

BEFORE THE
SURFACE TRANSPORTATION BOARD

218985

STB DOCKET NO. AB-878
CITY OF PEORIA AND THE VILLAGE OF PEORIA HEIGHTS, IL
ADVERSE DISCONTINUANCE-PIONEER INDUSTRIAL RAILWAY COMPANY

JOINT REPLY OF
CENTRAL ILLINOIS RAILROAD COMPANY
AND THE CITY OF PEORIA

Respectfully Submitted

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Dated: April 4, 2007

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SURFACE TRANSPORTATION BOARD**

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AND THE CITY OF PEORIA**

INTRODUCTION

On January 12, 2007,¹ the Board granted the request of Pioneer Industrial Railway Company ("PIRY") and Carver Lumber Company ("Carver") to reopen a previous decision served in August 2005 approving the adverse discontinuance application filed by the City of Peoria and the Village of Peoria Heights, IL. That decision ordered the parties to submit additional comments and evidence regarding the "balancing of the relative benefits and burdens under the PC&N standard." Id. at 9. A subsequent decision served on February 1, 2007, extended the deadline until February 22, 2007 and March 15, 2007, respectively, as the due dates for

¹ Hereafter cited as the January 12 Decision.

Central Illinois Railway Company ("CIRY"), Peoria (and also the Village of Peoria Heights),² PIRY, and Carver to submit any additional evidence. The Joint Parties submitted their presentations as scheduled. Because the responses filed by PIRY and Carver, respectively, contain numerous half truths and factual distortions, the Joint Parties are compelled to seek the Board's leave to submit this Joint Reply along with the Verified Statement of CIRY's President John A. Darling.³

REPLY COMMENTS AND ARGUMENT

Before addressing numerous points raised by PIRY, the Joint Parties want the Board to recognize that this case presents an overriding policy issue: the right of an entity that owns a line of railroad to change its tenant common carrier railroad. PIRY acts as if it has an inalienable right to remain on and operate the Kellar Branch despite the fact that its lease expired and the City selected CIRY as the new operator and tenant. For the Board to rule that PIRY can remain as a tenant in defiance of the City's wishes amounts to an unconstitutional taking of the City's property without due process of law. The Joint Parties urge the Board to recognize that they have no such power.

² CIRY and Peoria will collectively be referred to as the "Joint Parties."

³ The Joint Parties have filed a Petition for Leave to File a Reply to a Reply concurrently with this filing.

SPECIFIC POINTS REQUIRING A RESPONSE

1. PIRY equates Carver Lumber with the shipping community. PIRY Reply at 4.

PIRY would have the Board believe that Carver Lumber represents what it calls the "shipping community." See, e.g., PIRY Reply at 4,5,6, and 10. That is a gross distortion. Currently there are only two customers located on the Kellar Branch, Carver and O'Brien Steel at the south end of the line. O'Brien Steel is the same entity that has previously supported CIRY. While PIRY suggests that there may be other shippers willing or interested in locating on the Kellar Branch, its failure to identify them makes its statement suspect.

2. PIRY equates its service with "direct service" and uses vague terms such as "effective," "adequate," and "viable" to characterize its service and describes Carver as being "isolated" from the national rail network. See, e.g., PIRY Reply at 5,7, and 8 (direct); 5 and 9 (effective); 7 and 9 (adequate); 7 (viable); and 11 (isolated).

PIRY repeatedly throws these terms around to praise its service or disparage that provided by CIRY without ever providing any sort of definition or explanation. Beginning with

"direct service," it suggests that CIRY's service is inferior because it is not "direct." But as CIRY President John Darling testifies the through Kellar Branch operation between Pioneer Park where Carver is located and downtown Peoria (the Tazewell & Peoria (TZP) interchange) is neither short nor direct. It entails operation over 8 miles of slow track up a steep grade. By contrast the route between Carver and the Union Pacific interchange is a straight, short (two mile) haul. Darling VS at 4-5.

