

September 27, 2012

Ms. Cynthia T. Brown
Chief – Section of Administration of Proceedings
Surface Transportation Board
395 E Street S.W.
Washington DC 20423-0001

233086

Re: Docket No FD 35247, Grenada Railway LLC, - Acquisition and Operation
Exemption – Illinois Central Railroad Company and Waterloo Railroad Company

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Part of
Public Record

Dear Ms. Brown,

My name is Don R. Brown. I am the majority stockholder of Mississippi Rail Group Inc, and until my retirement I was President of that company. Under the d/b/a of Kosciusko & Southwestern Railway ("KSRy"), Mississippi Rail Group operates under contract the rail line of approximately 21.5 miles extending from Aberdeen Junction eastward to the end of track beyond the City of Kosciusko. Aberdeen Junction, located on Grenada Railway (GRYR), is KSRy's only connection to the national railway system. Any and all traffic moving to, from or via KSRy must pass over GRYR. Thus the actions and operations of GRYR have a critical impact upon KSRy, and by extension the communities it serves and the State of Mississippi as the owner of the line. I am writing this submission in response to the request of Mr. Robert J. Riley that I provide comments on KSRy's experiences with GRYR's service or lack thereof.

BACKGROUND

KSRy was formed in 1998 in an attempt to preserve rail service on the line segment following its abandonment by Illinois Central Railroad and its subsequent purchase by the State. The early years saw efforts by a small but dedicated group of hobbyists and volunteers. Working for the challenge of keeping the railroad alive, their efforts included attempts to offer rides to the public on small maintenance vehicles. These rides were not sufficient to allow long term survival, but for the short term they kept the line open and operable for future business opportunities.

In the early 2000's the line handled some carload traffic of pulpwood logs, and also attracted significant business by storing surplus railcars for fleet owners across the country as the economy slumped. In a 2008 reorganization, the hobbyists whose dedication had kept the line alive for ten years gave way to a new management team which set out to operate the line as a business. My personal railroad experience included both Class I railroad work, and roughly 30 years in the operation and management of shortline companies, including about 20 years as Vice President and a member of the Board of Directors of a struggling but successful railroad in New York State.

Internal housekeeping was addressed. Accounting functions were improved, and for the first time in the company's life quarterly financial reports were generated, based on standard railroad industry accounting formats. A professional bridge engineer was brought in to begin a comprehensive inspection and evaluation of the structures on the line. A brush cutting machine was contracted to clear vegetation, with chemical spray applied to kill off weeds. Contacts with the community, through Kosciusko Attala Development Corp were established. KSR Y was invited by Canadian National Railway to attend their annual Short Line Connection meeting in Chicago. At that meeting various contacts were made with CN representatives who would be helpful in developing rail traffic to and from KSR Y. A list of needed track improvements was begun in anticipation of contracting some of that work. KSR Y leased a newer and more reliable "hirail" truck for inspection and maintenance. A switching locomotive capable of replacing the decrepit unit on the line was located, and lease terms acceptable to KSR Y were discussed.

At this point KSR Y seemed poised to begin taking an active part in the area's transportation needs. The announcement that the connecting line would be sold to GRYR caused some concern, as a shortline-to-shortline routing can often be a drawback to economical service. However, due to the much-publicized pronouncement by Grenada Railway that they were sincere in actively developing and retaining traffic, KSR Y accepted their words and raised no objection to the line sale.

It did not take long for doubts to emerge about the commitment of Grenada Railway to providing aggressive service. Suggestions to local GRYR managers that we meet to discuss possible traffic, and/or ways we could mutually help each other, were ignored.

Subsequent actions of the Grenada Railway made it apparent that KSR Y, the shippers, the various municipalities, the Surface Transportation Board, and the general public were deceived and misled by Grenada's assurances that they desired for the line to succeed and would operate it with the intent to continue its growth and survival.

INTERCHANGE AGREEMENT

KSR Y requested the two lines execute an "interchange agreement", a contract setting forth the details whereby freight is handed off from one line to the other, and addressing items such as maintenance and indemnification. Although at that time no revenue freight was moving, KSR Y hoped to begin such, and wanted the proper agreement in place when that time came. This request was handed from one GRYR official to another until it was in the hands of their Vice President. Mr. Michael Van Wagenen. Many months went by without a response. Finally after repeated requests a draft agreement was sent to KSR Y in 2011. A careful reading of the provisions it contained suggested it was deliberately created to be SO objectionable that it would be rejected out of hand by KSR Y, thereby continuing the lack of such an agreement as a basis for refusing any traffic which might arise. This agreement is attached in its entirety as Attachment A, but a few items in it bear noting.

Item 3.5 states that cars from GRYR to KSR Y shall be considered as interchanged when placed on the designated track by GRYR, accompanied by necessary data, and some other terms generally standard to such agreements. However, in Item 3.4, cars from KSR Y to GRYR shall be considered as interchanged when placed on the designated track, accompanied by necessary data, and “...*the user (GR YR) has moved the cars onto user’s rail line...*”(emphasis added). Railroad freight cars incur an hourly charge known as car hire, whereby the railroad using a given railcar pays to the owner a charge for the use of that car. In this instance, GRYR is suggesting that cars TO KSR Y would become KSR Y’s responsibility upon delivery as is standard, but if GRYR did not get around to picking up cars returned to them for any given amount of time, KSR Y should continue to pay the car hire for as long as it took GRYR to move the cars onto their railroad.

