

## Surface Transportation Board

## § 1147.1

accelerated relief, parties may petition the Board for reconsideration. The petition for reconsideration will be subject to §1115.3 of this chapter. The record is to include any filings by the parties in the proceeding and the unredacted recording of the conference.

(d) *Stay of relief.* Notwithstanding §1115.3 of this chapter, parties seeking a stay of the relief issued by the Board must concurrently file a petition for reconsideration of the decision and a petition to stay.

(e) *Service.* Every document filed with the Board under this section must include a certificate showing simultaneous service upon all parties to the proceeding, including any proposed alternative carriers and the Federal Railroad Administration. One copy must be served on each party. Service on the Board must be made through the e-filing process, and a copy of the e-filed document must be emailed to other parties if that means of service is acceptable to those other parties. If email is not acceptable to the receiving party, a paper copy of the document must be personally served on the other parties. If neither email nor personal service is feasible, service of a paper copy must be by overnight delivery. When a party is represented by a practitioner or attorney, service upon the practitioner is deemed to be service upon the party. All pleadings under this section must also be emailed to [ServiceEmergency@stb.gov](mailto:ServiceEmergency@stb.gov).

[89 FR 4579, Jan. 24, 2024]

### **PART 1147—TEMPORARY RELIEF UNDER 49 U.S.C. 10705 AND 11102 FOR SERVICE INADEQUACIES**

AUTHORITY: 49 U.S.C. 1321, 10705, 11101, and 11102.

#### **§ 1147.1 Prescription of alternative rail service.**

(a) *General.* Alternative rail service will be prescribed under 49 U.S.C. 11102(a), 11102(c) or 10705(a) if the Board determines that, over an identified period of time, there has been a substantial, measurable deterioration or other demonstrated inadequacy in rail service provided by the incumbent carrier.

(b)(1) *Petition for Relief.* Affected shippers or railroads may seek relief described in paragraph (a) of this section by filing an appropriate petition containing:

(i) A full explanation, together with all supporting evidence, to demonstrate that the standard for relief contained in paragraph (a) of this section is met;

(ii) A summary of the petitioner's discussions with the incumbent carrier of the service problems and the reasons why the incumbent carrier is unlikely to restore adequate rail service consistent with current transportation needs within a reasonable period of time;

(iii) A commitment from another available railroad to provide alternative service that would meet current transportation needs (or, if the petitioner is a railroad and does not have an agreement from the alternative carrier, an explanation as to why it does not), and an explanation of how the alternative service would be provided safely without degrading service to the existing customers of the alternative carrier and without unreasonably interfering with the incumbent's overall ability to provide service; and

(iv) A certification of service of the petition, by hand or by overnight delivery, on the incumbent carrier, the proposed alternative carrier, and the Federal Railroad Administration.

(2) *Reply.* The incumbent carrier must file a reply to a petition under this paragraph within thirty (30) days.

(3) *Rebuttal.* The party requesting relief may file rebuttal no more than fifteen (15) days later.

(c)(1) *Petition to terminate relief.* Should the Board prescribe alternative rail service under paragraph (a) of this section, the incumbent carrier may subsequently file a petition to terminate that relief. Such a petition shall contain a full explanation, together with all supporting evidence, to demonstrate that the carrier is providing, or is prepared to provide, adequate service to affected shippers. Carriers are admonished not to file such a petition prematurely.

(2) *Reply.* Parties must file replies to petitions to terminate filed under this

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subsection within five (5) business days.

(3) *Rebuttal*. The incumbent carrier may file any rebuttal no more than three (3) business days later.

(d) *Service*. All pleadings under this part shall be served by hand or by overnight delivery on the Board, other parties, and the Federal Railroad Administration.

[63 FR 71401, Dec. 28, 1998]

**PARTS 1148–1149 [RESERVED]**

**Parts 1150–1176—Licensing Procedures**

**Parts 1150–1159—Rail Licensing Procedures**

**PART 1150—CERTIFICATE TO CONSTRUCT, ACQUIRE, OR OPERATE RAILROAD LINES**

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AUTHORITY: 49 U.S.C. 1321(a), 10502, 10901, and 10902.

SOURCE: 47 FR 8199, Feb. 25, 1982, unless otherwise noted. Redesignated at 47 FR 49581, Nov. 1, 1982.

**Subpart A—Applications Under 49 U.S.C. 10901**

**§ 1150.1 Introduction.**

(a) *When an application is required.* This subpart governs applications under 49 U.S.C. 10901 for a certificate of public convenience and necessity authorizing the construction, acquisition or operation of railroad lines. Noncarriers require Board approval under section 10901 to construct, acquire or operate a rail line in interstate commerce. Existing carriers require approval under section 10901 only to construct a new rail line or operate a line owned by a noncarrier, since acquisition by a carrier of an active rail line owned by a carrier is covered by 49 U.S.C. 11323. We have exempted from these requirements the acquisition by a State entity of a rail line that has been approved for abandonment, as well as operations over these lines. See subpart C of this