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Part of
Public Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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GENESEE & WYOMING INC.)	
-- CONTROL -- RAILAMERICA, INC.,)	Finance Docket No. 35654
ET AL.)	
)	
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**COMMENTS OF
SOUTHWESTERN ELECTRIC POWER COMPANY**

Venita McClellon-Allen
President and Chief Operating Officer
Southwestern Electric Power Company
P.O. Box 21106
Shreveport, LA 71156

OF COUNSEL:

Slover & Loftus LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Kelvin J. Dowd
Stephanie M. Archuleta
Slover & Loftus LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: October 9, 2012

Attorneys and Practitioners

which will become fully operational before the end of this year. The Turk Plant is located on a 2,800-acre tract between Fulton and McNab, Arkansas, about 15 miles northeast of Texarkana.

The Turk Plant is designated to burn Power River Basin coal using an advanced coal combustion technology known as “ultra-supercritical” generation, and is the first facility of this type to go into operation in the United States. When fully operational, the 600-megawatt station will be one of the cleanest, most efficient coal plants in the country. Ultra-supercritical generation is a new, efficient pulverized coal technology that requires less coal and produces fewer emissions to generate the same amount of power as existing plants using Powder River Basin coal.

The Turk Plan currently receives coal deliveries directly via the Union Pacific Railroad (“UP”). In anticipation of the commencement of commercial operation, UP began delivering coal to the station in May of this year. However, SWEPCO has other potential options for coal transportation to the Turk Plant. Among them is delivery via the Kiamichi Railroad Company (“KRR”),² which would be feasible following construction of an approximately one mile long industrial track between KRR’s existing lines and the Turk Plant’s loop track. KRR has established connections with both the

² According to the Applicants, KRR is a Class III short-line railroad headquartered in Hugo, Oklahoma. KRR operates two lines totaling 230 miles which intersect in Hugo, and operates over 45 miles of trackage rights. KRR interchanges with UP at Durant, OK and Hope, AR, BNSF at Madill, Oklahoma, KCS at Ashdown, Arkansas, and the De Queen and Eastern Railroad via Texas, Oklahoma and Eastern Railroad at Valliant, Oklahoma. KRR acquired its lines from BNSF’s predecessor in 1987. KRR was acquired by Applicant RailAmerica in 2002.

Kansas City Southern Railway (“KCS”) and BNSF Railway (“BNSF”), which opens up the possibility of at least two (2) alternative routings for Powder River Basin coal shipments: BNSF-KRR, or BNSF-KCS (Kansas City) - KRR. Upon expiration or other termination of its current arrangements with UP, the availability of KRR delivery service will offer SWEPCO a competitive alternative to UP, which is of critical importance in terms of future rates and service quality for coal shipments to the Turk Plant. The importance of preserving these competitive options is the basis for SWEPCO’s interest in the proposed transaction and this proceeding.

Applicant Genesee & Wyoming Inc. (“G&W”) has sought Board approval for its acquisition of control of Applicant RailAmerica, which means that effective ownership and control of KRR would pass to G&W as well. SWEPCO has a vested interest not only in the future viability of KRR, which does not appear to be threatened by the proposed transaction, but in ensuring that no contractual or other restrictions inhibit KRR’s continued ability to freely interchange traffic with either BNSF or KCS, and that no capital constraints restrict KRR’s ability to participate in track and infrastructure improvement projects to facilitate service to the Turk Plant.

Based upon a review of the Application and related submitted materials, SWEPCO takes no position at this time on the general merits of an acquisition of RailAmerica by G&W. However, the existing record contains no information related to the issues with respect to KRR that are of importance to SWEPCO. Therefore, SWEPCO submits that the Applicants, either on their own initiative or, if necessary, at the direction

of the Board as a condition of any approval of the proposed transaction, should place on the record representations and/or information sufficient to confirm the following:

1. The transfer of ownership of KRR from RailAmerica to G&W will not trigger any provision of the original 1987 transaction documents between BNSF's predecessor and KRR that would result in any restrictions on KRR's ability to interchange loaded and empty coal trains with KCS.

2. The transfer of ownership of KRR from RailAmerica to G&W will not trigger any provision of the 2002 agreement between RailAmerica and KRR that would result in any restrictions on KRR's ability to interchange loaded and empty coal trains with either BNSF or KCS.

3. There are no agreements or other arrangements between G&W and UP or any other third party that would restrict or adversely affect KRR's participation with BNSF and/or KCS in a competitive transportation routing for Powder River Basin coal shipments to the Turk Plant.

4. Approval of the proposed transaction will not result in any new capital restrictions on KRR, or limits on its ability to participate in infrastructure additions and upgrades to facilitate KRR delivery service to the Turk Plant.

The representations and/or conditions that SWEPCO seeks are reasonable, and fully consistent with the public interest in ensuring that mergers or other acquisitions that come before the Board for approval do not lead to a reduction in transportation competition. *See, e.g.*, 49 U.S.C. § 11324(d)(1). In this regard, it is noteworthy that if KRR alone was party to a "small line acquisition" governed by 49 U.S.C. § 10902 and 49

CFR Part 1150.41, *et seq*, it would be *required* in its initial filing to disclose the existence of any agreements, terms or conditions that might “limit future interchange with a third party connecting carrier” in any way. 49 CFR Part 1150.43 (h). The representations and/or conditions that SWEPCO seeks in this far larger transaction are no more intrusive than what the Board’s own rules require in connection with a variety of Class III acquisition transactions.

SWEPCO will continue to monitor and participate in this proceeding as its interests may appear, and will advise the Board promptly if the issues raised herein are resolved satisfactorily prior to the scheduled date for the submission of Reply Comments.

Respectfully submitted,

SOUTHWESTERN ELECTRIC
POWER COMPANY

By: Venita McClellon-Allen
President and Chief Operating Officer
Southwestern Electric Power Company
P.O. Box 21106
Shreveport, LA 71156

OF COUNSEL:

Slover & Loftus LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Kelvin J. Dowd 
Stephanie M. Archuleta
Slover & Loftus LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Comments were served this 9th day of October, 2012, by first-class mail, postage pre-paid, upon all Parties of Record in this Proceeding.


Stephanie M. Archuleta
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