

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832

MICHAEL J. BARRON, JR.
(312) 252-1511
mbarron@fletcher-sippel.com

Phone (312) 252-1500
Fax (312) 252-2400
www.fletcher-sippel.com

June 18, 2007

VIA FEDERAL EXPRESS

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

ENTERED
Office of Proceedings

JUN 19 2007

Part of
Public Record



Re: **Finance Docket No. 35051**
Progressive Rail Inc.—
Acquisition of Control of Non-Connecting Carrier
Exemption—Central Midland Railway Co.

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of a **Motion for Protective Order** of Progressive Rail Inc., dated June 18, 2007. A disk containing the text of the proposed protective order is enclosed.

I have included an extra copy of this transmittal letter and would request that you date-stamp this to show receipt of this filing and return it to me in the envelope provided.

Please feel free to contact me should any questions arise regarding this filing. Thank you for your assistance on this matter

Respectfully submitted,


Michael J. Barron, Jr.

MJB/pj
Enclosures
cc: Mr John Broadley

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35051

PROGRESSIVE RAIL INC.
-- ACQUISITION OF CONTROL OF NON-CONNECTING CARRIER EXEMPTION --
CENTRAL MIDLAND RAILWAY COMPANY

MOTION FOR PROTECTIVE ORDER
PROGRESSIVE RAIL INC.

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Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

ATTORNEY FOR
PROGRESSIVE RAIL INC.

Dated: June 18, 2007

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35051

**PROGRESSIVE RAIL INC.
-- ACQUISITION OF CONTROL OF NON-CONNECTING CARRIER EXEMPTION --
CENTRAL MIDLAND RAILWAY COMPANY**

**MOTION FOR PROTECTIVE ORDER
PROGRESSIVE RAIL INC**

Pursuant to 49 C.F.R. § 1104.14(b), Progressive Rail Inc. ("PRI") hereby requests that the Board issue a protective order allowing PRI to keep under seal an Agreement between PRI and Central Midland Railway Company ("CMR"), which Agreement is the subject of this proceeding.

PRI has filed a notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to acquire the stock of CMR. PRI has filed a redacted version of the Stock Purchase Agreement between CMR and PRI with the Notice of Exemption, but requests a protective order for the complete version. The Agreement was the subject of extensive private negotiations between the parties, and contains commercially sensitive and confidential information the public release of which would cause competitive or other injury to PRI and CMR. Public disclosure of the complete Agreement also is not necessary for the consideration or disposition of PRI's Notice of Exemption.

PRI thus requests that the Board accept the complete Agreement, enclosed herein, for filing under seal and adopt the proposed protective order contained in the appendix herein to govern access to the Agreement. This approach is consistent with that taken by the Board in prior similar circumstances. See, e.g., The Kansas City Southern Railway Company – Trackage Rights Exemption – Illinois Central Railroad Company, Finance Docket No. 34309 (STB served February 4, 2003); CSX Transportation, Inc. – Trackage Rights Exemption – Norfolk Southern Railway Company, Finance Docket No. 34254 (STB served October 24, 2002).

WHEREFORE, PRI respectfully requests that the Board adopt the protective order contained in the appendix hereto.

Respectfully submitted,

By: 

Michael J. Barron, Jr.
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

**ATTORNEY FOR
PROGRESSIVE RAIL INC.**

Dated: June 18, 2007

APPENDIX

PROTECTIVE ORDER

1. For the purposes of this Protective Order, "Confidential Information" means the Stock Purchase Agreement between Progressive Rail Inc. ("PRI") and Central Midland Railway Company ("CMR") enclosed herein.

2. Confidential Information shall be provided to any party only pursuant to this Protective Order and only upon execution and delivery to PRI of the attached Undertaking. Confidential Information shall be used solely for the purpose of this and any related Board proceedings, or any judicial review proceeding arising therefrom, and not for any other business, commercial or other competitive purpose.

3. Confidential Information shall not be disclosed in any way or to any person without written consent of PRI or an order of the Board, solely for use in connection with these and related Board proceedings, or any judicial review proceeding arising therefrom, provided that such person has been given and has read a copy of this Protective Order and agrees to be bound by its terms by executing the attached Undertaking prior to receiving access to this information.

4. Any documents containing Confidential Information must be destroyed, and notice of such destruction must be served on PRI at the completion of this and any related Board proceedings, or any judicial review proceeding arising therefrom, whichever comes first.

5. If the Board retains the Confidential Information, it shall, in order to keep it confidential, treat the information in accordance with the procedure set forth at 49 § C.F.R. 1104.14.

6. If any party intends to use Confidential Information at hearings in this proceeding or in any related Board proceedings, or in any judicial review proceedings arising therefrom, the party shall submit any documents setting forth or revealing such Confidential Information to the Board, or the reviewing court as appropriate, under seal, and shall accompany such submission with a written request to the Board or the court to (i) restrict attendance at the hearing during discussion of such Confidential Information, and (ii) restrict access to the portion of the record or briefs reflecting discussion of such Confidential Information in accordance with the Protective Order.

7. All parties must comply with all provisions stated in this Protective Order unless good cause, as determined by the Board, is shown by any party to warrant suspension of any of the provisions herein.

UNDERTAKING

I, _____, have read the Protective Order governing the filing of Confidential Information by Progressive Rail Inc. ("PRI") in STB Finance Docket No. 35051 and understand the same, and agree to be bound by its terms. I agree not to use or permit the use of any data or information obtained under this Undertaking, or to use or permit the use of any techniques disclosed or information learned as a result of receiving such data or information, for any purpose other than the preparation and preservation of evidence and argument in STB Finance Docket No. 35051 or any judicial review proceedings taken or filed in connection therewith. I further agree not to disclose any data or information obtained under this Protective Order to any person who is not also bound by the terms of this order and has executed an Undertaking in the form hereof.

I understand and agree that money damages would not be sufficient remedy for breach of this Undertaking, and that User shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and I further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Undertaking but shall be in addition to all remedies available at law or equity.

Dated: _____

Signature: _____

Position: _____

Affiliation: _____