PIRY also throws around other terms such as "efficient" and "adequate" but leaves it to the reader to decipher their meaning. PIRY suggests that its service would be efficient and adequate by representing that its service would be cheaper, more frequent, and would offer multiple connections. But as Mr. Darling points out in his statement, it is the consignor, not Carver, that pays the freight and routes the traffic. Darling VS at 1-2. Service frequency in the freight business is a function of customer demand. Darling VS at 4. Using its best hyperbole, PIRY claims that Carver has become

"isolated from the interstate rail system." Yet the fact is that Carver is but two miles away from the UP/CIRY interchange.

3. CIRY and Peoria are unable or unwilling to resolve service and price issues. PIRY Reply at 8.

Specifically PIRY and Carver accuse CIRY of failing to follow shipper routing instructions offering "competitive routes and rates, and adequate service frequency." See, PIRY Reply at 7 and 8. As noted above, it is the consignor, not Carver as consignee that pays the freight rate and determines the route. Darling VS at 1-2. Most modern short lines including CIRY and, presumably before it, PIRY, receive switching allowances from the connecting class I railroad for compensation and do not have any ratemaking authority or even appear in the routing. Id. Indeed the sample freight bill that PIRY filed in this proceeding illustrates that the traffic moved prepaid so neither PIRY nor Carver has any say on this point.

PIRY states that most of Carver's traffic originates on the Canadian National Railway, with

some traffic coming off BNSF Railway. Reply at 10, note 12. In that connection, Mr. Darling compared the rates on an actual Carver movement from Mackenzie, BC, to Peoria via a Canadian National-Union Pacific routing with a BNSF routing and a theoretical connection through downtown Peoria. The CN-UP rate over the much maligned "western connection" is \$343 less than the preferred PIRY/Carver routing. Darling VS at 3.

PIRY's claim that CIRY "nowhere" describes the level of service it provides to Carver⁴ is yet another example of its many gross distortions. CIRY has repeatedly said that it provides "service on demand." Darling VS at 4. While PIRY suggests that it had provided service on the line five days per week during its period of operation, the statement is a misnomer considering the fact that Carver only tenders 50 car loads of freight per year. PIRY's absurd statement fails to recognize a key distinction between passenger and freight rail service. With passenger rail, providing multiple frequencies

⁴ PIRY Reply at 8, note 9.

may be the key to attracting riders. With freight, the key to developing business is a willingness of the carrier to pick up and deliver rail cars upon customer request. And that is what CIRY does. Darling VS at 4.

4. CIRY has failed in its common carrier obligation to service Carver by failing to operate over the entire Kellar Branch. PIRY Reply at 19, notes 27 and 28.

Regarding the alleged lack of responsiveness by CIRY to Carver's service requests, CIRY and Carver would have the Board believe that CIRY essentially ignored Carver-bound traffic waiting at the CIRY-UP interchange. Although CIRY cannot comment on events occurring prior to the August 18, 2006, the date of acquisition of the company by current management, today's CIRY would not allow such a thing to happen. As Mr. Darling relates, CIRY routinely delivers cars to the customer within 24 hours of receipt of a request. Darling VS at 4.

Moreover, the claim that CIRY has failed in its common carrier obligation to serve Carver is specious. PIRY Reply at 19, notes 27 and 28. First, it was Carver that abandoned its use of

CIRY's rail service, not the other way around. In fact, Carver terminated the use of CIRY's service in November 2006. PIRY Reply at 14. Second, CIRY failure or refusal to utilize the Kellar Branch was no abdication of its common carrier obligation. In the absence of a specific shipper routing instruction and no shipper (as opposed to a receiver) has given such a routing here, CIRY has the discretion to choose any appropriate routing so long as the freight moves from origin to destination. Furthermore, as Mr. Darling notes, under applicable Association of American Railroad rules, the Kellar Branch cannot be embargoed. An embargo requires identifying station numbers and actual stations. The Kellar Branch presently has no stations, no station numbers, and no customers on its inoperable segments. Darling VS at 7.

