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March 15, 2024

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

Re: State of Oklahoma by and through the Oklahoma Department of Transportation
and Blackwell Industrial Authority
– Alternative Rail Service –
Line of Blackwell Northern Gateway Railroad Company
Surface Transportation Board Finance Docket 36762

Dear Ms. Brown:

Enclosed for filing in the above referenced docket is a request for an extension to an emergency service order granted by the Board on March 1, 2024. If you have any questions related to this filing, please let me know.

Sincerely,

A handwritten signature in blue ink that reads 'Justin J. Marks'.

Justin J. Marks
Counsel to the Oklahoma Department of
Transportation

cc: the Parties as required by 49 C.F.R. § 1146.1(e).

Enclosure

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36762

**STATE OF OKLAHOMA BY AND THROUGH THE
OKLAHOMA DEPARTMENT OF TRANSPORTATION AND
BLACKWELL INDUSTRIAL AUTHORITY
– ALTERNATIVE RAIL SERVICE –
LINE OF BLACKWELL NORTHERN GATEWAY RAILROAD COMPANY**

JOINT PETITION FOR EXTENSION OF EMERGENCY SERVICE AUTHORITY

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*Attorneys for Oklahoma Department of
Transportation*

Dated: March 15, 2024

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36762

**STATE OF OKLAHOMA BY AND THROUGH THE
OKLAHOMA DEPARTMENT OF TRANSPORTATION AND
BLACKWELL INDUSTRIAL AUTHORITY
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JOINT PETITION FOR EXTENSION OF EMERGENCY SERVICE AUTHORITY

The State of Oklahoma by and through the Oklahoma Department of Transportation (“ODOT”) and joined by the Blackwell Industrial Authority (“BIA”) on behalf of themselves as rail line owners and impacted shippers, hereby seeks a 120-day extension of authority under 49 U.S.C. § 11123(a) and 49 C.F.R. § 1146 for Chicago, Rock Island & Pacific Railroad, LLC (“Rock Island”) to continue to provide emergency rail service on 37.26 miles of rail line owned by ODOT and BIA (the “Blackwell Subdivision”).¹ On March 1, 2024, the Board authorized the Rock Island to provide service on the Blackwell Subdivision. The Rock Island is currently working with the Federal Railroad Administration (“FRA”) to re-commence service.

The Board is permitted, under 49 U.S.C. § 11123(c), to extend an emergency service order granted under section 11123(a) for a maximum of “240 days beyond the initial 30-day period” if

¹ The lines owned by ODOT extend from milepost 34.3, at Blackwell, OK, and milepost 18.0+ 1712.9 feet, at the Oklahoma/Kansas state line near Hun Newell, KS. BIA owns the segments of the line (1) between milepost 35.0+ 1848 feet, west of Blackwell, OK, and milepost 34.3, at Blackwell, OK, and (2) between milepost 18+ 1712.9 feet, at the Oklahoma/Kansas state line near Hun Newell, KS, and milepost 0+ 466.3 feet, at Wellington, KS. *See State of Oklahoma by and through the Oklahoma Department of Transportation and Blackwell Industrial Authority – Acquisition Exemption – Central Kansas Railway, L.L.C.* STB Finance Docket No. 33492 (served Oct. 31, 1997).

the Board determines that a transportation emergency continues to exist. The Board's regulations at 49 C.F.R. § 1146 (c) provide that "[u]nless otherwise indicated in the Board's order, a Board order issued under [49 C.F.R. § 1146(a)] shall establish a rebuttable presumption that the transportation emergency will continue for more than 30 days from the date of that order."

In its March 1, 2024 decision, the Board instructed ODOT and BIA that any extension request "should identify a carrier to operate over the Line on a long-term basis and an explanation as to why an extension of the emergency service order is the appropriate mechanism for continuing service on the Line." Slip op. at 3.

ODOT and BIA have identified the Rock Island as a potential long-term operator of the Blackwell Subdivision.

An emergency service order is an appropriate mechanism for continuing service on the line because a continuing transportation emergency exists since the Blackwell Northern Gateway Railroad Company ("BNGR") has not provided any indication that it is planning to remedy the issues identified in the FRA Emergency Order No. 33 Notice 1. Nor has BNGR provided any indication that it would contest continuing the current emergency service authority that the Board granted to Rock Island in its March 1 order.

ODOT and BIA have not yet entered into a long-term agreement with the Rock Island because all parties have been distracted by the need to respond to the current service emergency. Once the Rock Island is able to provide regular service to the impacted shippers and ODOT and BIA have been able to evaluate Rock Island's service capability, the parties can re-focus on the task of entering into a long-term agreement. Additionally, any long-term provider will need at least 30 days from the time it is selected and enters into a lease agreement to obtain the necessary authority from the Board to provide service on the lines.

CONCLUSION

For the foregoing reasons, ODOT and BIA respectfully requests that, pursuant to 49 U.S.C. §11123(c) and 49 C.F.R. §1146, the Board issue a 120-day extension to the emergency service order granted on March 1 allowing the Rock Island to provide alternative rail service to shippers on the Blackwell Subdivision.

Respectfully submitted,



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Transportation*

Dated: March 15, 2024

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing Extension of Emergency Service Authority was served on the following by email, hand or by overnight delivery:

Federal Railroad Administration

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Justin J. Marks

Dated: March 15, 2024