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Justin J. Marks
T (202) 772-0916
F +12027720919
Email:jjmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue N.W.
Suite 1300 South
Washington, DC 20004
T (202) 772-0909
F (202) 772-0919

July 23, 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, and extended by decision served March 28, 2024.

The authority granted under the March 28 decision expires on July 29 and therefore, ODOT is seeking this extension.

If you have any questions related to this filing, please let me know.

Sincerely,



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 A SECOND EXTENSION OF
EMERGENCY SERVICE AUTHORITY**

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

*Attorneys for Oklahoma Department of
Transportation*

Dated: July 23, 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 A SECOND 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 seek an additional 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 for 30 days and by decision served March 28, 2024, the Board authorized a 120-day extension of the emergency service order – the current emergency service authority expires on Monday, July 29.

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 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 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. In the ODOT/BIA previous extension request, ODOT/BIA reported to the Board that the Rock Island was a potential long-term operator of the Blackwell Subdivision. To take over service on a long-term basis, the Rock Island has established a wholly owned subsidiary, Oklahoma & Kansas Railroad, LLC to lease and operate the Blackwell Subdivision. ODOT/BIA are currently negotiating a long-term lease for it to lease and operate the line.

ODOT/BIA respectfully request that the Board grant this 120-day extension to allow the parties to finish negotiating the lease and to allow the Oklahoma & Kansas Railroad, LLC to seek Board authority to acquire the lease and to operate the Blackwell Subdivision.²

An emergency service order is an appropriate mechanism for continuing service on the line because a continuing transportation emergency exists since – as stated in BIA/ODOT’s prior

² ODOT/BIA anticipate that Oklahoma & Kansas Railroad, LLC will be in a position to obtain its own Board authority well prior to the expiration of this 120-day request. However, ODOT/BIA are requesting the maximum allowable time to alleviate the need to file for another extension request if circumstances do not develop as ODOT/BIA expect.

extension request – 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. Further, BNGR has not 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.

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 an additional 120-day extension to the emergency service order extended by decision served on March 28 allowing the Rock Island to provide alternative rail service to shippers on the Blackwell Subdivision.

Respectfully submitted,



Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

Dated: July 23, 2024

*Attorneys for Oklahoma Department of
Transportation*

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

Christian Holt, Office of Railroad Safety
Elliott Gillooly, Office of Chief Counsel
Veronica Chittim, Office of Chief Counsel

Christian.holt@dot.gov

Elliott.gillooly@dot.gov

Veronica.chittim@dot.gov

Surface Transportation Board

ServiceEmergency@stb.gov

Chicago, Rock Island & Pacific Railroad, LLC

Robert Riley, CEO
Robert.riley@rockislandrail.com

Blackwell Northern Gateway Railroad
Company

Robert Wimbish, Fletcher-Sippel
rwimbish@fletcher-sippel.com



Justin J. Marks

Dated: July 23, 2024