5. CIRY does not have an "operable working relationship" with the Union Pacific. PIRY Reply at 21.

In answer to PIRY's strangest assertion, John Darling identifies the many different commercial and operating relationships that CIRY has with the Union Pacific Railroad. Darling VS

at 6. PIRY does not define what it means by "operable working relationship" and leaves it to the reader's imagination.

6. PIRY accuses CIRY of letting its customers engage in "self-service." PIRY Reply at 23.

Equally, absurd is PIRY's unsupported allegations that CIRY is allowing O'Brien Steel to use a CIRY trackmobile to move its traffic to and from the TZP interchange in downtown Peoria. Similarly, PIRY claims that CIRY has offered to lease a locomotive to Carver so that this shipper could provide its own service over the Western Connection to connect with the Union Pacific. PIRY cites these claims to support its notion that there would be no interference between PIRY's operations and CIRY's alleged lack of service over the Kellar Branch because CIRY has no "presence" there.⁵ CIRY witness John Darling describes in detail the nature of the operations that CIRY has performed in Peoria for Carver and still does perform for O'Brien Steel. PIRY's suggestions that CIRY would let a customer use its locomotive or track mobile to move equipment

⁵ See, Carver comments to the Board dated March 15, 2007, at 1.

around is nothing short of garbage and should be disregarded. Darling VS at 6-7.

7. The Kellar Branch could be restored to service for a mere \$9496.11. PIRY Reply at 9.

PIRY cites testimony from Pioneer affiliate Keokuk Junction Railway track foreman Roger Stice in another proceeding⁶ to the effect that the Kellar Branch could be restored to service for a mere \$9496.11 to challenge CIRY's much higher estimates for rehabilitating the Kellar Branch. This statement is typical of the many gross distortions by PIRY and should be rejected as lacking in credibility for the following reasons.

Although PIRY attempts to pass Mr. Stice off as an "expert," he has not been properly qualified. He does not have any credentials in railroad track maintenance and engineering other than as a track foreman and, before that, a track laborer. Moreover, much of the information he relies upon regarding the historic status and condition of the Kellar Branch is hearsay derived in his own words from things that he was "informed" about and "believe[d]." Such

⁶ Submitted in STB FD No. 34917, Pioneer Industrial Railway Co. - Alternative Rail Service - Central Illinois Railroad Company on August 14, 2006.

supposition does not belong in this proceeding. Moreover, he testified that the cost of rehabilitating the Kellar Branch was about \$19,000, not \$9,496.11. This figure does not appear to include the rental of any machinery or equipment needed to perform these repairs, does not indicate the hourly rate of pay and benefits for the workers required, and does not indicate whether the work would be performed by PIRY personnel or an outside contractor.

But even if Mr. Stice's figures are correct, the cost of rehabilitation would range from about \$190 to \$380 per car depending upon which of PIRY's two rehabilitation figures is used. Assuming that PIRY receives a typical short line switching allowance of \$200-300 per car from a class I railroad, it would either make no money hauling Carver's traffic or would be forced to charge Carver for this additional cost. On top of that, the rehabilitation would still leave the Kellar Branch in a minimal excepted condition unable to handle the new industry standard of 286,000 pound cars. By contrast, CIRY's Western

Connection is 286,000 pound compatible today.

Darling VS at 5.

8. CIRY does not squarely address the "PC&N balancing test" articulated in New York Cross Harbor R.R. v. STB, 374 F.3d 1177 (D.C. cir. 2004). See, e.g., PIRY Reply at 4, 18-9.

Here PIRY conveniently forgets that it is it that is the focus of this adverse discontinuance proceeding and the Board's directive for the parties to address "balancing of the relative benefits and burdens under the PC&N standard." This proceeding involves the adequacy of the service provided by PIRY and whether or not Carver generates any traffic for the purpose of determining whether this line is "actively" used under the Cross Harbor decision. It is not, as PIRY would have it, a witch hunt into the quantity and quality of CIRY service. Had the Board intended such, the January 12 decision would have put all parties on notice of that quest.

