

BEFORE THE
SURFACE TRANSPORTATION BOARD

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DOCKET NO. AB-1296X

**R. J. CORMAN RAILROAD PROPERTY, LLC
– ABANDONMENT EXEMPTION –
IN SCOTT, CAMPBELL, AND ANDERSON COUNTIES, TENNESSEE**

**APPLICANT'S RESPONSE TO MOTION FOR EXTENSION OF
TIME TO FILE OFFER OF FINANCIAL ASSISTANCE**

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Date: April 21, 2020

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R. J. Corman Railroad Property, LLC (“RJC Railroad Property”), by counsel, hereby submits its response to the motion for extension of time to file offer of financial assistance (“Motion”) filed by Arkansas-Oklahoma Railroad Co. (“AOK”) on April 17, 2020. RJC Railroad Property respectfully states that AOK’s Motion is untimely, does not provide good cause for the relief sought, and should be denied.

The relevant procedural background in this proceeding was most recently summarized in *R. J. Corman Railroad Property, LLC – Abandonment Exemption – In Scott, Campbell, and Anderson Counties, Tenn.*, STB Docket No. 50225 (Served April 17, 2020). In short, in footnote 2 of the Decision, the Board states that AOK’s offer of financial assistance (“OFA”) was due on April 8, 2020 and that AOK failed file an OFA. Nor did AOK attempt to toll the time to file an OFA within the twenty-five (25) days after publication in the Federal Register. 49 C.F.R. § 1152.27 (c)(2)(ii)(C). It is therefore undisputed that AOK took no action to preserve its ability to pursue an OFA until nine (9) days after the deadline passed.

In the instant Motion, AOK asserts it was unable to comply with established regulations relating to the OFA process because of the current pandemic. Yet, the Board has been

conducting business during the pandemic and there has been no interruption in parties' ability to file electronically. As evidence, AOK electronically filed its intent to file an offer of financial assistance on March 19, 2020 and a motion for protective order on March 24, 2020. Had AOK believed it needed more time – because of the pandemic or otherwise – to file its OFA, there was nothing preventing it from filing a motion asking the Board to toll the deadline.

In addition, despite an apparent lack of any continued need for freight service on the Oneida Line,¹ RJC Railroad Property has timely and in good faith responded to communications from AOK as well as its requests for information since March 9, 2020. For example, RJC Railroad Property (1) offered to escort AOK personnel for a visit as early as March 17, 2020 and continue to provide dates for a site-visit to AOK;² (2) provided AOK the current condition of the track and locations of washouts; and (3) provided Val maps. In short, there is no time between March 9, 2020 and April 3, 2020 (the deadline for requesting to toll the deadline), that AOK was not fully aware of the current status of information requested and received from RJC Railroad Property such that AOK could not make an informed decision as to whether to ask the Board to toll the 30-day time period for filing an OFA. In truth, it appears that AOK's filing is result of learning on April 14, 2020 of RJC Railroad Property's intent to negotiate for interim trail use rather than continuing to negotiate a purchase agreement with AOK after the deadline passed without AOK filing an OFA. Under the circumstances, AOK's Motion does not provide good cause for the relief sought.

¹ The line subject to the above-referenced abandonment proceeding is comprised of approximately 41.05 miles of track in Campbell, Scott and Anderson Counties, Tennessee (the "Oneida Line"). As set forth in RJC Railroad Property's Notice of Exemption, no freight traffic has moved on the Oneida Line since May of 2013. There are no customers or shippers on that line now or since May 2013.

² Ultimately, AOK informed RJC Railroad Property on April 3, 2020 that its consultant was going to do a "windshield" drive by without accessing the property and that RJC Railroad Property representatives did not need to be present.

For the reasons set forth above, RJC Railroad Property requests that AOK's Motion be denied.

Respectfully submitted,

/s/ Catherine S. Wright_____

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CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2020, I served the foregoing Response to AOK's Motion for Extension of Time to File an Offer of Financial Assistance using the below email addresses on all parties of record in this proceeding:

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