

209836

LAW OFFICES  
**REA, CROSS & AUCHINCLOSS**  
SUITE 570

1707 L STREET, N.W.  
WASHINGTON, D. C. 20036  
(202) 785-3700  
FACSIMILE: (202) 659-4934

THOMAS M. AUCHINCLOSS, JR.  
LEO C. FRANEY  
KEITH G. O'BRIEN  
BRYCE REA, JR.  
BRIAN L. TROLANO

DONALD E. CROSS (1923-1986)

January 12, 2004

Hon. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423-0001

Re: STB Docket No. AB-842X  
Almono LP – Abandonment Exemption –  
In Allegheny County, PA



ENTERED  
Office of Proceedings

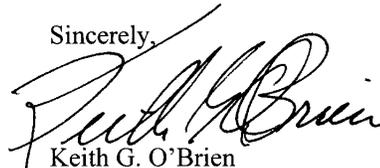
JAN 12 2004

Part of  
Public Record

Dear Secretary Williams:

Attached for filing in the above referenced proceeding is the original and ten copies of a Motion To Intervene that is submitted on behalf of Allegheny Valley Railroad Company. Because of time constraints the original of the verification is being forwarded by mail and will be supplied to the Board upon request.

Sincerely,

  
Keith G. O'Brien  
Counsel for: Allegheny Valley  
Railroad Company

209836

BEFORE THE  
SURFACE TRANSPORTATION BOARD



DOCKET NO. AB-842X  
ALMONO LP – ABANDONMENT EXEMPTION –  
IN ALLEGHENY COUNTY, PA

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MOTION FOR LEAVE TO INTERVENE

Keith G. O'Brien  
Rea, Cross & Auchincloss  
1707 L Street, N.W.  
Suite 570  
Washington, DC 20036  
(202) 785-3700

Counsel for: Allegheny Valley  
Railroad Company

DATED: January 12, 2004

ORIGINAL

BEFORE THE  
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-842X  
ALMONO LP – ABANDONMENT EXEMPTION –  
IN ALLEGHENY COUNTY, PA



MOTION FOR LEAVE TO INTERVENE

Allegheny Valley Railroad Company (“AVR”) seeks leave to intervene in the proceeding solely for purpose of urging the Surface Transportation Board (“STB or Board”) to deny the exemption from 49 U.S.C. 10904 [offer of financial assistance (“OFA”) procedures] sought by Almono LP (“Almono”) in connection with its petition under 49 U.S.C. 10502 for exemption from the provision of 49 U.S.C. 10903 to abandon its entire line of railroad extending between the plant of shipper MetalTech on the north side of the Monongahela River and an interchange point with CSX Transportation Inc., (“CSXT”) north of CSXT’s Glenwood Yard in Hazelwood, Allegheny County, PA, a distance of approximately 2 miles (the subject line). In support of its urgent request AVR submits the following.

On December 23, 2003 AVR commenced operations over the connecting line over which all of the traffic handled on the involved line currently moves.<sup>1</sup> The traffic moving to and from MetalTech, the active shipper on the line proposed for abandonment, comprises a substantial percentage of the traffic moving over AVR’s leased line and is of

<sup>1</sup> See Allegheny Valley Railroad Company- Lease, Operation and Trackage rights exemption – lines of CSX Transportation, Inc., STB Finance Docket No. 34431 served November 26, 2003.

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considerable importance to the viability of AVR's operations and to shippers served directly on that line.