Assuming that the Board did intend for CIRY to address these issues, how would CIRY be qualified to address the relative burdens that continuation and cessation of service would have

on PIRY and the owner-lessors of the line? In fact, it would be presumptuous for CIRY even to attempt to do that. To the extent that CIRY's role in these proceedings is limited to addressing the impact on the public by explaining the service it provides, it has attempted to do just that.

Finally, PIRY's continual references to the Cross Harbor case bring up another point. PIRY's counsel would fool the Board into believing that he is an expert on the teachings of Cross Harbor. Nothing could be further from the truth. As the Board's Office of General Counsel is well aware, the undersigned attorneys represented New York Cross Harbor Railroad and the concerned shippers throughout the administrative consideration of this case and on appeal. CIRY counsel is the attorney who argued before the District of Columbia circuit. The undersigned attorneys are probably the outside counsel best able to comment on the meaning of that proceeding.

Simply stated, Cross Harbor stands for the proposition that an appellate court will reverse an agency ruling when the agency has not

adequately explained its reason for departing from long established precedent. Id. at 1178 and 1181-3. Substantively, the case holds that the Board cannot approve the adverse abandonment of an actively used rail line. Id. at 1186. But there are substantial differences between this case and Cross Harbor. This case involves a "dormant" shipper, one that has chosen not to use rail service despite its availability. The shippers in Cross Harbor were actively using the rail line proposed for abandonment. In Cross Harbor a grant of the abandonment would have deprived the 8 customers, all of whom supported the Cross Harbor Railroad (as opposed to here where one supports CIRY and one supports PIRY), of all rail service. Id. at 1187. Cross Harbor established, at least to the Court's satisfaction, that a grant of the abandonment application would have isolated the customers from both the cross harbor routing by eliminating the car float *and* from the only remaining connection, the New York & Atlantic Railway, by severing that connection as well. Even if the NY&A connection could be made, the circuitry in

adequately explained its reason for departing from long established precedent. Id. at 1178 and 1181-3. Substantively, the case holds that the Board cannot approve the adverse abandonment of an actively used rail line. Id. at 1186. But there are substantial differences between this case and Cross Harbor. This case involves a "dormant" shipper, one that has chosen not to use rail service despite its availability. The shippers in Cross Harbor were actively using the rail line proposed for abandonment. In Cross Harbor a grant of the abandonment would have deprived the 8 customers, all of whom supported the Cross Harbor Railroad (as opposed to here where one supports CIRY and one supports PIRY), of all rail service. Id. at 1187. Cross Harbor established, at least to the Court's satisfaction, that a grant of the abandonment application would have isolated the customers from both the cross harbor routing by eliminating the car float *and* from the only remaining connection, the New York & Atlantic Railway, by severing that connection as well. Even if the NY&A connection could be made, the circuitry in

Cross Harbor involved an unnecessary and time consuming 300 mile detour from Brooklyn up and around the Albany area and back down to New Jersey. Id. at 1187-8. Moreover, PIRY failed to point out that one of the reasons for the Court's remand of Cross Harbor was that the Board (and the City of New York) could not articulate a clear justification for the abandonment. Was it an effort to eliminate rail service and trackage to accommodate a "better" use for the property? Or was it an effort to terminate Cross Harbor's operations so it could be evicted from the property? Id. at 1185. Here the City's motivation was to remove a carrier whose lease had expired on its own terms and was unwilling to leave cooperatively.

