

**BEFORE THE SURFACE TRANSPORTATION BOARD**ENTERED  
Office of Proceedings  
July 1, 2013  
Part of  
Public Record**In the Matter of:****STB Finance Docket No. 35729****ANN ARBOR RAILROAD, INC. – LEASE EXEMPTION – NORFOLK SOUTHERN  
RAILWAY COMPANY**

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**MOTION OF BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN  
FOR ACCESS TO CONFIDENTIAL INFORMATION**

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In this proceeding, Ann Arbor Railroad Company (“Ann Arbor”) has filed a Notice of Exemption from the approval requirements of 49 U.S.C. §§ 11323-11325 regarding its proposal to lease and operate two rail lines owned by Norfolk Southern Railway Company (“NSR”), in Toledo, Ohio. Pursuant to 49 CFR § 1150.43(h), Ann Arbor has filed a confidential, complete version of the Lease Agreement (“Lease”) with the Board. The Brotherhood of Locomotive Engineers and Trainmen (“BLET”) moves the Board, pursuant to 49 CFR § 1150.43(h)(2), for access to the Lease.

BLET represents locomotive engineers employed by NSR who currently run trains on these lines and who may be adversely affected by the transaction. In its Notice of Exemption, Ann Arbor makes no mention of any labor protective conditions with which it intends to comply. In order to determine whether there are grounds to file a petition to revoke the exemption under 49 U.S.C. 10502(d), BLET needs to examine the Lease to determine what arrangements, if any, have been made between the carrier parties regarding providing labor protective conditions for employees who may be adversely affected by the transaction.

Counsel for BLET has requested a copy of the Lease from counsel for Ann Arbor and offered to sign a confidentiality agreement in connection with the Lease being provided. Rather than voluntarily provide the Lease, Ann Arbor counsel referred BLET to the Board, suggesting that a motion like this one is required for BLET to obtain it.

At this time, BLET takes no position whether the exemption should be revoked.<sup>1</sup> We simply request that the Union be provided with a copy of the Lease. Pursuant to 49 CFR § 1150.43(h)(2)(ii) a draft protective order is attached and confidentiality undertaking is attached.

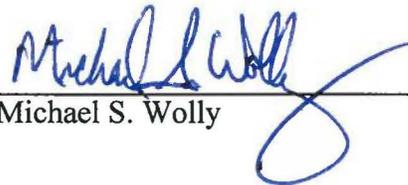
Respectfully submitted,



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#### **CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing Motion was served upon the petitioner via its counsel by email and first class mail, postage prepaid, this 1st day of July, 2013.

  
Michael S. Wolly

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<sup>1</sup> We do point out that the law requires employee protective arrangements be imposed when one carrier desires to enter into a “lease... to operate property of another rail carrier”. See 49 U.S.C. § 11326(a)(2). In its Notice, neither Ann Arbor nor NSR has acknowledged that any protective conditions are applicable to the transaction.

# ATTACHMENT A

**BEFORE THE SURFACE TRANSPORTATION BOARD**

**In the Matter of:**

**STB Finance Docket No. 35729**

**ANN ARBOR RAILROAD, INC. – LEASE EXEMPTION – NORFOLK SOUTHERN RAILWAY COMPANY**

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**PROTECTIVE ORDER ALLOWING  
BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN  
ACCESS TO CONFIDENTIAL INFORMATION**

The Brotherhood of Locomotive Engineers and Trainmen (“BLET”) represents locomotive engineers employed by the Norfolk Southern Railway Company (“NSR”) who currently run trains on the NSR lines that Ann Arbor Railroad, Inc. (“Ann Arbor”) seeks to lease and operate, as more fully described in Ann Arbor’s Verified Notice of Exemption filed in this matter.

Pursuant to 49 CFR § 1150.43(h), Ann Arbor has filed a confidential, complete version of the Lease Agreement (“Lease”) with the Board.

NSR’s locomotive engineers may be adversely affected by the transaction. BLET has filed a Motion for Access to Confidential Information pursuant to 49 CFR § 1150.43(h)(2) and has shown that it needs to examine the Lease between Ann Arbor and NSR in order to determine whether there are grounds for it to file a petition to revoke the exemption under 49 U.S.C. 10502(d). Counsel for BLET has requested a copy of the Lease from counsel for Ann Arbor and offered to sign a confidentiality agreement in connection with the Lease being provided. Rather than voluntarily provide the Lease, Ann Arbor counsel referred BLET to the Board, suggesting that a Motion for Access must be filed in order to obtain it.

There being good cause for BLET’s Motion, it is GRANTED, subject to BLET executing the confidentiality undertaking attached hereto that the Board deems sufficient to ensure that the documents are kept confidential, pursuant to 49 CFR § 1150.43(h)(2)(ii).

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For the Board

Dated: \_\_\_\_\_

## CONFIDENTIALITY UNDERTAKING

The Brotherhood of Locomotive Engineers and Trainmen (“BLET”), by the signature of its counsel below, hereby undertakes to preserve the confidentiality of the Lease Agreement (“Lease”) between Ann Arbor Railroad, Inc., (“Ann Arbor”) and Norfolk Southern Railway Company (“NSR”) governing Ann Arbor’s lease and operation of NSR’s rail lines that is the subject of Surface Transportation Board proceedings in Finance Docket No. 35729 and which it is being provided pursuant to Order of the Board.

BLET agrees that it will limit access to the Lease to BLET’s officers, including the General Chairman of the General Committee of Adjustment responsible for representing NSR locomotive engineers on a day-to-day basis, staff handling this matter, and counsel and will not share the Lease with any other person or entity without first obtaining the written permission of Ann Arbor and NSR to do so.

BLET further agrees that should it be served with a subpoena or Order issued by any court, administrative agency, or other governmental entity, demanding or requiring production of the Lease, it will promptly notify Ann Arbor and NSR so that either or both may take whatever action it/they see fit to protect the Lease from disclosure.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_  
Phone number

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**ENTRY OF APPEARANCE**

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Please enter my appearance as counsel for the Brotherhood of Locomotive Engineers and  
Trainmen.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing Entry of Appearance was served upon the  
petitioner via its counsel by email and first class mail, postage prepaid, this 1st day of July, 2013.



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Michael S. Wolly