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RICHARD A. ALLEN

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APR 24 2006

April 24, 2006

Part of  
Public Record

**BY HAND**

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, D.C. 20423-0001

216349



Re: Norfolk Southern Railway Company – Control and Consolidation  
Exemption – Algers, Winslow and Western Railway Company,  
STB Finance Docket No. 34839.

Dear Secretary Williams:

I am writing in response to a letter dated April 21, 2006 submitted to the Board by Mr. Louis Gitomer, counsel to Indiana Southern Railroad, Inc. (“ISRR”), regarding the rebuttal filed by Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively “NS”) on April 11, 2006 to replies filed by ISRR and others to NS’ petition for exemption in this proceeding.

Mr. Gitomer asks the Board to establish a procedural schedule providing for discovery and further replies to NS’ rebuttal, but he provides no more basis for this than the same general and unsupported allegations made in similar letters dated April 12 and April 14, 2006 by counsel for Indianapolis Power & Light Company and PSI Energy, Inc. The points made in my response of April 17, 2006 to those earlier letters apply as well to Mr. Gitomer’s letter. Although Mr. Gitomer also states that “NS appears to be inconsistent as to the level of control it has exerted over AWW depending on the issue being argued, despite lacking authorized control of AWW,” he does not identify any inconsistencies in NS’ statements on that matter, and there have been none. Adding this baseless claim to the other baseless claims in ISRR’s reply to NS’ petition does not add up to raising a substantial issue.

None of the protesting parties, either in their lengthy replies to NS’ petition or in their subsequent letters, has provided any substantial ground why the Board should not now find that “the criteria in 49 U.S.C. 10502 are met for the proposed exemption” and, pursuant to 49 C.F.R. § 1121.4(b), promptly issue the exemption and publish notice of the exemption in the Federal

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Register. Permitting further replies and discovery would only defeat the purposes of 49 U.S.C. 10502 in this case.

Sincerely,

A handwritten signature in black ink that reads "Richard A. Allen". The signature is written in a cursive style with a large initial "R" and "A".

Richard A. Allen

Encl.

cc: (w/encl.) All parties of record