So to paraphrase the late Senator Lloyd Benson criticizing former Senator Dan Quayle's attempt to compare himself to John Kennedy, "you're [PIRY] no Cross Harbor."⁷

CONCLUSION

CIRY urges the Board to see through PIRY's rhetoric and grant this adverse discontinuance request. CIRY

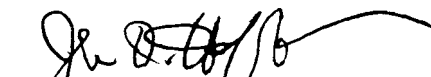
⁷ The quote was "Senator, you're no Jack Kennedy."

observes, however, that Carver is not without remedies to obtain access to railroads other than Union Pacific utilizing the Western Connection. Aside from working with CIRY and Union Pacific cooperatively, it could file a petition under 49 U.S.C. 11102 seeking either terminal access or, more appropriately, reciprocal switching to downtown Peoria. CIRY reminds Carver that it may be able to avail itself of the access provisions of the Rail Industry Agreement to which Union Pacific is a signatory.⁸ Yet, PIRY as Carver's apparent attorney appears silent on those options. The application should be granted.

Respectfully Submitted


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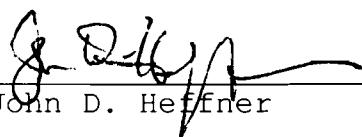
Counsel for Central Illinois
Railroad Company

Dated: April 4, 2007

⁸ Under the RIA a class III carrier can obtain access over an intermediate class I carrier to other connections providing the traffic is "new," there is no congestion, and the mileage involved is less than 15 miles.

CERTIFICATE OF SERVICE

I, John D. Heffner, certify that a copy of the Joint Petition of Central Illinois Railroad Company and The City of Peoria For Leave To File A Reply To A Reply and the Joint Reply was served on April 4, 2007, on All Parties of Record.



John D. Heffner

**VERIFIED STATEMENT
OF JOHN A. DARLING**

John A. Darling, being duly sworn, deposes and states as follows:

My name is John A. Darling. My business address is 1500 West Lincoln Avenue, Rochelle, IL 61068. Since August 18, 2006, I have been employed as President of the Central Illinois Railway Company ("CIRY"), a class III short line railroad which operates the Kellar Branch in Peoria, IL, under a lease, in part, with its owners, the City of Peoria and the Village of Peoria Heights, IL. My duties with the railroad include administering the operating, financial, sales and marketing, and general affairs of the corporation.

I have read the filing by Pioneer Industrial Railway Co. ("PIRY") in these proceedings dated March 15, 2007, as well as the written comments prepared and submitted by Carver Lumber ("Carver") dated March 15, 2007. I find several statements made therein about the CIRY that are false and/or misleading that I dare not leave unchallenged.

In particular, I would like to address the following points raised by the former operator of the line, PIRY, apparently acting on behalf of Carver.

FREIGHT RATES

Firstly, the whole issue of rates has been mischaracterized and used as a “Red Herring.” Like substantially all lumber movements throughout North America, the consignee, Carver, does not remit the freight charges.¹

Substantially all lumber is sold f.o.b. destination, freight is paid by the Consignor and then passed through to the Consignee in the delivered price of the commodity. Since the Consignor bears financial liability for payment of the freight rate, it is the Consignor that customarily picks the route and rate.

Moreover, by Items 1300 to 1310 of its tariff, the CIRY is established as a reciprocal switch carrier and does not participate in any through rate or the route.² CIRY is not a member of the Interline Settlement System (ISS) and has no interline authority to quote any routes beyond its lines or rates for any services other than such terminal services and other ancillary charges as

¹ See the “Prepaid” designations appearing on both bills of lading attached to the April 17, 2006, letter from Carver to the City of Peoria and attached as Exhibit B to PIRY’s Reply.

² Tariff *FT CIRY 1000*, issued by the CIRY August 18, 2006, and effective August 31, 2006. “CIRY 1000 will not contain any freight charges for movements between points on the CIRY and connections for intrastate and interstate movement of freight. Publication of public freight charges apply only between points located on the CIRY entirely within the limits of either the Centex Industrial Park at Elk Grove Village, IL, the Lumber District at Cicero, IL, or the IN District at Corwith, IL. These rates do not apply between points on one District and points on another District,” Item 1300, FT CIRY 1000.

are identified in its tariff. Spurious inclusion of the CIRY in a route entered on a waybill is meaningless and ineffective.

