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BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings
June 4, 2020
Part of
Public Record

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**

David R. Irvin
Catherine S. Wright
Irvin Rigsby PLC
110 North Main Street
Nicholasville, Kentucky 40356
Tel: (859) 724-4104
Fax: (859) 885-2307
*Attorneys for R. J. Corman Railroad
Property, LLC*

Date: June 4, 2020

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R. J. Corman Railroad Property, LLC (“RJC Railroad Property” or “Applicant”), 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 June 3, 2020. RJC Railroad Property respectfully states that AOK’s Motion is properly denied as RJC Railroad Property has provided the required information in a prompt manner and AOK’s Motion fails to accurately outline the information that remains outstanding and that which has been already produced to it.

49 C.F.R § 1152.27(2)(ii)(C) permits an offeror to request an extension of time to make an offer of financial assistance if an applicant fails to promptly provide information required under Section 1152.27(a). That Section requires information regarding the condition of the line to be provided along with data that:

“at a minimum include the carrier’s estimate of the net liquidation value of the line, with supporting data reflecting available real estate appraisals, assessments of the quality of the track materials in a line, and removal cost estimate (including the cost of transporting removed materials to point of sale or point of storage for relay use). . . .”

In addition, AOK requested by email additional materials, including lease information, on the evening of May 27, 2020. (Attached as Exhibit 1 to AOK's Motion).

The Oneida Line (the "Line") that is the subject of the instant proceedings has had no freight traffic since May 2013 and prior to that, had one shipper. AOK first contacted RJC Railroad Property on March 9, 2020 stating its intent to file an offer of financial assistance. Between that time and until AOK failed to timely file its offer of financial assistance, RJC Railroad Property provided AOK Val Maps, scheduled times to escort AOK on a physical site inspection of the Line (AOK eventually declined to proceed with the site inspection), and shared information regarding the real estate, condition and materials on the Line.

After the Board granted AOK's request for an extension of time to file an offer of financial assistance on May 26, 2020, RJC Railroad Property produced additional, updated information regarding the Line via emailed correspondence on June 1, 2020 (the "Letter").¹ That Letter provides context for the attachments produced with it and responds to AOK's specific requests for information, where that information is available. The information and supporting documentation provided to AOK exceeds the Section 1152.27(a) requirements. Included were copies of recorded deeds for the Line; a list of all long-term leases and their values (which in this case, are not critical to the value of the Line); an interchange agreement with Norfolk Southern which contains the cost and conditions of maintaining lease of the track that connects the Oneida Line to the NS interchange; the only available full appraisal of the real estate from 2010;² and a NLV calculation. The NLV was provided in chart form with the types of material (rail, ties, ballast, plates, spikes, anchors, bars, signal, switches), each further broken down as "132 CWR" or other identifying

¹ RJC Railroad Property's written correspondence to AOK was simultaneously filed with the Board, without the voluminous attachments. To the extent that the Board seeks to review specific attachments, they can be provided.

² A review of the information provided to AOK makes clear that the value of the real estate is not a significant part of the net liquidation value or minimum purchase price. In any case, all available information has been provided.

characteristic, provides the amount, the unit, the gross ton and then the price applied depending on whether it was scrap, relay or reroll. The percentage of scrap, relay or reroll applied to the calculations was also provided. The expense for cost removal was broken down by item, action taken, amount, units and cost. The NLV is based on current information regarding the Line, contrary to AOK's statement otherwise.

Accordingly, the grounds for AOK's request for an extension of time are not consistent with 49 C.F.R § 1152.27(2)(ii)(C) inasmuch as RJC Railroad Property has already provided AOK the responsive information that is reasonably available.³ AOK's Motion does not attempt to outline what information it needs from RJC Railroad Property, but it is apparent that AOK simply disagrees with RJC Railroad Property's NLV calculation and wants more time for its own evaluation before it will commit to a definite offer.

AOK claims that RJC Railroad Property's NLV is "unattributed" and "unreliable" despite the fact that RJC Railroad Property specifically states that the numbers were developed in-house by its operating and engineering departments with input from independent third parties, some of whom have submitted confidential offers to purchase the materials. AOK either does not know or chooses to ignore the fact that the foundation of a very substantial part of the business of the railroad services entities affiliated with RJC Railroad Property includes the purchase, sale, removal and installation of both new and used railroad materials for the accounts of their third party customers, and that its rail carrier affiliates routinely do the same for their own accounts. To suggest that it cannot determine the NLV of its own assets or evaluate the wear of the rail is unfounded. Moreover, AOK's questioning of the quantity of track materials is more than suspect since to RJC Railroad Property's knowledge, AOK's unidentified third-party consultant has not

³ RJC Railroad Property did reserve its right to timely supplement additional information that becomes available.

been on the Line at any recent time.⁴ In any event, AOK's claims about an incorrect number of switches or miles at issue (42 miles versus 41.04 due to sidings) is not a basis for an extension of time.

Finally, AOK's assertion that the minimum purchase price is "obviously...outrageous" is again, unrelated to whether RJC Railroad Property has complied with Section 1152.27(a) and the requests made by AOK. It should also be noted that between the time that RJC Railroad Property first communicated a minimum purchase price, it conducted further analysis and valuation efforts and determined that the NLV is actually higher given the quality of the materials on the Line and adjusted its minimum purchase price accordingly. RJC Railroad Property has acted in good faith throughout this process. It is AOK that missed the deadline to file its OFA without initially seeking an extension and now seeks another extension, with no legitimate basis for it, that will further delay the abandonment process, while going to lengths to mischaracterize the information provided by RJC Railroad Property.

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

Respectfully submitted,

/s/ Catherine S. Wright
David R. Irvin
Catherine S. Wright
Irvin Rigsby PLC
110 N. Main Street
Nicholasville, Kentucky 40356
Tel: (859) 724-4104
Fax: (859) 885-2307
*Attorneys for R. J. Corman Railroad
Property, LLC*

⁴ RJC Railroad Property offered multiple dates starting on March 9, 2020 that AOK could view the Line while property escorted and to date, this has never occurred.

CERTIFICATE OF SERVICE

I hereby certify that on June 4, 2020, I served the foregoing Response to AOK's Motion for Extension of Time to File Offer of Financial Assistance using the below email addresses on all parties of record in this proceeding:

Daniel A. LaKemper, Esq.
General Counsel
Arkansas-Oklahoma Railroad Co.
P.O. Box 185
Morton, IL 61550
Email: lakemper@mtco.com

Robert Weber
Chairman, Cumberland Trails Conference
409 Thurman Ave #102
Crossville, TN 38555
Email: weber9985@att.net

Mark Bevelhimer
President, Tennessee Citizens for Wilderness Planning
P.O. Box 6873
Oak Ridge, TN 37830
Email: bigelowt2@mindspring.com

Terry Frank
100 North Main Street, Suite 208
Clinton, TN 37716
Email: tfrank@andersontn.org

Christopher J. Schroeck
Counsel for National Coal, LLC
302 S. Jefferson St.
Roanoke, VA 24011
Email: chris.schroeck@bluestone-coal.com

/s/ Catherine S. Wright