

BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
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April 23, 2020
Part of
Public Record

DOCKET NO. AB-1296X
R. J. CORMAN RAILROAD PROPERTY, LLC –ABANDONMENT
EXEMPTION – IN SCOTT, CAMPBELL, AND ANDERSON
COUNTIES, TENNESSEE

SUPPLEMENT TO
MOTION TO EXTENSION OF TIME TO
FILE OFFER OF FINANCIAL ASSISTANCE

ARKANSAS-OKLAHOMA RAILROAD, CO.
116 W. Main St.
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Offeror

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Date: April 22, 2020

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ARKANSAS-OKLAHOMA RAILROAD, CO. (“AOK”) hereby makes this Supplement to its Motion to Extend Time to file an Offer of Financial Assistance (“OFA”) to order to supplement and clarify the record, due to statements by Corman in its Response, and also to advise the Board of a fact which came to light very recently:

In its Response R. J. Corman Railroad Property, LLC (“Corman”) states that AOK “took no action to preserve its ability to pursue an OFA”. On the contrary, AOK timely filed a Notice of Intent to File an OFA, which triggered an obligation on the part of Corman to provide basic information about the assets. Corman states it “timely” responded to requests for information. This is not true.

Corman provided valuation maps and a grossly inadequate statement about the assets. In point of fact, the following e-mail sent on the afternoon of April 9, 2020 (the day *after* Corman claims the OFA expired) is the totality of what was provided about the assets:

"Mr. LaKemper,

My client provided me with a estimated minimum purchase price of \$2,750,000.00.

Supporting data includes:

- i. 9,757 GT of 132 CWR
- ii. 697 GT of 132 or smaller siding rail
- iii. 3,186 GT of 132 RE plates
- iv. 602 GT of Misc. (Spikes, Anchors, Bars)
- v. Mixed use of scrap, relay and reroll materials

The estimate also includes an amount for real estate value, but largely consists of the valuation of the materials identified above.

I realize the regulation provides that information should be provided concurrently to the STB, but I would like to wait until I hear from you.

If there is additional information that you need, please let me know.

Thank you,

Catherine"

AOK sent the following response later that day:

"Catherine:

Thank you for the information.

The number sounds quite high, but it would help if you could give us the price you are using (and tonnage) for scrap vs. relay, etc.

Also, if you could give us the number of owned acres, and your valuations of those, it would be helpful.

Frankly, it was my intention to follow my usual practice and visit the Courthouses and research title to the line, but the coronavirus is still wreaking havoc with "usual practice" so that is on hold for the time being.

Any chance we could get the trackcharts in meantime?

Thanks again,

Dan LaKemper"

Corman did not respond directly to this email and no further information was provided.

AOK did not push aggressively, due to the virus threat and "lockdown" situation, which Corman purported to understand and appreciate at the time, but now callously dismisses. AOK is rightly concerned for the health and well-being of its personnel. The unprecedented national "state of emergency" plainly prevents AOK from performing normal inspection and appraisals of the line. Corman was made well aware that AOK's personnel could not travel several hundred miles to perform those functions.

AOK perhaps should have come to the Board sooner, but is excusable given the ongoing engagement with Corman and the continuing uncertainty as to when coronavirus restrictions might be lifted, and did not want to put unneeded pressure on Corman at this difficult time, while AOK was led to believe Corman was proceeding in good faith, when, in fact, they were not.

It has very recently come to light that this Line may be subject to a Right of First Refusal in favor of an entity that is not a party to this

proceeding. It would appear that the agreement should probably have been disclosed to AOK and the Board, along with evidence (if it exists) that the Agreement was complied with.

AOK demonstrated in its Notice of Intent that it is a serious and qualified buyer (unlike in the past, when anybody could file a Notice of Intent). The purpose of the OFA process is to preserve important rail infrastructure. The abandoning railroad receives fair value. The Board's process is designed to further those objectives, not allow abandoning railroads to mislead and frustrate the Board's statutory purposes. Corman has no good reason to oppose this Motion.

WHEREFORE, AOK again respectfully requests that the deadline for filing an OFA in this matter be extended for a reasonable time after the current "state of emergency" is lifted; that the Board provide a deadline to Corman regarding the production of adequate information regarding the assets; and for such other relief as the Board deems appropriate.

Respectfully submitted,
ARKANSAS-OKLAHOMA RAILROAD CO.

/s/ Daniel A. LaKemper

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Dated: April 22, 2020

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2020, I served the foregoing document, Motion for Extension of Time to File an Offer of Financial Assistance on Mark Bevilhimer at bigelowt2@mindspring.com, on behalf of Tennessee Citizens for Wilderness Planning; Catherine S. Wright at cwright@irvinrigsby.com, attorney for R. J. Corman Railroad Property, LLC.; and Robert Weber at weber9985@att.net, on behalf of the Cumberland Trails Conference.

/s/ Daniel A. LaKemper

DANIEL A. LaKEMPER