And with respect to the competitiveness of rates via the UP it is instructive to note that the rate on lumber, STCC 21211, from Mackenzie, BC (a Carver origin) to Peoria, IL, in 61 ft. center-beam flat cars, routed CN – UP (for delivery over the “Western Connection”) is \$6,163 per carload,³ whereas the rate via the BNSF for delivery via the TZP – if such a route existed (which it does not) – would be \$6,506 per carload,⁴ or \$343 less over the Western Connection than over the hypothetical TZP connection. Moreover, the BNSF rate contains a limit of \$300 per car on the reciprocal switch charge it will absorb at destination. The balance will be assessed the shipper and certainly passed on to the Consignee raising the BNSF disadvantage to \$613 per carload.

SHIPPER INTEREST

During CIRY’s first six months of ownership, very little interest in rail service has been expressed by other tenants of Pioneer Park. The former users of rail service in the Park have either shut their doors, moved away or elected to use other transportation modes. However, very recently, we have

³ UPRR Price Inquiry System, Price Document T 510215 (2000000), effective 3/14/07, copy attached as Exhibit A.

⁴ BNSF Railprices System, Authority BNSFQ 112092 ITEM: 5, effective 2/19/07, copy attached as Exhibit B.

begun working with a new tenant in Pioneer Park who is interested rail access. We have not been approached by any other prospective shipper and have no knowledge regarding to whom PIRY may be referring.

CIRY SERVICE

PIRY continues to allege that CIRY has not provided service. I can not speak to what occurred before August 18, 2006, but immediately following Closing of our purchase, CIRY began implementing the most modern car movement EDI system presently available. Since implementation of that system, there has been only instance when service was not provided within 24 hours of receipt of a request. In that instance, the car placement data arrived from the linehaul carrier just late enough to miss our crew and an extra day was incurred. Notwithstanding CIRY's on-demand service, there has been no request for service received from Carver since last November.

The allegation that CIRY has ignored EDI information from the UP is false and misleading. It is similarly false and misleading to allege that present management left loaded cars on the interchange for a week. There have been no such mishandlings during present management's stewardship.

Further, PIRY's characterization of rail service by way of Peoria to be "direct" is also misleading. All service via CIRY's Peoria station, if it

were an open route beyond O'Brien Steel (which it is not), involves an additional carrier, the TZP, plus an additional eight miles of movement up a steep grade. Alternatively, the open route via Pioneer Junction is a direct interchange with the linehaul carrier and a little over 2 miles between the junction and the customer.

Finally, the accusation that CIRY has no "presence in Peoria" is baffling. CIRY has a locomotive permanently assigned to Pioneer Park (although unused since last November) and in addition to work equipment positioned at the Peoria end of the branch a trackmobile is available at O'Brien Steel. And even if they don't live in Peoria, our crews are routinely dispatched from Hennepin, IL only 45 minutes from Peoria. The General Freight Agent is in Rochelle, and always immediately available during business hours by telephone.

BRANCH REHABILITATION COSTS

The real costs for restoring the Kellar Branch to service have previously been estimated by qualified rail engineering and construction people, introduced in this proceeding and are a matter of record. However, none of those cost estimates contemplate bringing the Branch up to the 286,000 lb. standard. The Western Connection is already at the 286,000 standard.

UNION PACIFIC RELATIONSHIP

The statement that CIRY has “no operable working relationship with UP” is not merely false and misleading, it is fatuous. CIRY is a member of a group of affiliated companies involved in providing support services to railroads and industries. For many years CIRail – Construction and its predecessors provided, and continue to provide, track construction and maintenance services to the UP at IMX (now closed) and Chicago Canal Street Intermodal Terminal. Similarly, CIRail – Switching and its predecessors provided, and continue to provide contract industrial switching services for major UP customers at Ames, IA, and Chicago Heights, IL. At both locations, our crews collaborate daily with local UP crews and supervisors to serve our customers reliably and well. And lastly, the CIRY is now ending a six year engagement with the UP at Elk Grove Village but continues to work with the UP at Peoria to develop industrial park business. We are pleased with the maturity of our relationship with the UP.

