

CNJ Rail Corporation

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March 24, 2008

The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-000 1

Re: STB Ex Parte No. 677 - Common Carrier Obligation of Railroads

Dear Acting Secretary Quinlan:

Enclosed for filing in the above-captioned matter, please find CNJ Rail Corporation's notice of intent to participate in the public hearing scheduled for April 24, 2008.

Thank you for your assistance.

Sincerely,

Eric S. Strohmeyer /s/

Eric S. Strohmeyer
Vice President, COO
CNJ Rail Corporation

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Ex Parte No. 677
COMMON CARRIER OBLIGATION OF RAILROADS

CNJ RAIL CORPORATION
NOTICE OF INTENT TO PARTICIPATE
AT ORAL ARGUMENT HEARING

Pursuant to the Notice of the Surface Transportation Board, served February 22, 2008, CNJ Rail Corporation (“CNJ”) hereby files notice of its intent to participate in the Board’s public hearing regarding issues related to the common carrier obligations of railroads by speaking at the hearing scheduled for April 24, 2008 and submitting written testimony in advance thereof.

CNJ is grateful for the opportunity to address these issues of a common carrier’s obligations with the Board.

Speaking on behalf of CNJ will be Mr. Eric S. Strohmeier, Vice President and Chief Operating Officer, whose contact information is CNJ Rail Corporation, 833 Carnoustie Drive, Bridgewater, NJ 08807, Tel. (908) 361 - 2435.

There are three issues that CNJ would like to present testimony on. CNJ believes its testimony will add to the Board’s discussions and conclusions regarding the obligations of common carrier railroads to provide service on reasonable demand. Pursuant to the Board’s Notice, CNJ herein outlines the subject matter it would like to discuss at the upcoming Oral Argument / Hearing.

Issue # 1: *What constitutes a refusal of service ?*

The first issue CNJ would like to discuss with the Board is; *What constitutes a refusal of service ?*

The question is very relevant to the Board's inquiry. CNJ is involved in no less than a half dozen cases formerly, currently, or soon to be before the Board. CNJ is working actively with shippers in Maryland, Mississippi, and New Jersey all of whom have experienced a **Class 1 railroad's** refusal to provide service to their respective facilities. In examining this issue of a carrier's obligation, CNJ would like to present testimony to help the Board better understand and define what constitutes a refusal of service.

In our written testimony, CNJ will outline a series of very specific, highly detailed cases of Class I railroad's refusing to provide service. Our oral testimony will summarize those cases and present some ideas that we feel the Board should consider as it debates various solutions to the questions that it has raised in this proceeding.

Issue # 2: Is a carrier obligated to follow the STB's rules?

At first glance, this question would appear to reach beyond the scope of the STB's inquiry in this proceeding. CNJ would argue to the contrary. It is absolutely relevant to this proceeding.

In our written testimony, CNJ will outline a series of very specific, highly detailed cases of Class I railroad's total failure to follow STB regulations. The cases range from acts of omissions, incorrect reliance on previous exceptions to the rules, to some cases where there is a blatant disregard for this Board's rules and procedures. Our oral testimony will summarize those cases and present some solutions that we feel the Board should consider as it debates various solutions to the questions that it has raised in this proceeding.

It should be noted that many of the service issues that CNJ will be raising actually stem from the Class I railroad's failure to follow the rules.

Issue # 3: Is a carrier's obligation limited to only the movement of freight?

In cases in Colorado and Mississippi, CNJ has helped identify non-conventional (passenger) markets for railroad services. The Board's inquiry in this proceeding clearly appears to be focused solely on freight service issues. CNJ, however, would like to conclude its presentation by briefly presenting testimony that would demonstrate the significant financial benefit to freight carriers who voluntarily chose to tap into these markets. However, once a carrier provides a service for a new or emerging market, what are a carrier's present and future responsibilities? CNJ looks forward to addressing this issue in detail in both our written testimony and at the oral argument hearing.

Time Requested

CNJ requests 15 minutes to summarize CNJ's written testimony and the unique (and, yes, sometimes controversial¹) rail service issues that have been, or will be, raised in various proceedings, as well as to respond to any questions the Board may have. Our time allotment proposed is based on the following requested schedule:

- 1 Minute - CNJ Rail counsel's opening remarks
- 6 Minutes - Mr. Strohmeyer's summary of written testimony on Issue # 1
- 5 Minutes - Mr. Strohmeyer's summary of written testimony on Issue # 2
- 3 Minutes - Mr. Strohmeyer's summary of written testimony on Issue # 3

Appearance of Counsel

CNJ Rail's counsel will enter his appearance on behalf of the corporation in this proceeding prior to the submission of written testimony.

On Behalf of CNJ Rail Corporation,

Respectfully Submitted ,

Eric S. Strohmeyer /s/

Eric S Strohmeyer
Vice President, COO
CNJ Rail Corporation

Dated: March 24, 2008

¹ Some might be inclined to add the adjective *highly* before the word controversial