Item 5.1 states “In the event the parties hereto agree that additions, betterments, or alterations to the Interchange track(s) are necessary....Owner (KSR Y) shall ...make such additions betterments or alterations, and the cost thereof shall be assumed totally by the owner (KSR Y).” While the interchange track was to be on KSR Y’s property, the language of this item suggests that from the beginning GRYR was unwilling to participate in any efforts to improve the efficiency of operations.

Item 6.1 requires KSR Y to maintain the interchange track to FRA Class I track safety standards. In and of itself that is not totally unreasonable, but the item concludes “...(GR YR) shall not be required to interchange with (KSR Y) unless (GR YR), *in its sole opinion*, (emphasis added) deems the interchange track(s) to be in a safe and working condition.” There is no mention of KSR Y and GRYR making a joint inspection of the track, there is no provision for reference to the Code of Federal Regulations, nor of an independent contractor or even an inspector of the Federal Railroad Administration to evaluate the track. In effect, if GRYR desired an excuse to not handle traffic, they could exercise their “sole opinion” to claim the track was unsafe and that would be that.

Item 10.1 required KSR Y to maintain liability insurance in the amount of \$25 million per occurrence, \$50 million aggregate, naming GRYR as a named insured. Such coverage may have been appropriate for operating mainline trains at high speed and with hazardous materials over another railroad, but for handling of cars from one shortline to another, at speeds of 10 mph or less, it was preposterous. Generally shortline coverage in such a situation would warrant coverage of either \$2M/\$5M, or perhaps \$5M/\$10M. KSR Y asked our insurance broker, who is among the largest handlers of shortline railroad insurance on the country, for their thoughts. They replied that such coverage was extremely out of line when compared for industry standards. Furthermore, a rough estimate of the premium for such coverage was that it would about equal the railroad’s *entire annual income*. And it is interesting to note there is no mention whatever of any insurance coverage to be provided by GRYR *to* KSR Y covering the operation of GRYR’s trains – the obligation was strictly one directional and on KSR Y’s back alone.

There are other items of a similar nature, but one last example is illustrative of the absurdity of the document. Item 7.5 states "...if in emergencies crippled or otherwise defective cars are set out of User's (GRYR's) trains on the interchange track...." This portion is fine – if a passing GRYR train had a defective car in it, for safety's sake it could be set off on the interchange track. However, item 7.6, immediately following, states ". If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars to move them off the Interchange Track(s), *such work shall be the responsibility of Owner (KSRY) at the sole cost and expense of Owner.*" (emphasis added) So if GRYR set off one of their cars for safety issues, the repair of that car would become the responsibility and cost of KSRY, even though the car was not destined to or intended for KSRY.

At first glance it appeared the document was either prepared by someone totally ignorant of such agreements, or by someone who assumed KSRY was ignorant and would accept such a one-sided document without question. However, when viewed in light of the ongoing situation regarding the viability of the line, one must consider the strong possibility the agreement was made with no intention of it being executed to provide for the handling of traffic, but rather with the hopes it would be rejected out of hand thus leaving the parties with no basis for handling any traffic which might come forth.

TRAFFIC DISCOURAGEMENT

In 2011, a company in Texas purchased 8 railcars which were stored on KSRY and desired to have them moved to Texas. At this time GRYR was still operating freight service on the line through Aberdeen Junction. The line of storage cars began about 200 feet or less on KSRY's property, and the desired cars were the 9th through the 16th cars in that line. This would involve a very routine switching move whereby the locomotive would pull out 16 cars, shove the 8 outbound cars onto GRYR's track, then return the first 8 cars to KSRY's track. This can usually be accomplished in less than a half hour.

These cars were to be moved southward to Canton MS for delivery to CN railroad. Because of the track configuration, this would involve taking the 8 cars north about 3 miles to Durant, using a siding to put the locomotive on the south end, then taking the cars about 35 miles to Canton. Many shortline railroads are involved in similar storage of surplus rail cars and while each one has its own rate structure, a typical charge for such a move would be about \$250 to \$400 per car. At the high end, such a rate would generate a charge of \$3200 for moving those 8 cars off line.

In an e-mail dated June 26, 2011, included here as Attachment B, Grenada's Mr. Aaron Parsons quoted the company the following charges.:

Special Train Service charge \$7500.00. This is a service usually applying to specialized moves which require the dedicated services of a train crew to accomplish one task, often involving extremely large freight such as an oversized turbine or generator. There is no need for special train service when the regular GRYR train could pick up the cars in about a half hour in the course of its normal workday.

Freight to Canton \$1250 per car As noted in a previous paragraph, this rate alone is three to four times what most other railroads would charge for a similar move in its entirety.

Switching of lead cars \$250 per car This supposedly was for the handling of the 8 cars ahead of the 8 cars the customer wanted. Those cars would be included when the locomotive pulled out and put the outbound cars on GRYR's track, then shoved back onto KSRY's track and left there. This is an extremely routine switching operation, requires no extra precautions or expense, and by standard railroad practice should be part and parcel of the freight charges assessed for the overall move, not a separate and additional charge.

Fuel surcharge \$0.52 per mile per car While many freight rates include a factor for a small surcharge at times fuel prices rise sharply, this is not the case here. Locomotive fuel usage varies with the type of locomotive and how hard the unit is working, but as a working estimate a locomotive such as GRYR uses may consume a gallon of fuel per mile. If we take the 8 cars, the fuel "surcharge" would be \$4.16 per mile, or enough to more than buy ALL that locomotive's fuel if the cost was \$4.00 a gallon.

So the total freight bill for moving these 8 cars off line, using GRYR's estimate of 42 miles, was \$19, 674.72. An additional note which could almost be seen as a threat, says "If cars are not in a condition suitable for movement when we arrive for pick up, an additional charge of \$7,500 will be applied and we will reschedule a pick up for a later date."

