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BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. FD 35582

RAIL-TERM CORP. –
PETITION FOR DECLARATORY ORDER

APPEAL

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APPEAL

The American Short Line and Regional Railroad Association (“ASLRRA”) files this appeal, pursuant to 49 C.F.R. § 1011.2(a)(7), from the February 12, 2014 decision of the Director, Office of Proceedings (“Director”), to limit ASLRRA’s participation in this proceeding to that of an amicus curiae.

In a Decision served November 19, 2013 (“*Rail-Term Decision*”), a majority of the Board found that Rail-Term Corp. (“Rail-Term”) was a rail carrier even though it does not hold itself out to be a carrier, possesses no ability to provide common carrier service, and does not meet the definition of rail carrier as that term has been historically applied by the Board and its predecessor, the Interstate Commerce Commission. Rail-Term filed a petition for

reconsideration. ASLRRA, The National Railroad Construction and Maintenance Association, Inc. (“NRC”) and the Association of American Railroads (“AAR”) filed Petition[s] to Intervene and Request[s] for an Opportunity for Public Comments on that *Decision*.

The Director in a decision served February 12, 2014 granted the petitions of AAR, ASLRRA, and NRC in part (“*Director Decision*”). The Director allowed the NRC, AAR and ASLRRA “to participate in this proceeding,” but as “amicus curiae.” *Director Decision* at 1.

Because ASLRRA members rely heavily upon the services of contractors to perform many tasks they cannot economically staff themselves, the implications of the *Decision* are of great concern to ASLRRA. Therefore, it asserts that it should be a full participant in this proceeding and should be in a position to be a full participant in any subsequent appeal to the Court of Appeals that any other party may undertake after the Board issues its final decision in this proceeding. In its appeal the NRC has set forth the legal basis for requesting full party status, and without repeating them here ASLRRA adopts and incorporates those arguments as support for its appeal. Suffice it to say that allowing ASLRRA and others party status will not unduly broaden issues or delay the proceeding.

For these reasons ASLRRA requests that the Board modify the *Director's Decision* to specify that parties filing comments are considered full participants in this proceeding.

Respectfully submitted,

A handwritten signature in cursive script that reads "Keith T. Borman".

American Short Line and Regional Railroad Association

By Keith T. Borman

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2014 I have caused to be served on all parties of record the foregoing PETITION TO INTERVENE AND REQUEST FOR AN OPPORTUNITY FOR PUBLIC COMMENTS OF THE AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION.

Keith T. Borman

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