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VIA FACSIMILE & HAND DELIVERY

Roland Watkins
Director of Arbitration
National Mediation Board
1301 K Street NW, Suite 250-East
Washington, DC 20572

Re: NMB Docket No. 2003-01N

Dear Mr. Watkins:

CSX Transportation, Inc. ("CSXT") submits these comments in response to the notice of proposed rulemaking issued by the National Mediation Board ("NMB") on August 9, 2004, regarding the administration of arbitration programs. 69 Fed. Reg. 48177.

CSXT is a member of the National Railway Labor Conference ("NRLC") and joins in the comments filed by NRLC on behalf of its members. In addition, CSXT is filing these separate comments, because of its on-going litigation with the NMB over the NMB's April 7, 2004 Order, which purported to cancel 31 public law boards ("PLB's") established by agreements between CSXT and the Brotherhood of Maintenance of Way Employees and consolidate their cases with a single remaining PLB, PLB No. 6511. See CSXT v. NMB, No. 04-611 (RWR) (D.D.C.).

The NMB's notice of proposed rulemaking had its origins in the advanced notice of proposed rulemaking that the NMB issued on August 7, 2003 in this docket. 68 FR 46983, 2003 WL 21803144 (F.R.). At that time, the NMB's proposals addressed only arbitration by the National Railroad Adjustment Board. In its more recent Notice of Proposed Rulemaking, the NMB has expanded its proposals to special boards of adjustment, also commonly referred to as public law boards, established pursuant to Section 3, Second of the Railway Labor Act, 45 U.S.C. § 153, Second.

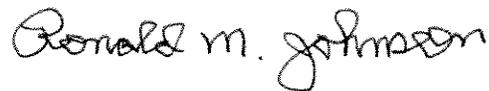
For the same reasons set forth in CSXT's response to the NMB's March 1, 2004 Show Cause Order and CSXT's briefs submitted in the litigation before the Federal District Court for the District of Columbia, the NMB has no legal authority under the RLA to prescribe procedures for PLBs, set deadlines for decisions by PLBs, or consolidate cases before PLBs. As CSXT explained in the litigation, Section 4, Third of the RLA, 45 U.S.C. § 154, Third, upon which the NMB relies in this rulemaking as the source of its claimed authority, does not apply to special boards of adjustment established under Section 3, Second of the RLA. This is demonstrated by

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the language and legislative history of Section 4, Third and Section 3, Second of the RLA and the fact that, in the history of the RLA, the NMB has never before attempted to assert authority over PLBs. See, e.g., CSXT Memorandum in Support of Motion for Summary Judgment at 20-26 (filed May 4, 2004)

For the reasons set forth in the NRLC's comments as well as these separate comments of CSXT, CSXT respectfully submits that the NMB should withdraw its proposals in their entirety.

Sincerely,



Ronald M. Johnson