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Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20024

ENTERED
Office of Proceedings

MAR 22 2010

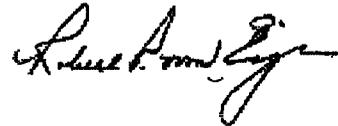
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Public Record

Re: STB Docket No. NOR-42117
Cargill, Inc. et al. v. Aberdeen and Rockfish Railroad, et al.;
Reply to Motion To Stay On Behalf Of Cedar Rapids And Iowa City Railway Company

Dear Ms. Brown:

Enclosed for filing please find the Reply to Motion to Stay on Behalf of Cedar Rapids and Iowa City Railway Company, and the attached Verified Statement of Kevin P. Burke.

Sincerely yours,



Robert P. vom Eigen

Enclosure

cc: All parties on attached Certificate of Service

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BEFORE THE
SURFACE TRANSPORTATION BOARD

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CARGILL, INC., *et al.*

Complainants

v.

ABERDEEN AND ROCKFISH RAILROAD
COMPANY, *et al.*

Defendants

Docket No. NOR-42117

**REPLY TO MOTION TO STAY ON BEHALF OF
CEDAR RAPIDS AND IOWA CITY RAILWAY COMPANY**

Cedar Rapids and Iowa City Railway Company ("CRANDIC") is a Class III railroad with operating revenues of less than \$25 million, with 50 miles of mainline track and with a total of **\$847.34** in revenue of mileage equalization payments under Freight Tariff RIC 6007-Series during the period of January 1, 2006 and June 30, 2008 from **all shippers** located on its lines. *See* Verified Statement of Kevin P. Burke at ¶ 2 and ¶3 ("Burke VS"). CRANDIC's Vice President and General Manager does not believe the company has received any payments alleged by complainants to be unreasonable for empty movements to repair facilities of tank cars of named complainants. *Id.* at ¶4.

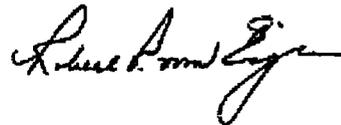
CRANDIC should be dismissed from this proceeding, but negotiations with counsel for complainants and the AAR Defendants have not resulted in an agreement to achieve that result. Therefore, CRANDIC supports the procedure outlined in complainants' Motion to Stay. CRANDIC has already incurred expenses well beyond any possible recovery that could be

awarded against it in this case, and it should be dismissed from the proceeding. CRANDIC has agreed to return any revenues that it has received as a result of practices that are found by the Board to have been unreasonable. *Id.* at ¶5. If dismissal is not possible, then the procedure adopted as a result of the pending Motion to Strike should place a heavy burden of proof upon any party seeking to terminate the stay as applied to CRANDIC and similarly situated defendants.

The Board should protect small entities with little or no financial stake in these proceedings against the claims by the principal parties that they would be prejudiced by the dismissal of these entities. CRANDIC cannot afford to defend these claims, and should not be forced to do so.

Therefore, CRANDIC respectfully requests that it be dismissed from these proceedings, or should that not be possible, that the procedure proposed in the pending Motion to Strike be adopted without lowering the threshold for terminating the stay applicable to parties that execute the Undertaking attached to the Motion.

Respectfully submitted,



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Counsel for Cedar Rapids and Iowa City
Railway Company

Filed: March 22, 2010

3. CRANDIC has been named as a defendant in this proceeding by virtue of the fact that it serves the Cargill facility located in Cedar Rapids. CRANDIC transports tank cars originating at the facility as an interline carrier in conjunction with CN and IAIS. I have contacted Railinc to determine the revenues earned during the period beginning in 2006 to the present for mileage equalization payments under Freight Tariff RIC 6007-Series in connection with tank car movements involving all shippers. Since there have been no payments made for the period after June 30, 2008, we have data only for 2006, 2007 and the first six months of 2008. During those years, CRANDIC has received: for 2006 - \$0; for 2007 - \$0 and for the first six months of 2008 - \$847.34.

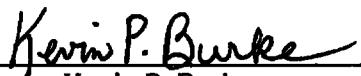
4. To my knowledge CRANDIC has not moved Cargill's tank cars to repair shops other than via reciprocal switching, and therefore it has not received payments alleged by complainants to be unreasonable.

5. With virtually no financial stake in this proceeding, CRANDIC believes it unreasonable for it to be forced to remain an active participant in these proceedings, and to incur legal fees because the principal parties to the proceeding cannot agree upon a basis for permitting CRANDIC and similarly situated defendants to be dismissed. We also believe it would be unreasonable to be required by any party to rejoin the proceeding without that party first receiving permission from the Board to do so based upon a showing that continuation of the stay would seriously prejudice its interests. Therefore, CRANDIC supports complainants' Motion to Stay. If revenue CRANDIC has received is determined by the Board to have been generated by an unreasonable practices, CRANDIC will of course return it.

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VERIFICATION

I, Kevin P. Burke, declare under penalty of perjury that the foregoing verified statement is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on March 17, 2010.


Kevin P. Burke

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2010 a copy of the foregoing Reply to Motion to Stay was served by e-mail and first-class, U.S. mail, postage prepaid, upon the following:

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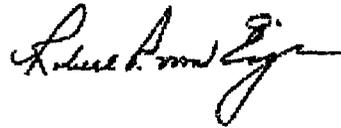
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