ALLEGED EQUIPMENT LEASES

At no time in the last six months has CIRY management had any material discussions with either Carver or O’Brien Steel regarding leasing of any motive power. Similarly, the only car mover at Peoria belongs to CIRY

and permission has neither been requested nor given for any persons other than railroad employees to operate that equipment.

INOPERABLE SEGMENTS OF KELLAR BRANCH

The PIRY has criticized CIRY for the lack of an embargo on the inoperable portions of the Kellar Branch. Under the existing rules of the Association of American Railroads (AAR), as administered by Railinc, Inc., the Kellar Branch cannot be embargoed because an embargo requires identifying station numbers (“FSAC” numbers) to define the limits and included stations which are being embargoed. There are no stations on the inoperable portions of the Kellar Branch. There are no customers on the inoperable portions of the Kellar Branch. To attempt to use existing station numbers to define an embargo would shut off service to existing customers, including Carver. And finally, there are alternative service routes and rates between every station and every customer on the Kellar Branch.

VERIFICATION

STATE OF ILLINOIS)
) SS
CITY OF ROCHELLE)

John A. Darling, being duly sworn according to law, hereby deposes and states that (s)he is authorized to make the Verification, has read the foregoing document, and knows the facts asserted therein are true and accurate as stated, to the best of (her)his knowledge, information and belief.

John A. Darling

Subscribed and sworn to before me, a Notary Public, in and for the City of Rochelle in the State of Illinois, this 4 day of April.

Roxann Weber
Notary Public

My Commission expires:

8-19-07



EXHIBIT A

Price Details

From: Mackenzie, BC
To: Peoria, IL
Product: 24211 (Lumber,Rough Or Dressed,Or Softwood Cut Stock Or Flooring)
Rate Quoted: \$6,163 Per Car
Price Document: T 510215 [2000000]
Route & Service: CN -SUPER-UP [Standard]
Avg. Transit Time*: N/A
90% Transit Time*: N/A
Effective Date: 03/14/2007
Expiration Date: 12/31/2007
Fuel Surcharge: 8.17 % (as of Mar 22, 2007)
Applicable Products

(Additional service(s) for DIVERSION are included in the rate. These service(s) may not exceed 000 time(s) per shipment. *and*
Additional service(s) for Stopping to complete loading are included in the rate. These service(s) may not exceed 000 time(s) per shipment. *and*
Additional service(s) for Stopping to partial unload are included in the rate. These service(s) may not exceed 000 time(s) per shipment.)

AND

(Rates must not be used in combination with other rates on traffic that originates and is destined beyond .
and
Rates must not be used in Rule 11 Service with other rates on traffic that originates and is destined beyond .)

AND

(Subject to the provisions of Tariff CN 0000009000 SERIES . *and*
Subject to the provisions of Tariff CN 0000009001 SERIES . *and*
Subject to the provisions of Tariff CN 0000009002 SERIES . *and*
Subject to the provisions of Tariff CN 0000009003 SERIES . *and*
Subject to the provisions of Tariff CN 0000009004 SERIES . *and*
Subject to the provisions of Tariff CN 0000009005 SERIES . *and*
Subject to the provisions of Tariff CN 0000009006 SERIES .)

AND

(Freight Charges must be paid on a prepaid basis. *and*
Charges must be paid in United States currency.)

AND

(Shipment must be made in equipment with an AAR Car Type Code of F-4 . *and*
Equipment with an inside length greater than 000-00 (ft/inches) but not greater than 053-11 (ft/inches) must be used.)

OR

(Shipment must be made in equipment with an AAR Car Type Code of F-5 . *and*
Equipment with an inside length greater than 000-00 (ft/inches) but not greater than 053-11 (ft/inches) must

be used.)

OR

(Shipment must be made in equipment with an AAR Car Type Code of F-8 . and
Equipment with an inside length greater than 000-00 (ft/inches) but not greater than 053-11 (ft/inches) must
be used.)

