

225500

BEFORE THE
SURFACE TRANSPORTATION BOARD



STB DOCKET NO. AB-167 (Sub- No. 1190X)

CONSOLIDATED RAIL CORPORATION – ABANDONMENT EXEMPTION –
FEE RECEIVED IN HUDSON COUNTY, NJ

AUG 7 – 2009

ENTERED
Office of Proceedings

AUG 7 – 2009

SURFACE TRANSPORTATION BOARD OFFER OF FINANCIAL ASSISTANCE

Part of
Public Record

1. Now come Eric Strohmeier, a non-carrier, and James Riffin, a carrier¹ (“Offerors”), who herewith file this Offer of Financial Assistance to purchase a portion of the Line which is the subject of this proceeding.

BACKGROUND INFORMATION

2. Consolidated Rail Corporation (“Conrail”), CSX Transportation, Inc. (“CSXT”), and Norfolk Southern Railway Company (“NS”) jointly filed a verified notice of exemption under 49 CFR 1152 Subpart F, for Conrail to abandon, and for CSXT and NS to discontinue service over, a 2.27-mile portion of the line of railroad known as the Lehigh Valley Main Line (“Line”), between railroad milepost (“MP”) 2.90 and railroad MP 5.17, in Jersey City, Hudson County, NJ. Notice of the exemption was served and published in the *Federal Register* on December 9, 2009 (73 FR 74801-02).

3. In a decision served on January 7, 2009, the Surface Transportation Board (“STB”) stayed the effective date of the exemption until 20 days after Conrail provided CNJ Rail Corporation (CNJ) with the information specified in 49 CFR 1152.27(a), and further tolled the time period within which an offer of financial assistance could be filed, until 10 days after Conrail provided

¹ See *CSX Transportation, Inc. – Abandonment Exemption – in Allegany County, MD*, STB Docket No. AB-55 (Sub-No. 659X) (STB served Aug. 18, 2006).

to CNJ the information specified in 49 CFR 1152.27(a).

4. In a decision served on May 26, 2009, the STB directed Conrail to provide CNJ with an “up-to-date, minimum purchase price for the segments of the line that CNJ has expressed interest in purchasing pursuant to an OFA.”

5. In a letter dated July 28, 2009 (“Letter”), a copy of which is appended hereto and incorporated by reference herein, which letter was received by CNJ on July 29, 2009, Conrail provided the information specified in 49 CFR 1152.27(a). Consequently, the date by which an Offer of Financial Assistance had to be filed, would be Saturday, August 9, 2009.

OFFER OF FINANCIAL ASSISTANCE TO PURCHASE A PORTION OF THE LINE

6. In its July 28, 2009 Letter, Conrail divided the Line into three parcels:

A. Parcel A – 5.73 acres between the westerly side of Chapel Avenue (MP 4.53), and the easterly side of Linden Avenue (MP 4.90).

B. Parcel B – 0.06 acres (2,669 SF) along the south side of Communipaw Avenue (near MP 2.902).

C. Parcel C – The remainder of the Line not encompassed by Parcels A or B.

7. In its July 28, 2009 Letter, Conrail assigned “a \$0.00 minimum purchase price” to Parcel C.

8. The Offerors herewith Offer to Purchase Parcel C for the sum of \$5.00, as Tenants in Common, and herewith tender a bank cashier’s check in the amount of \$5.00, which offer is in excess of the “minimum purchase price” assigned to Parcel C by Conrail. This Offer to Purchase Parcel C is subject to the STB’s “typical OFA terms: (1) payment is to be made by cash or certified check; (2) closing is to occur within 90 days of the service date of this decision; (3)

[Conrail] shall convey all property by quitclaim deed; and (4) [Conrail] shall deliver all releases from any mortgage within 90 days of closing.”²

FINANCIAL RESPONSIBILITY

9. Concurrently being filed with this Offer of Financial Assistance is a Motion for a Protective Order, which Protective Order contains a confidential personal financial statement, which personal financial statement demonstrates the Offerors are “financially responsible.”

NEED FOR RAIL SERVICE

10. Eric Strohmeyer has known the principals of Dameo Trucking, Incorporated, of Bridgewater, NJ (“Dameo”), for more than 10 years. Dameo is a major shipper by rail (several thousand railcars per year). In July, 2009, Rocky Dameo Sr. asked Mr. Strohmeyer if he knew where Dameo could locate an additional rail transload facility. The Line which the Offerors propose to purchase, would be an ideal Line for an additional Dameo transload facility: The Line is located approximately 25 miles from Dameo’s existing transload facility in Bridgewater, NJ. The Line is readily accessible from trucking arterials. The Line is located in an industrial area. And the Line is within a mile of exits 14 A and 14 B on the New Jersey Turnpike, and is within 2 miles of exit 14 C on the New Jersey Turnpike (Holland Tunnel to New York City exit).

11. Mr. Riffin is looking for a place near Jersey City where he can store his rail cars. (Mr. Riffin’s Allegany County, MD and Cockeysville, MD lines are the subject of litigation. Until this litigation is resolved, Mr. Riffin is hesitant to store rail cars on those lines.)

THE LINE IS OPERATIONALLY FEASIBLE

12. MP 2.90 to 3.0: This 500-foot portion of the Line could be used for storage of track material / maintenance-of-way equipment. (It is readily accessible from Communipaw Avenue.)

² *Kansas City Southern Railway Company – Abandonment Exemption – Line in Warren County, MS*, STB Docket No. AB-103 (Sub-No. 21X), served February 22, 2008, Op. at 11.