Grenada Railway did nothing illegal in this as near as we can see. They are allowed to quote whatever they wish, just as one may offer a worn-out automobile for sale for \$100,000. But the more out of line the price, the less likely the sale. To relate this to a different application, imagine going to the grocery store, and finding a package of hamburger is \$14 per pound, then being told there is a charge for the use of the shopping cart, a charge for the clerk ringing up the sale, a charge for the purchase being placed in a bag, and an additional charge for the bag itself. A prospective customer certainly would turn and walk out empty handed.

6

As a side note, GRYR appeared to care so little about serving this customer that despite the shipper noting 8 cars were to be moved, GRYR's quote was calculated on the basis of seven cars. Additionally, the quote specifically states there is no interchange agreement with KSRV (incorrectly referred to in the e-mail as KSWR) and that the move won't take place until such an agreement is in place. This brings back into focus the above discussion of GRYR's evident disinterest in having such an agreement in place to allow cars to move.

The fact that these rates are so grossly inflated over what other railroads would charge leads to the natural conclusion that GRYR did not WANT the business and was doing everything in its power to discourage the customer from moving the cars.

OPERATIONAL OBSTRUCTION

Following the GRYR's petition to abandon the line segment which Aberdeen Junction is located, the owner of the railcars stored on KSRV began efforts to move them out to a location unaffected by the abandonment. Although that segment of the line was embargoed reputedly due to bridge conditions, the car owner and GRYR reached an agreement to move the cars in a special move.

At that time there was a string of about 120 cars on KSRV, starting perhaps 200 feet inside the property line and coupled continuously except for a short gap about 6 cars in, and about 7 or so cars at the far end. As the planning for the move was made, the GRYR supervisor began finding objections to every possible way to get the work done. Despite repeated cutting and spraying of the vegetation alongside the cars, GRYR kept insisting the brush was unsafe. On August 3, 2011, photos were e-mailed to Mr. Parsons showing that the vegetation had been cleared. Their supervisor continued to insist it had not.

In a conference call June 29th, it was suggested the cars be brought out in cuts of about 30 cars each. GRYR's supervisor adamantly refused, saying the KSRV track was unsafe to operate his "big engines" on. Asked what was unsafe about the track he was unable to answer. Asked if he was a qualified track inspector in accordance with section 213 of section 49 Code of Federal Regulations, he said no. When KSRV offered to have such a qualified person there to make an inspection with him, he declined saying he still would not allow his locomotives on KSRV. It should be noted that about 3 years prior, CN delivered some cars to KSRV and operated locomotives at least as large as those of GRYR without issue.

We offered to have KSRV personnel on hand to assist. I stated that if his decision was to take all 120 cars at once we would work with him in any way possible to make it happen. Either in that call, or subsequent to that call, he then changed his mind, and insisted that we shove the cars out onto their track. KSRV's locomotive had suffered a mechanical failure and is inoperable, and even if healthy could not begin to handle that many cars at

once. GRYR then demanded KSRV rent a trackmobile, a tractor-like machine which can operate on a road or on railroad tracks, to pull the cars out. KSRV declined, explaining the cars were on what had been the interchange track for as long as the company had existed, they were exactly where CN Rail had delivered them, and there was no reason GRYR could not couple onto them. Their supervisor repeated his refusal to pull the cars because it was unsafe to do so.

Another issue was the maintenance of the air brakes on the cars in question. To perform the work the cars had to be accessible to a truck-mounted air compressor. The KSRV track where the cars sat was on a steep fill, and it was physically impossible to get a truck through swamp and up the steep embankment to do the work. While federal regulations do mandate an inspection of cars received at an interchange and do require working brakes, there were various ways the work could have been properly done had GRYR been willing to cooperate. Rather than cooperation we were met with obstruction. Ultimately, about 31 cars were finally pulled out by GRYR with no adverse effects.

In a railroad career which spanned 44 years I was a participant in countless discussions and negotiations between various railroads on matters requiring joint efforts. At no time in any of those matters did I ever encounter such obstruction, stonewalling and refusal to offer the slightest bit of cooperation as offered by GRYR. Each time a solution to an issue was offered, it was either rejected or replaced with a new problem. It was very evident GRYR just *did not want* to handle the cars at all. Indeed, it is my belief that only the size and resources of the car owner, a division of General Electric Co, managed to get even the first 31 cars moved.

EFFECT

Since railroads handle freight somewhat as a relay race, with one runner handing off a baton to the next, KSRV can only attract freight traffic if it has a connection willing to deliver or receive its carloads. With our one and only connection unwilling to provide service under anything approaching normal conditions, KSRV has been unable to pursue possible sources of on-line traffic. Prior to the sale, KSRV had explored moving outbound carloads of scrap metal for two separate customers, and had actually begun work to rehabilitate the siding leading to one of them. The other metal recycling company also has an active siding and has expressed a desire for rail service but is currently trucking all its traffic. A metal fabrication company has expressed interest in rail service as well. There also remains the possibility of additional rail car storage, as well as several other potential sources of traffic.

Maintenance on the KSRV has been limited to brush spraying in places, some work to ensure good drainage, and other minor tasks. There is no point in performing significant repair to bridges or track if indeed the connecting line will be abandoned or will not accept traffic.

In 2009 KSRV had begun a payroll, thus providing part-time employment and returning money to the local economy. But the inability to justify aggressive improvements and the gradual decrease in cars stored as some were scrapped and a few were moved led to a decrease in revenue and the discontinuance of payroll in 2011. What maintenance is being done is either contracted out locally or performed by one of the stockholders on an expenses-only basis.

