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SEP 27 2010  
RE

September 27, 2010

VIA HEND-DELIVERY

Cynthia T. Brown  
Surface Transportation board  
395 E Street, S.W.  
Washington, DC 20423

ENTERED  
Office of Proceedings

SEP 27 2010

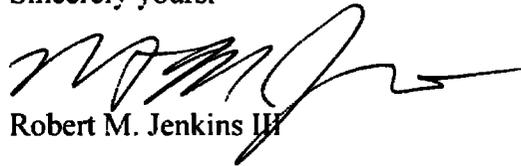
Part of  
Public Record

Re: Ex Parte 695 -- Consolidated Rail Corporation's  
Sales and Discontinuances

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of "Consolidated Rail Corporation's Report Regarding Line Sales and Discontinuances Since January 1, 1996." Please date stamp the extra copy of the filing and return it to our representative. Thank you.

Sincerely yours.



Robert M. Jenkins III

RMJ/bs

Enclosures

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**EX PARTE NO. 695**

**CONSOLIDATED RAIL CORPORATION'S  
SALES AND DISCONTINUANCES**

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**CONSOLIDATED RAIL CORPORATION'S  
REPORT REGARDING LINE SALES AND DISCONTINUANCES  
SINCE JANUARY 1, 1996**

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By decision served May 17, 2010, the Board ordered Consolidated Rail Corporation (“Conrail”) to produce a report on August 16 disclosing any line or partial lines sales and discontinuances of service since January 1, 1996, for which no Board authority was sought, as well as an explanation of why Board authority was not sought. In a decision served August 13, 2010, the Board granted Conrail’s request to extend the due date for its report to September 27, 2010.

Conrail worked diligently to comply with the Board’s order under difficult circumstances. Conrail has made over six hundred property sales since January 1, 1996. A significant percentage of those sales took place during the three-year period in the late 1990’s when Conrail was sold and largely divided between CSX Transportation, Inc. (“CSXT”) and Norfolk Southern Railway (“NS”). Many of the records of these and other sales from that era are not computerized, or are computerized in formats that have been superseded and are not easily accessed. Many of the records were in storage at several different locations, including at CSXT and NS facilities. Once the records were retrieved, hand searches were often required to determine what kind of sale was involved. Frequently, it was necessary to cross-check the records retrieved against other records, and a variety of materials—including, for instance, deeds,

valuation maps, closing reports, and regulatory filings—were consulted to ascertain the terms of the transactions, the nature of the property at issue, and whether abandonment authority was obtained when necessary.

The property sales fell into a number of different categories. Most did not involve jurisdictional track. Many were sales of parcels adjacent to rail lines that did not involve track at all. Often the sales were of easements for crossings, pipelines, sewer, or other projects that did not interfere with rail service. Sometimes the parcels involved track that was disconnected from the rail system by a prior, authorized abandonment. Sometimes the parcels involved yard, spur, or side track. Where jurisdictional track was involved, Conrail established in its review either (a) that ICC or STB abandonment authorization was obtained before the sale, (b) that the sale was to another railroad for freight service, and accordingly no discontinuance or abandonment authorization was required, or (c) Conrail retained a freight easement that gave it continued control over freight operations on the line, so that no discontinuance or abandonment was involved. The only exception was the parcels on the “Lehigh Valley Main Line” that Conrail previously discussed in its Comments filed July 1, 2010, in this proceeding. In Docket No. AB 167 (Sub-No. 1190X), *Consolidated Rail Corp.—Abandonment Exemption—In Hudson County, NJ* (served May 17, 2010), the Board exempted that entire line from the requirements of 49 U.S.C. § 10904.<sup>1</sup>

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<sup>1</sup> Conrail is also not reporting here the parcels that it sold on the “Harsimus Branch,” which were the subject of the Board’s proceedings in Docket No. AB 167 (Sub-No. 1189X), *Consolidated Rail Corp.—Abandonment Exemption—In Hudson County, NJ* (served Aug. 9 and Dec. 19, 2007). On appeal, the United States Court of Appeals for the District of Columbia Circuit vacated the Board’s decisions holding that those parcels were part of a line of railroad requiring abandonment authority. *Consolidated Rail Corp. v. STB*, 571 F.3d 13 (D.C. Cir. 2009). By decision served April 20, 2010, in Docket No. AB 167 (Sub-No. 1189X), the Board held Conrail’s petition for an abandonment exemption regarding those parcels in abeyance while the

In sum, after an extensive search, with the exception of the Lehigh Valley Main, Conrail found no line or partial lines sales or discontinuances of service since January 1, 1996, for which Board authority was required and was not sought and obtained.

Respectfully submitted,

John K. Enright  
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Dated: September 27, 2010

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United States District Court for the District of Columbia, acting as the Special Court, addresses the underlying question of the nature of the trackage involved.