

DOUGLAS M. CANTER
JOHN M. CUTLER, JR.
ANDREW P. GOLDSTEIN
GARRY S. GROSSMAN
JEFFREY S. JACOBOVITZ
STEVEN J. KALISH
SUSAN J. KING
RICHARD D. LIEBERMAN
CHANNING D. STROTHER, JR.

LISA S. NOVINS
GABRIEL D. SOLL

LAW OFFICES
MCCARTHY, SWEENEY & HARKAWAY, P.C.
SUITE 700
1825 K STREET, N.W.
WASHINGTON, D.C. 20006
(202) 775-5560

FACSIMILE
(202) 775-5574
E-MAIL
AGOLDSTEIN@MSHPC.COM
WEBSITE
HTTP://WWW.MSHPC.COM

September 24, 2010

Hon. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, SW
Washington DC 20423

Re: Finance Docket No. 35348, CSX Transportation, Inc. and Delaware & Hudson
Railway Company, Inc. Joint Use Agreement

Dear Ms. Brown,

This letter is submitted pursuant to 49 C.F.R. §1117.1 on behalf of the
Ogdensburg Bridge and Port Authority (“Authority”), a public interest corporation
formed and operated pursuant to the laws of the State of New York. OBPA owns 30
miles of rail line between Ogdensburg, N.Y. and Norwood Junction, N.Y., where it
connects with CSX Transportation, Inc. (“CSXT”). Norwood Junction is a point on what
has been identified in the Application as the Massena Line. The Norwood Junction-
Ogdensburg Line is leased to and operated by New York and Ogdensburg Railroad
(“NYOR”) for a term of years expiring in 2018.

In 2009, some 1200 carloads of freight moved over the Authority line between
Norwood Junction and Ogdensburg, including local carloads. By far the most important

use of the line, obviously, is its connection to the Port of Ogdensburg on the St. Lawrence Seaway. The Authority operates a bulk transloading facility at Ogdensburg, where freight is transferred from railcars to storage and thereafter to trucks that cross into Canada over the international bridge between New York and the Province of Quebec. These are shipments for which no transloading facilities are available at Norwood Junction. The Authority also operates a small airport. It is charged with the mission of developing business and related infrastructure in the Ogdensburg area.

Commodities that move via NYOR include grain, chemicals, latex, and polymers. If the temperature of the latex in freight cars drops below freezing for an extended period of time the commodity becomes difficult to unload. At present, when latex cars arrive at Ogdensburg they are immediately attached to a warming device. The Authority believes that no such devices are available on CSX at Norwood Junction.

At present, there is daily service over the Massena Line by CSX. App. at 19. The applicants propose to replace that service with “a shuttle train service between Syracuse and Massena on a 2 to 3 days per week basis.” Ibid. The application also states that “[l]ocal trains that currently serve customers along the Massena Line will continue to operate as they do today.” Ibid. The application thereby draws a distinction between “shuttle” trains—which the Authority takes to mean trains that operate between the termini of the line—and “local” trains which will continue to “serve customers along the Massena line.” The application is silent about service to non-customers, such as connecting short lines. If interchange between CSX and NYOR at Norwood Junction is diluted, NYOR will experience a deterioration in its own service and the Authority will experience a deterioration in value of its Port facilities. Despite its proposed service reductions, the applicants assert that “the transaction will not generate any anticompetitive effects or threaten the viability of any other rail carrier.” App. at 21.

The Authority is aware that the date for submitting evidence on the merits has passed and it does not desire to cause any unnecessary delays in this proceeding by setting forth the reasons why it has not filed before now and seeking leave to become a party at this time. Instead, the Authority, a small organization without experienced STB transportation professionals, seeks leave of the Board to make only one request: that the Board retain jurisdiction and establish oversight of the Applicant's adherence to the various representations they have made over the course of this proceeding, in particular their claim that the transaction will not threaten the viability of any other carriers. This requested condition is no different than one of the conditions requested by the State of New York and consideration of the Authority's request should not broaden any issue already in this proceeding.

The Authority apologizes to the Board for this late filing and hopes that the Board will consider the authority's request for a condition.

Respectfully submitted,



Andrew P. Goldstein
Attorney for Ogdensburg Bridge and
Port Authority

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing communication has been served this 24th day of September on all Parties of Record by first class mail postage prepaid.



Andrew P. Goldstein

