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May 26, 2015

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VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-001

ENTERED
Office of Proceedings
May 26, 2015
Part of
Public Record

Re: STB Docket No. AB-314 (Sub-No. 7X)
Chicago, Central & Pacific Railroad Company – Abandonment
Exemption – In Pottawattamie County, Iowa, and Douglas County, Nebraska

Dear Ms. Brown:

Chicago, Central & Pacific Railroad Company (“CCP”) has received from the Omaha Bridge and Terminal Railway, LLC (“OBTR”) a filing entitled as both a “Notice of Intent to File an Offer of Financial Assistance” and a “Notice of Intent to Participate” (hereinafter, the “Notice”) in the above-referenced abandonment proceeding. The Notice is dated as of, and appears to have been mailed to the Board on, May 11, 2015, and it was received by the Board on May 20, 2015. To expedite the process that OBTR has invoked, CCP has contacted OBTR to discuss its intended OFA filing, the information that OBTR believes it needs to prepare its offer of financial assistance (“OFA”), and OBTR’s request to toll the OFA deadline for 30 days. Based on that discussion, CCP hereby replies to OBTR’s Notice.

CCP has ascertained that, contrary to the scope of the Notice, OBTR will seek to acquire roughly 1.54 miles of railroad line extending from milepost 511.20¹ in Council Bluffs, Iowa, to milepost 514.80 in Omaha, Nebraska, via the Board’s OFA processes, not including the south leg of CCP’s wye track at Council Bluffs, which is also included in CCP’s abandonment petition. Also, CCP has advised OBTR, and now informs the Board, that CCP is not amenable to a blanket 30-day tolling of the OFA filing deadline. But recognizing that OBTR is likely entitled to a tolling period while it awaits its requested information, CCP is agreeable to a tolling of the OFA deadline until a date 10 days after OBTR has received all of the information that it has separately has informed CCP it needs to prepare its OFA filing.

¹ The eastern terminus of the subject rail line proposed for abandonment is located at milepost 510.62, as is reflected in CCP’s abandonment petition. However, CCP has advised OBTR that CCP requires the line segment between mileposts 510.62 and 511.20 to support CCP’s operations in and around CCP’s Council Bluffs yard. OBTR has agreed to forego an attempt to purchase that portion of the subject rail line, but CCP has agreed that, should OBTR succeed in acquiring the line segment west of milepost 511.20, then CCP would grant OBTR the right to operate from that point eastward to CCP’s Council Bluffs yard for interchange purposes.

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As is indicated above, CCP has contacted OBTR to see if a mutually-acceptable arrangement could be reached to narrow the scope of OBTR's information demands. Through those discussions, OBTR has agreed that the only OFA-related information that it still needs is the following: (1) valuation maps for the pertinent line segment; (2) corresponding deeds for the right-of-way; (3) the most recent bridge report for the bridge spanning the Missouri River; and (4) clarification of the location of milepost 511.20 (either by way of a map or suitable geographic point of reference). CCP understands that the above-listed information (once supplied) and other information that CCP has conveyed in the course of discussions would be adequate in OBTR's view for it to submit an OFA filing. CCP also understands that OBTR either has received or will not need any of the other information mentioned in its Notice. CCP is locating and securing the above-listed materials, and it will advise the Board when those materials have been delivered to OBTR, as CCP is required to do under the Board's regulations.² On a related note, OBTR has informed CCP of its anticipated purchase price offer for the rail line segment and bridge. CCP is of a view that the purchase price that OBTR has communicated to CCP orally -- should it be included in OBTR's OFA filing -- would be sufficient basis upon which OFA line sale negotiations could proceed, assuming the Board were to accept OBTR's planned OFA submission, and were to order the parties to negotiate purchase terms.³

CCP has shared with OBTR the contents of the present CCP reply filing before tendering the same to the Board. OBTR has consented to this reply filing's-- (1) characterization of the discussions that have resulted in a significant narrowing of OBTR's informational demands for its OFA; and (2) description of the information that CCP will need to supply to OBTR before the required tolling period may end.

If there are any questions about this matter, please contact me directly, either by telephone: 312-252-1504, or by e-mail: rwimbish@fletcher-sippel.com.

Respectfully submitted,



Robert A. Wimbish

cc: All Parties of Record
Thomas J. Healey

² For reasons that will be offered later, CCP anticipates that it will shortly prepare and file a motion for a protective order to govern certain of the documentation that CCP plans to deliver to OBTR that CCP also considers proprietary and suitable to be designated as confidential.

³ CCP takes no position at this on the merits of OBTR's not-yet-filed OFA. CCP is at this stage in the proceeding simply complying with what it understands to be its obligations under the OFA statute and corresponding Board regulations in order to ensure a prompt and orderly disposition of the mandatory OFA processes.