

SURFACE TRANSPORTATION BOARD

DECISION

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

Digest:¹ This decision extends for an additional 120 days the authority of Chicago, Rock Island & Pacific Railroad, LLC, to provide emergency local rail service over a rail line owned by the State of Oklahoma and the Blackwell Industrial Authority.

Decided: March 27, 2024

By decision served on March 1, 2024, the Board issued an order under 49 U.S.C. § 11123 authorizing Chicago, Rock Island & Pacific Railroad, LLC (Rock Island), to provide emergency local rail service over 37.26 miles of rail line owned by the State of Oklahoma through the Oklahoma Department of Transportation (ODOT) and the Blackwell Industrial Authority (BIA) and leased to the Blackwell Northern Gateway Railroad Company (BNGR) (the Line) for an initial period of 30 days.²

On March 15, 2024, the State of Oklahoma, acting by and through ODOT, joined by BIA, on behalf of themselves and impacted shippers (collectively, Petitioners), filed a petition seeking an extension of the emergency service authority for an additional 120 days. Petitioners explain that BNGR ceased operations pursuant to Federal Railroad Administration (FRA) Emergency Order No. 33 Notice 1 and BNGR has not provided any indication that it plans to remedy the issues identified in that order and reinstate service over the Line. (Pet. 2, Mar. 15, 2024.) ODOT and BIA further explain that they

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² ODOT owns the portions of the Line extending from milepost 18.32 at Hunnewell, Kan., to milepost 35.35 at Blackwell, Okla., and from milepost 127.0 to milepost 126.45 in Blackwell. BIA owns the portions of the Line extending from milepost 0.09 at Wellington, Kan. to milepost 18.32 at Hunnewell, and from milepost 126.45 to milepost 125.0 in Blackwell. See Blackwell N. Gateway R.R.—Lease Exemption—Okla. Dep’t of Transp., FD 35441 (Sub-No. 1) (STB served Oct. 18, 2023).

have identified Rock Island as a potential long-term operator of the Line but have not yet entered into a long-term agreement because all parties have been working to respond to the current service emergency. (Id.) Neither BNGR nor any other party has opposed the requested extension.

The Board has the authority to extend an emergency service order past the initial 30-day period under 49 U.S.C. § 11123 if it determines that a “transportation emergency described in subsection (a) continues to exist.” 49 U.S.C. § 11123(c)(1). Petitioners have requested an extension of the service authorization for an additional 120 days. The record in this case shows, and no one disputes, that the transportation emergency continues to exist, as BNGR has not provided any indication that it plans to remedy the issues that caused FRA to order BNGR to cease operations. Moreover, the record indicates that additional time is needed to permit the parties to work out a long-term rail service solution. (Pet. 2, Mar. 15, 2024). The Board finds, therefore, that extension of the emergency order is appropriate, and the requested 120-day extension will be granted.

It is ordered:

1. The joint petition to extend the emergency service order is granted; Rock Island is authorized to provide alternative rail service over the Line for an additional 120 days, until July 29, 2024.
2. A copy of this decision will be served on the FRA.
3. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.