

ORIGINAL

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

212067

STB FINANCE DOCKET NO. 34495

**BUCKINGHAM BRANCH RAILROAD COMPANY –
LEASE – CSX TRANSPORTATION, INC.,**

**RESPONSE AND REBUTTAL OF
BUCKINGHAM BRANCH RAILROAD COMPANY**

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The Buckingham Branch Railroad Company (“BB”) hereby submits its Response and Rebuttal to Comments filed by the National Railroad Passenger Corporation (“Amtrak”), Norfolk Southern Railway Company (“NS”) and the Brotherhood of Maintenance of Way Employees (BMWE”). The specifics of BB’s Response and Rebuttal are addressed in the attached verified statement of BB’s President, Mr. Robert E. Bryant.

MOTION TO STRIKE

BB hereby moves to strike all statements and references concerning the condition of its current rail line and of its equipment predicated upon unauthorized intrusions on its property by Mr. Roy Griffith, as included in comments filed on behalf of BMWE.

In support of its Motion BB notes that in the relevant portion of his Declaration Mr. Griffiths states that he took “the opportunity to inspect various segments of the current BB line” but confesses that he “could not inspect the entire line as BB officials

asked me to leave". (P. 4 of the Braswell/Griffith Declaration). In fact, Mr. Griffith entered upon BB property wholly without knowledge or consent from BB. During the course of his intrusions on BB's active rail line Mr. Griffith was discovered and was promptly escorted off the property by proper authority.

It is well documented that the presence of trespassers on an active rail line is highly dangerous for all concerned including the personal safety of intruders. Further, at this time of heightened concern as to the threat of terrorist activity, Mr. Griffith's unauthorized presence and activity on BB's line was inexcusable.

For all these reasons BB urges that paragraphs 11, 12 and 14 of Mt. Griffith's Declaration (Declaration, p. 4 and 5) and all reference to his asserted observations during his unauthorized intrusions in the related statements of counsel (BMW Comments, p. 11) should be stricken lest others be encouraged to take opportunities to trespass on active rail lines at great risk to themselves and to the involved rail carriers.

STATEMENT

BB is approaching its forthcoming lease and operation of the Richmond – Clifton Forge line with full awareness as to the requirements of this undertaking and with the confidence of an experienced leadership that is acquainted with what is needed to make this venture every bit as successful as it has been in acquiring upgrading and operating the 17.3 mile Buckingham Branch line over the past 15 years. BB has interviewed all of the shippers located on the Richmond-Clifton Forge line to determine their needs and service expectations. As a result BB has established a service schedule calling for five-day-per-week local train service that will consist of four round-trip trains a day. It has

arranged to acquire their locomotives and is in the midst of interviewing qualified operating personnel and plans to hire six engineers and four conductors for the new operations.

In moving forward with these commitments BB is confident that it will be in a position to meet service expectations on day one when it takes over responsibility for the line. The copies of 18 letters of support appended to Mr. Bryant's Statement attest to the enthusiasm and positive expectations BB has encountered in response to this undertaking.

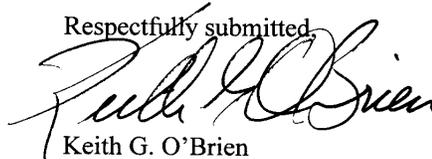
As shown in Mr. Bryant's Statement BB has developed a definitive Maintenance of Way Plan which dedicates essentially the same number of maintenance of way personnel (12) as are currently allocated by CSXT Transportation (13) to maintain the Richmond-Clifton Forge line. BB's maintenance of way resources will be divided into three teams of four stationed strategically at Doswell, Charlottesville, and Stanton, VA to optimize efficiency and effectiveness. Moreover, BB has manifested its resolve to supplement its resources by utilizing qualified contractors when and as needed to handle unexpected challenges and to meet its ongoing responsibility to maintain the line at no less than its current operating condition.

ARGUMENT

BB submits that its proposed lease and operations of the Richmond-Clifton Forge line will serve to assure responsive transportation service for current users of rail service and to provide an attractive alternative for shippers that are now using highway service. The transaction will in no way create a monopoly or restraint of trade in freight service transportation and thus it should be approved by the Board as envisioned in 49 U.S.C.

11324 (d) and in accord with Rail Transportation Policy objectives of ensuring development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes to meets the needs of the public and the national defense.¹

Respectfully submitted,



Keith G. O'Brien
Rea, Cross & Auchincloss
1707 L Street, N.W.
Suite 570
Washington, DC 20036

Counsel for: Buckingham Branch
Railroad Company

DATED: September 23, 2004

¹ 49 U.S.C. 10101 (4).

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing document to be served upon the following parties by first class mail pre-paid.

Honorable John Ashcroft
Attorney General of The United States
C/O Assistant Attorney General, Antitrust Division, Room 3645
U.S. Department of Justice
Washington, DC 20530

Ronnie D. Conway
Plant Manager, Montpelier Mine & Mill
U.S. Silica
P. O. Box 187
Berkeley Springs, WV 25411

Richard S. Edelman
O'Donnell, Schwartz & Anderson, PC
1900 L Street, N.W., Suite 800
Washington, DC 20036

John D. Heffner
John D. Heffner, PLLC
1920 N Street, N.W., Suite 800
Washington, DC 20036

Sally S. Kammauff
President-Virginia Central Railroad, Limited
762 Lexington Avenue
Charlottesville, VA 22902

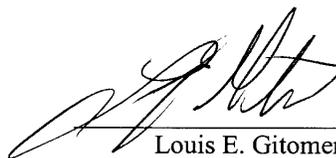
Honorable Norman Y. Mineta
Secretary, U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, DC 20590

Frederick C. Ohly
Amtrak - Law Department
60 Massachusetts Avenue, N.E.
Washington, DC 20002-4225

Dennis M. Moore
Amtrak - Law Department
60 Massachusetts Avenue, N.E.
Washington, DC 20002-4225

James R. Paschall
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510-9241

Karen J. Rae
Director, Dept. of Rail & Public Transportation
Commonwealth of Virginia
1313 East Main Street, Suite 300
Richmond, VA 23218-0590



Louis E. Gitomer
September 23, 2004