

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500

Fax: (312) 252-2400

www.fletcher-sippel.com

THOMAS J. LITWILER
(312) 252-1508
tlitwiler@fletcher-sippel.com

February 10, 2020

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VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

ENTERED
Office of Proceedings
February 10, 2020
Part of
Public Record

Re: **Docket No. AB-1108 (Sub-No. 1X)**
The Blacklands Railroad – Discontinuance of Service Exemption –
In Hunt, Delta, Hopkins, Franklin and Titus Counties, Texas

Dear Ms. Brown:

On January 28, 2020 – 33 days after the filing to which it purports to respond, and 17 days before the February 14, 2020 due date for a Board decision in this abandonment exemption proceeding – the Northeast Texas Rural Rail Transportation District (“NETEX”) filed a surreply to the prior reply of The Blacklands Railroad (“BLR”). There is no basis for acceptance or consideration of NETEX’s surreply, and it should be rejected.

While NETEX insists that its late and unauthorized filing is necessary to create “a more complete factual record,” that filing does nothing more than rehash arguments presented by NETEX in its 47-page December 5, 2019 opposition to BLR’s petition for exemption herein. Thus, arguments discussing NETEX’s need to secure a new operator for the line in question (Surreply at 2) were covered in NETEX’s Opposition at 2, 3, 5, 6 and 7; NETEX’s concern over the condition of its track (Surreply at 3) was discussed in the Opposition at 2, 5, 6 and 7; NETEX’s claims regarding BLR’s continuing operation of a 7.9-mile track separately leased by BLR directly from Union Pacific Railroad Company (Surreply at 3-4) were discussed in the Opposition at 2, 3 and 5-8; and NETEX’s claims regarding the customers on its rail line (Surreply at 5) were referenced in the Opposition at 2, 4 and 6-8. Rather than responding to any new matter contained in BLR’s Reply, each of these subjects was previously addressed by NETEX in its Opposition, and there is no reason why NETEX’s arguments contained in its Surreply could not have been raised in its prior filing. Indeed, they were.

Seventeen days prior to the Board’s issuance of a decision on BLR’s petition for exemption, NETEX should not be permitted to divert the Board’s attention and resources to revisit issues previously raised by NETEX. As is made patently clear in both NETEX’s

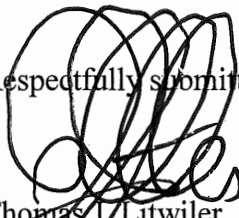
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Opposition and now its Surreply, NETEX's admitted goal in this docket is not to challenge or disprove the significant financial losses and demonstrable burden incurred by BLR in operating the NETEX line, but rather to delay BLR's departure as NETEX's rail operator and, concomitantly, to avoid NETEX's own responsibilities as the common carrier owner of the line. But BLR should not be forced to endure its unrebutted financial losses any longer, and NETEX's unauthorized and tardy Surreply provides no basis to do so.

BLR has provided clear public notice regarding its intentions on the NETEX line for at least the last eight months. *See* BLR System Diagram Narrative, Docket No. SDM-1108, filed May 31, 2019. The reckoning time for BLR's operation of the NETEX line has come, and the Board should reject NETEX's most recent filing and proceed to grant BLR's petition for exemption.

Respectfully submitted,



Thomas J. Litwiler
Attorney for The Blacklands Railroad

TJL:tl

cc: Mr. Sam Young, Chairman, NETEX
Norman and Lisa Rigney