the D&H was granted trackage rights over that portion of the Lehigh Valley Railroad's ("LVRR") Line Code 503A, that lies between Allentown, MP 93.3, and Lehigh, MP 119.1.

26. The line segment between LVRR MP 93.3 and MP 96.6 is the subject of AB 550 (Sub. No. 3X). See: *R.J. Corman Railroad Company / Allentown Lines, Inc. – Abandonment Exemption – In Lehigh County, PA.*, AB 550 (Sub. No. 3X), filed May 1, 2015.

**27. Abandonment authority is scheduled to be granted on August 19, 2015.**

28. Once R.J. Corman abandons its common carrier rights and obligations over the LVRR Line Code 503A, between MP 93.3 and MP 96.6, upon the discontinuance of the D&H's trackage rights over this line segment, **“the affected line will [NOT] continue to be operated.”**

29. When R.J. Corman receives its abandonment authority over the segment described above, the only carrier left with a common carrier obligation on the LVRR segment described above, will be the D&H.

30. Consequently, if the STB were to grant the D&H authority to discontinue its trackage rights on the above R.J. Corman segment, there would no longer be a carrier with a common carrier obligation over this segment.

31. When the last carrier on a line files to discontinue its common carrier obligations on a line, that is when the OFA remedy becomes available.

32. About three miles north of where R.J. Corman's tracks end, there is a Lafarge Cement manufacturing plant, located adjacent to the former Lehigh Valley RR right-of-way. The General Manager of the Lafarge Cement plant has expressed to Riffin (and to Conrail and to R.J. Corman), a desire to have rail service. (Upon information and belief, Lafarge asked R.J. Corman for rail service. R.J. Corman indicated that it would provide rail service only if Lafarge paid the cost of putting 3 miles of track back on the ground. Lafarge offered to ship a large quantity of rail cars, but refused to fund the restoration of 3 miles of track. An impasse was reached. Lafarge presently trucks its cement to distant sites.)

#### **NOTICE OF INTENT TO FILE AN OFA TO ACQUIRE AND OPERATE**

33. Consequently, Riffin gives notice of his intent to file an OFA to acquire those line segments described above.

#### **NOTICE OF INTENT TO FILE AN OFA TO SUBSIDIZE THE OPERATION OF PORTIONS OF THE D&H'S TRACKAGE RIGHTS**

34. Riffin herewith gives Notice of his Intent to Subsidize the Operation of the following Portions of the D&H's Trackage Rights:

- A. Between Oak Island, NJ and a point of interchange with the Delaware and Lackawanna, in the vicinity of Scranton, PA. Commodity: Municipal Solid Waste, in sealed containers. Quantity: Approximately 250,000 tons per year. (About 2,500 cars per year.)

- B. Between Oak Island, NJ and Buffalo, NY. Commodity: Silica. In private hopper cars. Quantity: Approximately 400,000 tons per year. (Approximately 4,000 cars per year.)
  
- C. Between Norfolk Southern's Orangeville Yard, in Baltimore, MD, and Perryville, MD (to a point one mile north of where the D&H's trackage rights leave Amtrak's NorthEast corridor in Perryville, MD). Commodity: Single-stacked Containers on flat cars. Quantity: Approximately 20,000 cars per year.
  
- D. Between Norfolk Southern's Orangeville Yard, in Baltimore, MD, and Enola (Harrisburg), PA. Commodity: Single-stacked Containers on flat cars between Baltimore and Perryville. Quantity: Approximately 20,000 cars per year. Double-stacked containers on flat cars between Perryville and Enola, PA. Quantity: Approximately 10,000 cars per year.

35. Riffin herewith demands that the D&H provide Riffin with the following 49 CFR 1152.27 (a) information:

- A. An estimate of the annual subsidy to provide the service identified in paragraph 34 above.
  
- B. The minimum purchase price for the track segments identified in paragraphs 5 through 32 above.

Respectfully,

James Riffin  
P. O. Box 4044  
Timonium, MD 21094  
(443) 414-6210

## CERTIFICATE OF SERVICE

I hereby certify that on the 13<sup>th</sup> day of July, 2015, a copy of the foregoing Notice of Intent to File an OFA, was served on the parties noted below, by E-mail, and by first class mail.

James Riffin

### E-mail:

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