AND

(Price is subject to Fuel surcharges. and
Price is subject to Fuel surcharges.)

AND

(No more than 0000.0000 per PC will be absorbed. and
Charges must be paid in United States currency. and
Switching charges at destination will be absorbed .)

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EXHIBIT B



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- [Intermodal](#) • [Rail 101](#) • [Glossary](#) • [New Query](#)

Always check price authority documents for applicable rules and conditions.
 New BNSF prices are subject to conditions which can be viewed by selecting the 'price conditions' button for a given price. Prices are subject to change.

Price Retrieval:

QUERY DATE: 2007-03-23 10:25
 SEARCH DATE: 2007-03-23
 ORIGIN STATION/STATE: MACKENZIE, BC
 DESTINATION STATION/STATE: PEORIA, IL
 STCC: 2421184
 COMMODITY DESCRIPTION: LBR TIMBER,DRID
 AUTHORITY: BNSFQ 112092 ITEM: 5
 EFFECTIVE DATE: 02/19/2007
 EXPIRATION DATE: 06/19/2007
 EQUIPMENT: Price applies in Railroad owned or leased Flat Cars, with inside less than 63 feet.
 ROUTE: BNSF
 PRICE IN \$ PER CAR: \$6506

Price Conditions:

Freight charges must be PREPAID.
 Price applies in United States funds.
 Internal Flag BNSF 35 P-B.
 Origin and Destination groups used in this Price Authority are defined in BNSF Geography Group Book, BNSF-5. This Book is located on the BNSF website at bnsf.com.
 Price is subject to a Fuel Surcharge. A Fuel Surcharge will be applied to the rates or charges in this price authority for the shipment, as provided for in Item 3375-Series of BNSF Rules Book 6100-Series. This amount will be added to the freight bill.
 The Price document number, correct address and patron code must be shown on the bill of lading to insure accurate billing.
 Rates in this quotation are subject to increase by BNSF at any time upon no less than fifteen (15) calendar days written notice to Customer. Notice of such rate increase will be effective upon receipt, and may be presented to the Customer via telephone, facsimile (FAX), U.S. Mail, personal visit, or any reasonable means.
 Price authority is subject to change without notice.
 Customer is responsible to ensure loads do not exceed the load limit of the car and that it complies with AAR General Rules covering loading of lumber in closed and/or on open top cars. All shipments moving under this Quotation are subject to overloading charges in applicable tariffs and/or circulars in effect on the date of discovery of the overload condition.
 Transportation under this agreement is subject to BNSF Rules Book 6100-Series. A copy of this Rules Book may be obtained via the internet at: www.BNSF.com. If Customer does not have access to the internet, Customer should contact Price Management at (817) 593-1134 and a copy of BNSF Rules Book 6100 will be mailed to Customer.
 Switching charges at Destination will be absorbed up to \$300.00. No more than \$300.00 per car will be absorbed. Any additional amount will be assessed.
 An allowance will apply to rates in this document from all origin groups to the Phoenix destination group. This allowance will be adjusted each calendar month based on market conditions and published in this special rule approximately 20 day(s) in advance of the effective date. The allowance will only apply if the rate authority "BNSF 112092" is supplied on the original billing instructions. The allowance will be credited to the payor of freight at the time of payment. The allowance for February 27, 2007 through February 28, 2007 will be 3.99% of the published rate.
 The allowance for the month of March 2007 will be 4.33% of the published rate.
 RULES: LOGS Deduct does not apply.
 COMMODITIES:
 2421100 - 2421199

2439100 - 2439199
2491300 - 2491399
2499700 - 2499799
3071908
3275400 - 3275499

If you have questions regarding the prices above, please call BNSF Carload Price Quotations
at 1-888-428-2673 option 3, 4. Inquiry into the Internet Price Retrieval System will not be
considered a formal request for price information.

Report railroad emergencies: BNSF Resource Protection Team (800.832.5452)
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