

231811

LAW OFFICES OF
LOUIS E. GITOMER, LLC.

LOUIS E. GITOMER
Lou@lgraillaw.com

MELANIE B. YASBIN
Melanie@lgraillaw.com
410-296-2225

600 BALTIMORE AVENUE, SUITE 301
TOWSON, MARYLAND 21204-4022
(410) 296-2250 • (202) 466-6532
FAX (410) 332-0885

February 7, 2012

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

ENTERED
Office of Proceedings
FEB - 7 2012
Part of
Public Record

RE: **Finance Docket No. 35583, *Eastern Alabama Railway LLC v. Utilities Board of the City of Sylacauga***

Dear Ms. Brown:

The Eastern Alabama Railway LLC (“EARY”) responds to the February 7, 2012 letter of the Utilities Board of the City of Sylacauga, AL (the “Utilities Board”) to make two points.

First, the Utilities Board engendered delay in the instant proceeding by requesting a two week extension to respond to the request for declaratory order filed by EARY. EARY concurred in the extension, without being advised by the Utilities Board that it would seek an expedited schedule that would eliminate EARY’s right to discovery. Second, EARY not seek discovery concurrently with the filing of its Petition for Declaratory Order because settlement discussions were ongoing between EARY and the Utilities Board.

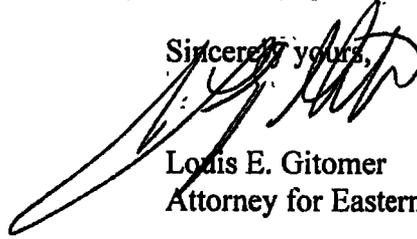
Had EARY thought that the Utilities Board would try to game the process in order to take EARY’s property without compensation, then EARY would have sought discovery at the time it filed the Petition for Declaratory Order and would have opposed any extension request sought by the Utilities Board to respond to the Petition for Declaratory Order, which did not require additional time to agree that the Board should open a proceeding and act to eliminate EARY’s right to discovery.

Ms. Cynthia T. Brown
February 7, 2012
Page 2

EARY is willing to participate in mediation or meetings under the Board's Rail Customer and Public Assistance Program in an effort to resolve the issues between EARY and the Utilities Board in an expeditious and low cost method.

Thank you for your assistance. If you have any questions please call or email me.

Sincerely yours,



Louis E. Gitomer
Attorney for Eastern Alabama Railway LLC

Cc: Sandra Brown