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February 25, 2005

By Courier

Ellen D. Hanson
General Counsel
Room 610
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings

FEB 25 2005

Part of
Public Record



Re: CSX Transportation, Inc. -- Petition for Declaratory Order, Finance Docket No. 34662

Dear Ms. Hanson:

On behalf of our client, CSX Transportation, Inc. ("CSXT"), Petitioner in the above-referenced proceeding, we wish to inform the Board of a development that might bear on the Board's consideration of CSXT's Petition for Declaratory Order. Specifically, there was a hearing yesterday afternoon before the Honorable Emmet G. Sullivan in the United States District Court for the District of Columbia in CSX Transportation, Inc. v. Williams et al., Civ. No. 1:05-cv-338, an action in which CSXT seeks to have the Court enjoin enforcement of the same District of Columbia ordinance that is the subject of the Petition for Declaratory Order in Finance Docket No. 34662 on several grounds, including on the ground that the ordinance is preempted by the Interstate Commerce Commission Termination Act of 1995.

During the course of the hearing, the District committed that it would not seek to enforce the ordinance before April 11, 2005. The Court then set March 8, 2005, as the date for the filing of dispositive motions and March 23, 2005, as the date for the hearing on CSXT's Motion for a Preliminary Injunction. (Previously, when the case was assigned to Judge Huvelle, a hearing date of March 9, 2005 had been established.)

Also during the course of the hearing, there was some discussion of the pendency of the Declaratory Order proceeding before the Board, and Judge Sullivan inquired as to when the Board was likely to rule on the matter. When he was informed that CSXT had requested expedited handling of the Petition but that we were not in a position to know when the Board

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might issue its ruling, Judge Sullivan indicated that the Court is interested in the Board's decision and that the Court looks forward to reviewing it when it has been issued. (In these circumstances, of course, the District's citation to Green Mountain Railroad Corporation – Petition for Declaratory Order, Fin. Docket No. 34052 (May 24, 2002), as supporting the District's suggestion that the Board should not consider CSXT's Petition is wholly unavailing.)

Copies of this letter are being served upon all Parties of Record to Fin. Docket No. 34662.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Paul Moates", with a long horizontal line extending to the right.

G. Paul Moates