What had been a growing and improving company has been returned to a mostly dormant line with a highly doubtful future unless a drastically different business climate is present for it to operate in.

SUMMARY

KSRV accepts that there are no guarantees of continued rail service in these proceedings, and that the specific purpose of this proceeding is narrow in scope. The above anecdotal discussion is offered as a basis for our conclusion. Our objection in this pleading is not to the ultimate cessation of service by GRYR, nor even the obstruction GRYR made to efforts to move cars. Rather we object to the process by which GRYR was allowed to acquire the line from CN. KSRV relied on the assurances that GRYR would put forth its best efforts to operate the rail line for long-term growth and survival. KSRV made no comment nor objection during the various proceedings because it appeared the line in question – and by extension KSRV's lifeline – would be in the hands of a business which had the best interests of its own customers, the municipalities and the public at large at heart.

Any given incident taken individually might be explained as a mistake, a misunderstanding or an unusual circumstance. If contrasted against demonstrable efforts to preserve and grow rail traffic, an isolated issue might be dismissed. However, KSRV encountered an insincere draft interchange agreement replete with multiple instances of disdain for a true partnership of any kind, and which demonstrated no indication that traffic to or from KSRV was desired. KSRV also experienced a price quote to a potential customer so preposterously high that it guaranteed the business would not be obtained. Lastly when confronted with a customer too big to ignore or outprice, GRYR repeatedly manufactured one excuse after another to delay, obstruct and discourage the movement of the cars from KSRV's line.

We have seen NO indication that GRYR sincerely desires to preserve or increase rail traffic to or from our line. Judging from the allegations in Mr. Riley's filing, this is not an anomaly limited to KSRV but is apparently the case with most or all of the Grenada Railway line. This is NOT what was promised to KSRV, to the State of Mississippi, to CN Rail, to the various communities along the line, to the shippers, both existing and potential, nor to the public. Rhetoric aside, we have seen no concrete actions to indicate

GRYR ever intended to operate a successful railroad. The concerns expressed by some prior to the sale that the line would be made to fail in order to allow abandonment have been validated.

All available evidence indicates to us the line was acquired through misrepresentations and false assurances designed to defuse opposition.

Sincerely,

A handwritten signature in black ink, appearing to read "Don R. Brown", with a long, sweeping flourish extending to the right.

**Don R. Brown
Kosciusko & Southwestern Railway
PO Box 787
Water Valley MS 38965**

CERTIFICATE OF SERVICE

I certify that I have on this day sent a copy of this submission via First Class U.S. Mail to each of the following:

Fritz R. Kahn, P.C.
Eighth Floor
1920 N Street, NW
Washington, DC 20036-1601

Illinois Central Railway Co.
17641 South Ashland Ave.
Homewood, IL 60430

Waterloo Railway Co.
17641 South Ashland Ave.
Homewood, IL 60430

Grenada Railway, LLC
Suite 101
2200 East Camelback Road
Phoenix, AZ 85016

Governor Phil Bryant
State of Mississippi
P.O. Box 139
Jackson, Mississippi 39205

SID BONDURANT, MD
District 24
Calhoun. Grenada and Yalobusha Counties
PO Box 1045
Grenada. Mississippi 38902-1045

Robert Riley
1799 Greer Road
Coldwater, MS 38618

Signed:



Don R. Brown
September 29, 2012

ATTACHMENT A

OCT 1 2012

**INTERCHANGE AGREEMENT
(GRENADA LINE-ABERDEEN JUNCTION)**

Between

GRENADA RAILWAY, LLC

AND

KOSCIUSKO & SOUTHERN RAILWAY

**Relating to Interchange Operations between
the parties hereto at Aberdeen Junction, Mississippi**

**INTERCHANGE AGREEMENT
(GRENADA LINE-ABERDEEN JUNCTION)**

Between

**GRENADA RAILWAY, LLC
AND
KOSCIUSKO & SOUTHERN RAILWAY**

**Relating to Interchange Operations between
the parties hereto at Aberdeen Junction, Mississippi**

**INTERCHANGE AGREEMENT
(GRENADA LINE-ABERDEEN JUNCTION)**

THIS INTERCHANGE AGREEMENT (“Agreement”) is dated this ____ day of May 2011, by and between **GRENADA RAILWAY, LLC** (herein referred to as “User”) and **MISSISSIPPI RAIL GROUP, INC., dba KOSCIUSCO & SOUTHERN RAILWAY** (herein referred to as “Owner”).

WHEREAS, Owner is the Lessee of a railroad line located between Aberdeen Junction (Milepost H-0.20) and Kosciusko (Milepost H-21.90 in Holmes and Attala Counties, Mississippi (the “Line”) which Line is able to connect with the User’s rail line at Aberdeen Junction; and

WHEREAS, Owner is leasing the Line from the Mississippi Transportation Commission and has authorization to enter into this agreement; and

WHEREAS, the parties hereto desire to enter into an agreement covering the interchange of loaded and empty freight cars between them at Aberdeen Junction, Mississippi, subject to the terms and conditions set forth herein; and

NOW THEREFORE, the parties hereto, intending to be legally bound, agree as follows:

SECTION 1 INTERCHANGE TRACK

1.0. Subject to the terms and conditions herein provided, Owner and User agree to interchange loaded and empty freight cars on the following track(s) of Owner at Aberdeen Junction, Mississippi shown on the map attached hereto as Exhibit A (hereafter referred to as the “Interchange Track(s)”:

Such “Interchange Track(s)” shall include any other tracks of Owner at Aberdeen Junction, Mississippi that may be designated from time to time by Owner’s local transportation officer for such purpose when such tracks are being used by User for the interchange of loaded and empty freight cars between Owner and User.

