



Wisconsin Department of Transportation

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March 8, 2011

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

ENTERED
Office of Proceedings

MAR 8 - 2011

Part of
Public Record

**RE: STB Finance Docket No. 35455
Wisconsin Department of Transportation – Petition for Declaratory Ruling – Almena,
Cameron, Rice Lake Rail Line in Barron County, WI**

Dear Ms. Brown:

On behalf of the Wisconsin Department of Transportation, I filed a Petition for Declaratory Order, and attachments, and Petition for Fee Waiver (“Almena filing”) on December 14, 2010 in the above-entitled case, with a request for expedited consideration. I am writing now to inquire about the status of the Petition and Board response.

As background, this filing was made in response to the Board decision in State of Wisconsin Department of Transportation – Petition for Declaratory Order, STB Finance Docket No. FD35366 (STB served September 23, 2010), where the Board found that the acquisition of the rail line did not comply with the State of Maine¹ requirements for State acquisition of a rail line without assuming common carrier obligation. Specifically, the Board stated that the transaction documents allowed for WisDOT to unduly impair the carrier’s ability to provide service.

WisDOT consulted with the Board’s Office of Public Assistance, Governmental Affairs, and Compliance, and revised the transaction documents with the specific intent of complying with State of Maine (*Id.*) requirements. WisDOT then filed the instant petition seeking the

¹ Maine DOT -- Acquisition Exemption -- Maine Central Railroad Company, 8 I.C.C. 2d 835 (1991) (“State of Maine”); State of Georgia, DOT – Acquisition Exemption – Georgia Southwestern Railroad, Inc., STB Finance Docket No. 33876 (STB served July 7, 2000) (“State of Georgia”); and State of Wisconsin Department of Transportation – Petition for Declaratory Order, STB Finance Docket No. 34623 (STB served December 23, 2004) (“State of Wisconsin – Plymouth Line”); and State of Wisconsin Department of Transportation – Petition for Declaratory Order, STB Finance Docket No. 35195 (STB served April 22, 2009) (“State of Wisconsin – Kohler Line”).

Board's determination that the new transaction is not subject to Board authority because the State of Wisconsin will not, by the transaction documents, assume common carrier obligation, and will not become a railroad.

WisDOT filed a similar petition (Wisconsin Department of Transportation – Petition for Declaratory Order, STB Finance Docket No. FD 35401, “the Gibson filing”) on September 17, 2010, where we asked the Board to allow us to supplement the record with new, compliant transaction documents. We have revised these transaction documents in the same way we have revised the Almena filing transaction documents, and will file the new agreements if the Board's decision in Almena finds that they are compliant with State of Maine, and that WisDOT will not become a rail carrier by the transaction.

WisDOT is also processing two other transactions that will require a similar petition and whose transaction documents must also comply with State of Maine.

We are waiting to receive and review the Board's decision in the instant filing before we submit the amended documents in the Gibson filing and the other two transactions to avoid repeatedly filing non-compliant transaction documents. Thus the Board's decision in the instant case will directly affect the transaction documents in the Gibson filing and subsequent filings by WisDOT.

Thank you for your consideration and any information you can provide with regard to the status of this filing.

Sincerely yours,



Kathleen Chung, State Bar no. 1032802
Assistant General Counsel

cc: Mr. Lon Van Gemert, PGR

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing letter in regards to **FD35455**, by electronic mail, pursuant to 49 C.F.R. §1104.12, this 8th day March 2011, on all parties of record on the service list. I am the only Party of Record.

Kathleen Chung

Kathleen Chung, Attorney
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