During the last quarter of 2003, the operations of MetalTech were modified to facilitate acceptance of inbound rail traffic. MetalTech acquires coils from steel mills, galvanizes them, and ships them to buyers. AVR projects that sixty (60) percent of MetalTech's inbound coils will be shipped by rail. This will amount to 2,400 inbound carloads over and above previous traffic levels. Further, AVR has been advised that MetalTech is about to be sold to Berkshire Hathaway Group and that settlement is anticipated on or about January 14, 2004. It is expected that the new owner will be interested in access to the rail system and to continued availability of responsive rail service. In addition AVR has just determined that Lindy Paving, another shipper served by the subject line, is very much interested in availing itself of rail service and in continued access to the rail system.<sup>2</sup>

Because of the vital importance of assuring that rail oriented traffic can continue to move over the subject line AVR has resolved to acquire the line pursuant to an offer of financial assistance. As evidence of that commitment AVR has formally requested Almono to provide information essential to formulation of an appropriate offer of financial assistance in accordance with the provisions of 49 C.F.R. 1152.27 (a)<sup>3</sup>.

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<sup>2</sup> See copy of memorandum of Daniel J. McCurdy, Sales and Marketing Manager for AVR dated January 12, 2004, attached as Exhibit 1.

<sup>3</sup> Copy of formal request for information pursuant to 49 C.F.R. 1157.27 (a) attached as Exhibit No. 2.

AVR is aware that Almono has indicated that it would allow private rail service to the currently active shipper. However such private service would be subject to cessation on short notice at any time depending upon progression of redevelopment plans.<sup>4</sup>

As stated in the request for information for purposes of an offer to acquire the entire line, AVR is committed to work out mutually acceptable arrangements with MetalTech that will assure that it will continue to receive responsive rail service on terms at least as attractive as those described for purposes of temporary private carriage. AVR is also very interested in working with other shippers on the subject line in the interest of making responsive rail service readily accessible. Further AVR is willing to cooperate fully with Almono in progressing any redevelopment plans that would not interfere with continued rail operations over the subject line.

AVR submits that its proposed acquisition of the subject line in accordance with financial assistance procedures established by 49 U.S.C. 10904 is in accordance with national transportation policy objectives to ensure the development and continuation of a sound rail transportation system.<sup>5</sup>

AVR further submits that it should be permitted to intervene in these proceedings as a vitally interested party and urges the Board to deny the request for an exemption

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<sup>4</sup> See Almono Petition for Exemption, p. 5.

<sup>5</sup> 49 U.S.C. 10101 (4).

from offer of financial assistance provisions of 49 U.S.C. 10904 in order that it may submit an appropriate offer to acquire the subject line in the interest of all concerned.

Respectfully submitted,



Keith G. O'Brien  
Rea, Cross & Auchincloss  
1707 L Street, N.W.  
Suite 570  
Washington, DC 20036  
(202) 785-3700

Counsel for: Allegheny Valley  
Railroad Company

DATED: January 12, 2004

VERIFICATION

I, Russell A. Peterson, verify under penalty of perjury that the foregoing representations concerning the intentions and commitments of Allegheny Valley Railroad Company are true and correct. Further, I certify that I am qualified and authorized to file this Motion For Leave To Intervene and supporting representations.

Executed on January 12, 2004

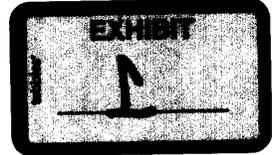
A handwritten signature in cursive script that reads "Russell A. Peterson". The signature is written in black ink and is positioned above a horizontal line.

Russell A. Peterson  
President - Allegheny Valley Railroad Company

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Motion For Leave To Intervene on all parties of record on this the 12<sup>th</sup> day of January, 2004, by First Class U.S. Mail postage paid.

  
Keith G. O'Brien



## **CARLOAD EXPRESS INC.**

Southwest Pa. - Allegheny Valley - Camp Chase Railroads  
25 South Broadway Scottdale, PA 15683  
412-426-4600 office - 412-215-9700 cell - 412-426-4000 fax  
[danmccurdy@carloadexpress.com](mailto:danmccurdy@carloadexpress.com)

1/12/04

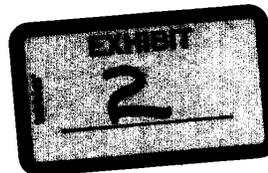
To whom it may concern,

My name is Daniel J. McCurdy, and I am the Sales & Marketing Manager for the Allegheny Valley Railroad. I called on Lindy Paving and spoke to Paul Reiner (Senior Plant Manager) this morning. Lindy Paving has a side track coming off of the Almonoh LP rail line. Mr. Reiner stated to me that they were interested in receiving asphalt and brown sand by rail. AVR is going to explore several different options to save Lindy Paving money on all of their inbound materials.