SECTION 2 USE OF INTERCHANGE TRACK(S)

2.0. The Operating Rights granted herein are granted for the sole purpose of User using same for the delivery and receipt of interchange traffic between the parties hereto on the

Interchange Track(s), and User shall not perform any local freight service whatever at any point located on the Interchange Track.

SECTION 3 INTERCHANGE PROVISIONS

3.1. All traffic shall be defined by, and each party hereto shall abide by, the 419/420 processes.

3.2. Delivery and receipt of cars in interchange between Owner and User shall take place on the Interchange Track(s). Interchange shall be conducted on an as needed basis unless otherwise mutually agreed.

3.3. It is understood and agreed that the Interchange Track(s) are the property of Owner and may be used by Owner for other purposes so long as such use does not unreasonably interfere with the interchange of freight cars with User as provided for herein. This Agreement does not convey to or vest in User any right of ownership in the Interchange Track.

3.4. Loaded and empty freight cars (hereinafter collectively referred to as "Cars") together with any loaded or empty containers and/or trailers loaded thereon shall be considered as interchanged from Owner to User when said Cars are placed on the Interchange Track, Owner's locomotives and cabooses have been uncoupled from such Cars, Owner's crew has disembarked from the train, User has been notified of placement, User has inspected the cars, the User has moved the cars onto the User's railroad line and such interchange is accompanied by necessary data for forwarding to destination.

3.5. Cars together with any containers and/or trailers loaded thereon shall be considered as interchanged from User to Owner when said Cars are placed on the Interchange Track(s), User's locomotives and cabooses have been uncoupled from such Cars, User's crew has disembarked from the train, Owner has been notified of placement and such delivery is preceded by or accompanied by necessary data for forwarding to destination, whichever event is latest.

3.6. The Standard Point Location Code ("SPLC") to be used shall be _____. Owner and User shall each maintain records to support such interchange times and shall each provide the other party with the appropriate Electronic Data Interchange ("EDI") message including all applicable interchange data.

3.7. The interchange of traffic covered by this Agreement shall be governed by the applicable Interchange, Car Service, and Car Hire Rules and any supplements or amendments thereto promulgated from time to time by the Association of American Railroads.

3.8. Each party undertakes, and agrees, in respect to its use of the Interchange Track(s) and in its operation thereon and thereover of equipment and all appliances on such equipment, to comply with all applicable Federal and State laws and regulations, and all applicable rules, regulations and orders promulgated by any governmental body having jurisdiction with respect thereto for the protection of employees or other persons or parties. If any failure by a party to

comply with such regulations, laws and rules shall result in a fine, penalty, cost or charge being assessed, imposed or charged against the other party hereto, the non-compliant party agrees promptly to reimburse, release and indemnify the other party for or on account of such fine, penalty, cost or charge; and further agrees in the event of any such action, upon notice thereof being given by such other party, to defend such action free of cost, charge and expense to the other party.

3.9. In the event that use of the Interchange Track(s) shall be interrupted or traffic thereover be delayed at any time from any cause, neither party hereto shall have any claim against the other for liability under this Agreement on account of loss or damage of any kind resulting from such interruption or delay. However, Owner agrees to use reasonable means to remedy the interruption or delay in a timely manner or, at Owner's option, to provide alternative, reasonably-comparable facilities for interchange.

3.10. The trains, locomotives, cars and equipment of User, Owner, and any other present or future user of the Interchange Track(s) or any portion thereof shall be operated without prejudice or partiality and in such manner as will afford the most economical and efficient manner of movement of all traffic, taking into account the class or priority of the trains, locomotives, cars or equipment involved.

SECTION 4 COMPENSATION

4.1. There shall be no charge for User's use of the Interchange Track(s) as such use is granted for the sole purpose of accessing the Interchange Track(s).

SECTION 5 ADDITIONS, BETTERMENTS, ALTERATIONS AND RETIREMENTS

5.1. In the event that the parties hereto agree that additions, betterments, or alterations to the Interchange Track(s) are necessary to efficiently effect the interchange of Cars between them as provided for herein, Owner shall as soon as practicable after the parties' agreement make such additions, betterments or alterations, and the cost thereof shall be assumed totally by the Owner.

SECTION 6 MAINTENANCE OF INTERCHANGE TRACK(S)

6.1. Owner shall maintain, repair and renew the Interchange Track(s) with its own supervision and labor. Owner will maintain the Interchange track to be safe and clean on both sides of the Interchange Track(s). From and after the effective date hereof, Owner shall keep and maintain the Interchange Track(s) to not less than Federal Railroad Administration ("FRA") Class 1 track standards. User shall not be required to participate in maintaining the Interchange Track(s).

Owner shall make any repairs to the Interchange Track(s) in a timely manner, but Owner does not guarantee that operation thereover will not be interrupted. Notwithstanding the above, User shall not be required to interchange with the Owner, unless User, in its sole opinion, deems the Interchange Track(s) to be in a safe and working condition.

SECTION 7 MANAGEMENT AND OPERATION

7.1. User, in its use of the Interchange Track(s), shall comply in all respects with the operating rules and regulations of Owner, and the movement of User's trains, locomotives, cars and equipment over the Interchange Track(s) shall at all times be subject to the orders of the transportation officers of Owner. User shall secure and establish the appropriate frequency on radios on User's trains operating over the Interchange Track(s). Owner shall provide a copy of its regulations, supplements, and safety rules to User at no cost.