(It would be impractical to connect this segment to the National Rail System, since a Light Rail Line would have to be crossed to gain access to a freight line.)

13. MP 3.0 to MP 4.53: Near MP 4.25 is an active Conrail crossover track which connects a spur track located west of the Line to Conrail's National Docks Branch, which parallels the Line on the east side. Installation of two switches (or one switch and a diamond), would connect the segment from MP 3.0 to MP 4.53, to the National Rail System. Since Conrail's crossover track crosses the Line's right-of-way, all connections would occur within the right-of-way of the Line.

14. MP 4.53 to MP 4.90. This is Parcel A, which the Offerors are electing not to purchase.

15. MP 4.90 to MP 5.17: Conrail's National Docks Branch crosses the right-of-way of the Line at MP 5.17. Installation of a switch at MP 5.17 would connect this segment of the Line to the National Rail System.

16. Mr. Riffin has several thousand feet of rail and a number of switches in his inventory.

CONCLUSION

17. The Offerors would ask that the STB find that the Offerors are financially responsible.

18. Mr. Strohmeyer would ask that the STB grant him authority to acquire and operate the indicated Line of railroad.

19. Mr. Riffin would ask that the STB grant him authority to acquire and operate the indicated Line of railroad.

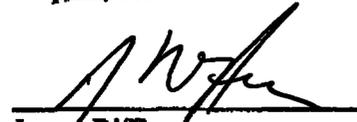
Respectfully submitted,


Eric S. Strohmeyer


James Riffin

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of August, 2009, a copy of the foregoing Offer of Financial Assistance, was mailed via Overnight mail, postage prepaid, to John K. Enright, Associate General Council, Conrail, 1717 Arch Street, Philadelphia, PA 19103.


James Riffin

20-14-3774B 09-2005



Cashier's Check

No. [REDACTED]

Notes: 1. Post-dated: In the event this check is lost, indorsed or altered, the drawee shall not be liable. 2. Payment: This check should be cashed within 90 days.

Banking Center

Date AUGUST 07, 2009

30-1111-00 NIX

Full Payment For Parcel #1
FB 167 sub 1190 X

ERIC STROMMEYER & JAMES RIFFIN

Remitter (Purchased By)

FIVE DOLLARS AND 00 CENTS

5.00

\$

Pay To The Order Of

CONRAIL

Danielle Taylor

Authorized Signature

Bank of America, N.A.
San Antonio, Texas

VOID AFTER 90 DAYS

THIS ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK. THE ORIGINAL DOCUMENT HAS REFLECTIVE WATERMARK ON THE BACK.

CONRAIL®



JOHN K. ENRIGHT, Associate General Counsel

1717 Arch Street, Philadelphia, PA 19103
Phone 215-209-5012 - Fax 215-209-4819
john.enright@conrail.com

Via UPS Overnight Mail

July 28, 2009

Eric S. Strohmeyer
Vice president, COO
CNJ Rail Corporation
81 Century Lane
Watchung, NJ 07069

Re: Docket No. AB 167 (Sub No. 1190) X
Consolidated Rail Corporation
Lehigh Valley Main Line (the "Line")
CNJ Rail Corporation's Notice of Intent to File an OFA

Dear Mr. Strohmeyer:

This letter further supplements my previous letters of December 31, 2008 and January 22, 2008 in response to the subject Notice of Intent to File an OFA and is also in response to the Decision of the Surface Transportation Board, dated May 26, 2009 directing Conrail to provide CNJ with an "up-to-date, minimum purchase price for the segments of the line that CNJ has expressed interest in purchasing pursuant to an OFA, including those segments Conrail claims it no longer owns or are involved in a state court settlement." We have divided the Line into three separate parcels and are providing separate minimum purchase prices for each of them. Also included with this letter is a current appraisal for two of the three parcels, prepared by Cushman & Wakefield. An appraisal was not done for the third parcel because Conrail is assigning a \$0.00 minimum purchase price because the property included within that parcel is no longer owned by Conrail. Parcels A and B are depicted in Exhibit A, page 3 of 3 of the enclosed appraisal report. Parcel C includes the remainder of the Line depicted in the attached Valuation Map that is not encompassed by Parcels A or B.

Parcel A – 5.73 acres between Chapel and East Linden Avenues – \$13,600,000
Parcel B – .06 acres along the south side of Communipaw Avenue – \$90,000
Parcel C – The remainder of the Line not encompassed by Parcels A or B – \$0.00

The foregoing meets the requirements of 49 C.F.R. § 1152.27(a)(1)(ii) for the "minimum purchase price." It also meets the requirement for "the carrier's estimate of

Eric S. Strohmeier
July 28, 2009
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the net liquidation value of the line, with supporting data reflecting available real estate appraisals.” None of the other requirements of 49 C.F.R. § 1152.27(a)(1)(ii) is relevant here, because there has been no rail traffic on the line for many years and no rail structure remains on the line. Indeed, most of the line has been sold as real estate to other parties for non-rail use. Thus, there are nothing to provide regarding “the physical condition of the line,” “[t]raffic, revenue, and other data necessary to determine the amount of annual financial assistance that would be required to continue rail transportation,” or “assessments of the quality and quantity of track materials in a line, and removal cost estimates.”

Please confirm your agreement that Conrail has now fully complied with its obligations under 49 CFR 1152.27(a)(1)(ii). If you disagree or if you have any questions regarding this letter or the appraisal report, please call me. Thank you.

Sincerely,



John K. Enright

cc: Anne K. Quinlan, Acting Secretary
Rachel D. Campbell, Director, Office of Proceedings