Sincerely



Daniel J. McCurdy



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BRIAN L. TROIANO

DONALD E. CROSS (1923-1986)

January 9, 2004

Robert D. Rosenberg, Esq.  
Slover & Loftus  
1224 Seventeenth Street, NW  
Washington, D.C. 20036

Re: STB Docket No. AB-842X  
Almono LP – Abandonment Exemption –  
In Allegheny County, PA.

Dear Mr. Rosenberg:

Allegheny Valley Railroad Company, 25 South Broadway, Scottdale, PA 25683 (“AVR”) intends to submit an offer of financial assistance to assure continuation of rail service over the entire line described in the petition for exemption in the above docket in accordance with the requirements set forth in 49 C.F.R. 1152.27(a). For purpose of an appropriate offer to acquire the line AVR hereby requests Petitioner Almono LP (“Almono”) to promptly provide the following information:

1. Almono’s estimate of the minimum purchase price required to keep the entire line in operation.
2. The most recent reports on the physical condition of the involved line.
3. Almono’s estimate of the net liquidation value of the line with supporting data reflecting available real estate appraisals,

assessments of the quality and quantity of track material on the line and removal cost estimates (including the cost of transporting removed materials to point of sale or point of storage for relay use).

4. Documentation to show the extent to which Almono has marketable fee title on the rail line right-of-way as contrasted to easements or other interests that would revert to others of the line were not being used for railroad purposes. Such documentation of title is deemed necessary to determine whether and to what extent rail line real estate should be considered for net liquidation value purposes. 49 C.F.R. § 1152.27 (a) (3).
5. Valuation maps for the rail line including any deed indices that appear on the accompanying maps. Such maps are essential to verification as to the quality of land included on the rail line. As such the information requested is deemed included within the meaning of 49 C.F.R. § 1157.27 (a) (3).
6. Any other information deemed relevant to appropriate valuation of the line for purposes of acquisition pursuant to an offer of financial assistance.

On December 23, 2003, AVR commenced operations over the connecting line over which all of the rail traffic handled on the involved line currently moves.<sup>1</sup> The traffic moving to and from the shipper comprises a substantial percentages of the traffic moving over the AVR's leased line and this is of considerable importance to continued

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<sup>1</sup> See Allegheny Valley Railroad Company, Lease, Operation and Trackage Rights Exemption -- Lines of CSX Transportation, Inc. STB Finance Docket No. 34431 served November 26, 2003.

viability of AVR's operations and to shippers served directly on that line. Because of the vital importance of assuring that railroad traffic can continue to mover over the subject line AVR has determined to acquire the line pursuant to an appropriate offer of financial assistance.

AVR is aware that Almono has requested the Board to waive offer of financial assistance procedures to facilitate plans for redevelopment involving the right-of-way and that it has indicated that it will allow private rail service to the involved shippers. However, such private rail service would be subject to cessation on short notice at any time depending upon progression of redevelopment plans.

AVR is committed to work out mutually acceptable arrangements with the involved shipper that will assure that it will continue to receive responsive rail service on terms at least as attractive as those described for purposes of temporary private carriage. Moreover, AVR will be willing to cooperate fully with Almono in progressing any redevelopment plans that would not interfere with continued rail operations over the involved line. In the circumstances AVR feels strongly that a waiver of offer of financial assistance procedures would not be in the best interests of responsive rail service.

AVR looks forward to receiving the requested information.

Sincerely,



Keith G. O'Brien  
Attorney for Allegheny Valley Railroad  
Company

cc: Mr. Vernon A. Williams, Secretary  
Surface Transportation Board