7.2. Operating representatives of Owner and User shall meet on a periodic basis to review the safety performance of User on the Interchange Track(s) and establish any required corrective action plan if the performance of User does not meet the standards set forth in Sections 7.1 above. User agrees to promptly carry out implementation of any such corrective action plan.

7.3. Owner shall make such arrangements with User, at Owner's expense, as may be required to have all of User's employees who shall operate its trains, locomotives, cars and equipment over the Interchange Track(s) qualified for operation thereover.

7.4. The trains, locomotives, cars and equipment of User, Owner, and any other present or future user of the Interchange Track(s) or any portion thereof shall be operated without prejudice or partiality and in such manner as will afford the most economical and efficient manner of movement of all traffic.

7.5. If by reason of any mechanical failure or for any other cause not resulting from an accident or derailment, a train or locomotive of User becomes stalled or unable to proceed under its own power, or fails to maintain the speed required by Owner on the Interchange Track(s), or if in emergencies crippled or otherwise defective cars are set out of User's trains on the Interchange Track(s), Owner shall have the option to furnish motive power or such other assistance as may be necessary to haul, help, or push such trains, locomotives, or cars, or to properly move the disabled equipment off the Interchange Track(s).

7.6. If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars to move them off the Interchange Track(s), such work shall be the responsibility of Owner at the sole cost and expense of Owner.

7.7. In the event Owner and User agree that Owner should provide additional employees for the sole benefit of User, the parties hereto shall enter into a separate agreement.

7.8. It is further understood and agreed that neither party hereto will require the other party's crews to perform any work beyond that permitted by its current labor agreement with respect to the interchange of Cars hereunder subject to any modifications that may result from future labor agreements, while said crews are on Owner's property.

SECTION 8.0 CLEARING OF WRECKS

8.1. Whenever User's use of the Interchange Track(s) requires rerailing, wrecking service, or wrecking train service, Owner shall be responsible for the performance of such service, including the repair and restoration of roadbed, track and structures. The cost and expense thereof, including without limitation loss of, damage to, and destruction of any property whatsoever and injury to or death of any person or persons whomsoever resulting therefrom, shall be apportioned in accordance with the provisions of Section 9 hereof. All locomotives, cars and equipment and salvage from same so picked up and removed which are owned by or under the management and control of or used by User at the time of such wreck shall be promptly picked up by User or delivered to User and all cost and expense therefore shall be apportioned in accordance with the provisions of Section 9 hereof.

SECTION 9 LIABILITY

9.1. The responsibility of the parties hereto as between themselves for loss of, damage to, or destruction of any property whatsoever or injury to or death of any person or persons whomsoever, including, but not limited to, damage to the property of Owner and User or injury to or death of employees of Owner and User, resulting from, arising out of, incidental to, or occurring in connection with the interchange operations set forth in this Agreement, shall be determined as follows:

(a) Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever, or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, occurs with the trains, locomotives, cars or equipment of, or in the account of, User being involved, without the trains, locomotives, cars, or equipment of, or in the account of, Owner being involved, User shall assume all liability therefore and bear the direct cost and expense in connection therewith, including without limitation the cost and expense referred to in Section 8 hereof, and shall forever release, indemnify, protect, defend, and hold harmless Owner and its directors, officers, agents and employees from and against any such liability, cost, and expense, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of Owner or its directors, officers, agents or employees.

(b) Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever, or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, occurs with the trains, locomotives, cars, or equipment of, or in the account of, Owner being involved, without the trains, locomotives, cars, or equipment of, or in the account

of, User being involved, Owner shall assume all liability therefore and bear all cost and expense in connection therewith, including without limitation all cost and expense referred to in Section 8 hereof, and shall forever release, indemnify, protect, defend and hold harmless User and its directors, officers, agents and employees from and against any such liability, cost, and expense, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of User or its directors, officers, agents or employees.

(c) Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever, or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, occurs with the trains, locomotives, cars, or equipment of, or in the account of, both Owner and User being involved, Owner and User shall proportionately assume and bear all liability, cost, and expense for loss of and damage to said trains, locomotives, cars (including without limitation lading), and equipment operated by each of them and for injury to and death of each of their respective directors, officers, agents and employees, and persons in each of their care and custody, and Owner and User further agree that all liability, cost, and expense for injury to and death of any other person or persons whomsoever, for loss of, damage to, or destruction of all other property (including without limitation the Interchange Track(s)) and for any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, so occurring shall be borne proportionately by Owner and User, including without limitation all cost and expense referred to in Section 8 hereof subject to reduction for any amount recovered from another carrier using the Interchange Track(s) or from a third party. As used herein, "proportionately" shall mean the proportionate share of Owner and User based on responsibility or fault. Whenever any liability, cost, or expense is assumed by or apportioned to a party hereto under the foregoing provisions, that party shall forever release, indemnify, protect, defend and hold harmless the other party to this Agreement and its directors, officers, agents and employees from and against the liability, cost, and expense assumed by that party or apportioned to it, regardless of whether caused in whole or in part by the fault, failure, negligence, misconduct, nonfeasance or misfeasance of the indemnitee or its directors, officers, agents or employees.

(d) Notwithstanding the foregoing, the allocation of liability provided for herein shall not apply to punitive or exemplary damages, and neither party hereto shall be liable for or indemnify the other party against any punitive or exemplary damages resulting from the acts or omissions of the other party or its employees, officers, agents, invitees or contractors.

