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Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: Docket No. AB-1296X, *R.J. Corman Railroad Property, LLC -- Abandonment Exemption -- in Scott, Campbell and Anderson Counties, TN*

Dear Ms. Brown:

Arkansas-Oklahoma Railroad Co. (AOK) hereby appeals a decision of Office of Proceedings Director Allison C. Davis, served June 26, 2020 (Director's decision). The Appeal is governed by 49 C.F.R. § 1011.6(b), which provides that such an appeal will be granted only in exceptional circumstances to correct a clear error of judgement or to prevent manifest injustice. For the reasons stated below, this Appeal should be granted to prevent manifest injustice.

The Director's decision rejects an Offer of Financial Assistance (OFA) filed by AOK to acquire a 41.05-mile rail line between Oneida and Devonia, TN for continued rail operation. The ground alleged for such rejection is that AOK failed to demonstrate thorough evidence that there is a continued need for rail service on the line, as required by 49 C.F.R. § 1152.27(c)(1)(iv)(E). (Director's decision at 2).

That regulation provides that an example of evidence of such a continued need for rail services is "community support for continued rail service". That evidence is contained in this record in the form of statements of support of the OFA filed on behalf of:

- (1) Anderson County, Tennessee
- (2) Scott County, Tennessee
- (3) Campbell County, Tennessee
- (4) North East Tennessee Rail Authority (a unit of State government)

In addition, statements in support of the OFA were filed by National Coal Company, Evergreen Packaging Company, and Tennessee Mining Association.

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The Director's decision acknowledged (at 2) that "AOK has provided evidence of general community support for its OFA", and that submissions by Anderson County and Tennessee Mining Association indicate "community support for preserving the Line". That evidence unquestionably complies with the requirement of the applicable regulation, i.e., "evidence of community support for continued rail service" (49 C.F.R. § 1152.27(c)(1)(iv)(E)). On the basis of that evidence, the Director should have found that there is a continued need for rail service on the line.

Instead, the Director stated (at 2) that the Anderson County and Tennessee Mining supporting statements "provide no specific detail demonstrating any commercial need for rail service". But the applicable regulation does not require that communities must provide specific details demonstrating a commercial need for rail service. If that is to be an additional requirement for such a finding, the regulation needs to be amended to so provide.

All three Counties in which the rail line is located, the Rail Authority representing the State of Tennessee's interests, and three potential rail freight shipper interests, have all expressed support for acquisition of the line by AOK in a good faith attempt to resurrect rail freight service and to provide passenger service on the line. That is considerably more public support than is usual in an OFA.

The Board has an excellent record of preserving lines for continued rail service. The Director's decision goes in an opposite direction. The Board should grant this Appeal to prevent manifest injustice.

Respectfully submitted,

/s/ Thomas F. McFarland

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