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BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings

OCT - 7 2010

Part of
Public Record

DOCKET NO. AB-254 (SUB-NO.10)

PROVIDENCE AND WORCESTER RAILROAD COMPANY – ADVERSE
ABANDONMENT – TRACK OF HOUSATONIC RAILROAD COMPANY IN
FAIRFIELD AND NEW HAVEN COUNTIES, CONNECTICUT

HOUSATONIC RAILROAD COMPANY
REPLY TO MOTION TO STRIKE FILED BY
PROVIDENCE AND WORCESTER RAILROAD COMPANY

On September 10, 2010, Providence and Worcester Railroad Company (“P&W”) filed certain documents indicating that P&W intended to file an adverse abandonment against Housatonic Railroad Company, Inc. (“Housatonic”). The documents consisted of a letter requesting that the Board waive or substantially reduce its filing fees in connection with the proceeding (“Fee Waiver Request”) and a filing entitled “Petition for Waiver of Providence and Worcester Railroad Company” requesting that the Board waive certain of its regulatory requirements (“Petition”). The Petition was submitted to the Board without the required filing fee.

Housatonic responded to the Fee Waiver Request by letter filed on September 15, 2010 ("Response").¹ On September 25, 2010 P&W filed a motion to strike Housatonic's September 15 Response, claiming that its contentions were premature, irrelevant and inaccurate and further claiming that Housatonic is not aggrieved by P&W's Fee Waiver Request.

P&W's Fee Waiver Request asserts that P&W's plan to pursue an adverse abandonment in order to attempt to acquire part of Housatonic's rail lines is in the public interest. Certainly, Housatonic is aggrieved by such an assertion and has the right to respond to it.

P&W does not specifically explain why it believes that its actions are in the public interest. However, in support of its claim, P&W's filings contain statements that are inaccurate and conclusions that Housatonic believes are incorrect.² By addressing these errors, Housatonic seeks to rebut any inference that may arise from those statements and conclusions that P&W's actions are in the public interest. For example, it is certainly important that the portion of Housatonic's line on which the P&W customer is situated is not out of service and that P&W has the right to and has been serving the customer by a different routing.

It is also relevant to the issue of the public's interest to question the appropriateness of the proposed remedy and to discuss the status of the line, the status of the underlying trackage rights agreement, and the existence of alternatives to the

¹ Because the Petition was submitted without the required filing fee, it was not deemed to have been filed on September 10, 2010 and the Housatonic Response did not address the Petition. The filing fee for the Petition was later paid and Housatonic will be addressing the Petition in another filing.

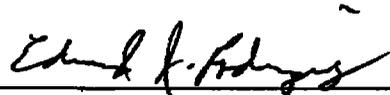
² Some of the P&W assertions may, in fact, be premature and irrelevant to the Fee Waiver Request. However, having raised these issues in its filing, P&W should not object to Housatonic responding to them.

proposed remedy³. In fact, the public interest is not advanced by P&W's proposed action. It is simply an attempt by a Class II railroad to expand its territory by seeking to acquire a part of Housatonic's line.

It may be true that it is premature for the Board to consider the question of whether P&W may use the adverse abandonment process to acquire a line in this fashion. However, the Board is competent and capable of disregarding any portion of Housatonic's Response that it may find premature or irrelevant to the narrow question before it.

Housatonic Railroad Company respectfully requests that the Motion to Strike filed by Providence and Worcester Railroad be Denied.

Respectfully submitted,
Housatonic Railroad Company, Inc.

By: 

Edward J. Rodriguez, Esq.
8 Davis Road West
P.O. Box 687
Old Lyme, CT 06371
Telephone: 860-434-4303
Facsimile: 860-434-4306

Dated: October 7, 2010

³ This is especially the case since P&W asserts that it has no alternatives.

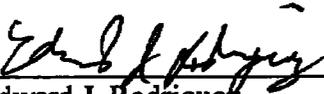
CERTIFICATE OF SERVICE

I hereby certify that the foregoing Reply to the Motion to Strike was served this date on the following parties:

Edward D. Greenberg
David K. Monroe
GKG Law, P.C.
Canal Square
1054 Thirty-First Street, N.W.
Washington, D.C. 20007

Marie Angelini, Esq.
Providence and Worcester Railroad Co.
75 Hammond Street
Worcester, MA 01610

Dated: October 7, 2010



Edward J. Rodriguez