(e) In every case of death or injury suffered by an employee of either Owner or User, when compensation to such employee or employee's dependents is required to be paid under any workers' compensation, occupational disease, employer's liability, or other law, and either party under the provisions of this Agreement is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such party shall not be released from paying any such future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.

(f) For the purposes of this Section 9, the word "equipment" shall mean and be confined to (i) cabooses, (ii) vehicles and machinery which are capable of being operated on railroad tracks that, at the time of an occurrence, are being operated on the Interchange Track(s), and (iii) vehicles and machinery that, at the time of an occurrence, are on the Interchange Track(s), or the rights-of-way associated therewith, for the purpose of the maintenance or repair thereof or the clearing of wrecks thereon.

(g) For the purpose of this Section 9, equipment of any third party railroad company or companies being detoured or admitted by Owner to operate over the Interchange Track(s) and all persons other than Owner or User employees engaged in moving such equipment, shall be considered the equipment and employees of the party hereto under whose detour agreement or other auspices such movement is being made.

Equipment, and other property, being handled for or used by any either hereto shall be considered the sole property of that party for purposes of this Section 9.

SECTION 10 INSURANCE REQUIREMENTS

10.1. Owner shall, at its sole cost and expense, procure and maintain during the term of this Agreement the following insurance coverage:

(a) Commercial General Liability Insurance in an amount not less than Twenty-Five Million Dollars (\$25,000,000) per occurrence with an aggregate limit of not less than Fifty Million Dollars (\$50,000,000), for damages arising out of bodily injuries to or death of all persons in any one occurrence and for damage to, or destruction of property, including the loss of use thereof, in any one occurrence, subject to a self-insured retention limit not to exceed Twenty-Five Thousand Dollars (\$25,000), including contractual liability insurance, which names User as an additional insured in the following form: Grenada Railway, LLC Such insurance coverage shall provide for a minimum of thirty (30) days' advance written notice to User prior to any changes or cancellation. Such notice shall be provided to:

Grenada Railway, LLC
PO Box 26421
Salt Lake City, Utah 84126
Attn: Michael J. Van Wagenen

Such insurance coverage must not contain any provisions excluding coverage for injury, loss or damage arising out of or resulting from (i) doing business or undertaking construction or demolition on, near, or adjacent to railroad track or facilities, or (ii) surface or subsurface pollution, contamination or seepage, or from handling, treatment, disposal or dumping of waste materials or substances.

(b) This insurance coverage shall be effected under standard form policies issued by insurers of financial responsibility, which are rated "A-" or better by either Best's

Insurance Reports, Standard & Poor's Insurance Rating Services or Moody's Investors Service. User reserves the right to reject as inadequate, coverage by an insurance company rated less than "A-" by the aforementioned rating services.

(c) The insurance shall be evidenced by a current certificate furnished by Owner to User as an additional insured prior to its return of the executed original of this Agreement. Subsequently, annual renewal certificates of insurance shall be promptly furnished to User upon User's request at the address specified in Section 10.1(a). All of the required endorsements and notice provisions shall be stated on the certificate of insurance that is provided to Owner.

10.2. Not more frequently than once every five (5) years, the parties hereto shall modify the required insurance coverage as necessary to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

10.3. Failure by Owner to provide evidence of insurance as required by this Section 10 shall entitle, but not require, User to terminate this Agreement immediately, if Owner fails to cure the default within ten (10) days after receipt of written notice. Acceptance of a certificate that does not comply with this Section 10 shall not operate as a waiver of any obligation hereunder.

10.4. The fact that insurance (including, without limitation, self-insurance) is obtained by User shall not be deemed to release or diminish the liability of Owner hereunder including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by User shall not be limited by the amount of the required insurance coverage.

10.5. In the event of a claim or lawsuit involving a party hereunder arising out of this Agreement, Owner shall make available to User any required policy covering such claim or lawsuit.

SECTION 11 INVESTIGATION

11.1. Except as provided in Section 11.2 hereof, all claims, injuries, deaths, property damages, and losses arising out of or connected with this Agreement shall be investigated, adjusted, and defended by the party hereto bearing the liability, cost, and expense therefore under the provisions of this Agreement.

11.2. Each party hereto will investigate, adjust, and defend all freight loss and damage claims filed with it in accordance with 49 U.S.C. Section 11706 and 49 C.F.R. Section 1005 (or any revised or substitute regulations adopted to modify, supplement or supersede the regulations herein provided), or in accordance with any applicable transportation contracts to which Owner and User are parties entered into pursuant to 49 U.S.C. Section 10709.

11.3. In the event a claim or suit is asserted against Owner or User which is the other's duty hereunder to investigate, adjust, or defend, then, unless otherwise agreed, such other party shall, upon request, take over the investigation, adjustment, and defense of such claim or suit.

11.4. All costs and expenses in connection with the investigation, adjustment, and defense of any claim or suit under this Agreement shall be included as costs and expenses in applying the liability provisions set forth in this Agreement, except that salaries or wages of full-time employees, including claim agents, attorneys, and other employees of either party hereto engaged directly or indirectly in such work shall be borne by such party.

11.5. Excluding freight loss and damage claims filed in accordance with 49 U.S.C. Section 11706 or 49 C.F.R. Section 1005 or similar regulation, neither party hereto shall settle or compromise any claim, demand, suit, or cause of action for which the other party has any liability under this Agreement without the concurrence of such other party if the consideration for such settlement or compromise exceeds Twenty-Five Thousand Dollars (\$25,000.00).

11.6. It is understood that nothing in this Section 11 shall modify or waive the conditions, obligations, assumptions, or apportionments provided in Section 9 hereof.

SECTION 12 PAYMENT OF BILLS

12.1. All payments called for under this Agreement shall be made within thirty (30) days after receipt of bills therefore. No payments shall be withheld because of any dispute as to the correctness of items in the bills rendered, and any discrepancies reconciled between the parties hereto shall be adjusted in the accounts of a subsequent month. The records of each party hereto, insofar as they pertain to matters covered by this Agreement, shall be open at all reasonable times to inspection by the other party for a period of three (3) years.

12.2. Bills rendered pursuant to the provisions of this Agreement shall include the billing party's direct labor and material costs, together with the surcharges, overhead percentages, and equipment rentals in effect at the time any work is performed.

SECTION 13 EMPLOYEE PROTECTION

13.1. Each party hereto shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed on the operations contemplated hereunder, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees. Each party hereto agrees to release, indemnify, protect, defend and hold harmless the other party against any and all costs and payments, including benefits, allowances and arbitration, administrative and litigation expenses, arising out of claims or grievances made by or on behalf of its own employees, either pursuant to employee protective conditions imposed by a governmental agency as conditions for that agency's approval of this Agreement and operations hereunder, or pursuant to a collective bargaining agreement.

SECTION 14 ARBITRATION

14.1. Any dispute arising between the parties hereto with respect to any of the provisions of this Agreement where the amount at issue is less than One Hundred Thousand Dollars (\$100,000.00) which cannot be settled by the parties themselves shall be resolved in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as such rules may be amended from time to time, and as shall be applied with reference to the customs and practices of the railroad industry. Any such arbitration shall be held in Salt Lake City, Utah or at such other location as may be mutually acceptable to the parties hereto. The decision of the arbitrator or arbitration panel shall be final and conclusive upon the parties hereto. A final decision and award of the arbitration panel shall be enforceable in any court of competent jurisdiction in the United States of America. Each party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, exhibits and counsel. The compensation, costs and expenses of the arbitrator or panel, if any, shall be borne equally by the parties hereto. The arbitration panel shall not have the power to award punitive or consequential damages and shall not be empowered to determine violations of antitrust or criminal laws.

SECTION 15 TERM

15.1. This Agreement shall take effect as of the date first above written, and shall continue in force and effect until terminated by either party upon sixty (60) days' written notice to the other party. Termination of this Agreement shall not relieve, release or excuse either party hereto from any liability that either party may have incurred or any obligation that may have accrued under any provisions of this Agreement prior to the effective date of termination.

SECTION 16 SUCCESSORS AND ASSIGNS

16.1. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. Neither party hereto shall transfer or assign this Agreement, or any of its rights, interests, or obligations hereunder to any person, firm, or corporation without obtaining the prior written consent of the other party to this Agreement.

SECTION 17 NOTICE

17.1. Any notice required or permitted to be given by one party hereto to the other under this Agreement shall be in writing and sent by mail (certified or registered mail, return receipt requested) or by national overnight delivery service, by hand delivery to the other party hereto, or by such other means as the parties hereto may mutually agree, at the following addresses:

(a) If to Owner:

Don R. Brown
President
Mississippi Rail Group, Inc., dba Kosciusko & Southwestern Railway
461 Highway 7 North
Oxford, Mississippi 38655
Telephone: 585-738-5323

(b) If to User:

Grenada Railway, LLC
1505 South Redwood Road
Salt Lake City, Utah 84104
Attention: Michael J. Van Wagenen
Telephone: 801-977-6353

(c) Either party hereto may provide changes in the above addresses to the other party by notice given in accordance with Section 17.1.

(d) Any notice given in the manner set out herein shall be deemed to have been received on the date on which so hand-delivered, on the third business day following the date on which so mailed, or on the first business day following the date on which sent by national overnight delivery service, except for a notice of change of address, which shall be effective only upon actual receipt thereof.

SECTION 18 GOVERNING LAW

18.1. The terms of this Agreement shall be governed by and construed in accordance with the laws of the State of Utah, including for purposes of choice of law. Remedies for breach of contract under the laws of the State of Utah shall be employed by the arbitrator(s) in the event of a dispute under this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

Witness:

**MISSISSIPPI RAIL GROUP, INC., dba
KOSCIUSKO&SOUTHWESTERN RAILWAY,**

By: _____

Title: _____

Witness:

GRENADA RAILWAY, LLC

By: _____

Title: _____

ATTACHMENT B

OCT 1 2011

----- Forwarded message -----

From: Aaron Parsons <aparsons@grenadarailway.com>

Date: Thu, Jun 16, 2011 at 6:21 PM

Subject: Re: 8 Flatcars for [REDACTED]

To: [REDACTED] >

Cc: Allen Antczak <acantczak@grenadarailway.com>

Michelle,

Once we have an Interchange Agreement in place, with KSWR, and all requirements are met, we are prepared to move the cars, prepaid (provided there are no mechanical repairs needed for movement), for the following price:

Special Train Service: \$7,500

Freight to Canton: \$1,250/car

Switching of lead cars: \$250/car (approx. 8 cars are in front of the cars you purchased.

We will need to move them from KSWR's line and back in again in order to get to your cars)

Fuel surcharge: Currently \$0.52 per mile/car (42 miles)

Total: \$18,402.88 (7cars)

Any repairs to the cars, to make them suitable for interchange, would have to be made prior to us moving them from their current placement.

If cars are not in a condition suitable for movement when we arrive for pick up, an additional charge of \$7,500 will be applied and we will reschedule a pick up for a later date.

Let me know if you have any questions.

Aaron Parsons
Grenada Railway, LLC