

214878

# WESTERN CAROLINA RAILWAY SERVICE

C O R P O R A T I O N

Post Office Box 16614, Greenville, South Carolina 29606 - 7614

October 8, 2005

**ORIGINAL**

## By Electronic Filing

Mr. Vernon A. Williams,  
Secretary  
Surface Transportation Board  
1925 K Street, NW, Suite 700  
Washington, DC 20423-0001

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Public Record



Re: STB Docket No. AB-490-1-X  
Greenville County Economic Development Corporation  
Petition for Exemption for Partial Discontinuance and Partial Abandonment  
In Greenville County, SC

Secretary Williams:

Please find enclosed for filing in STB Docket No. AB-490-1-X, *Greenville County Economic Development Corporation Petition for Exemption for Partial Discontinuance and Partial Abandonment in Greenville County, SC*, one original and ten copies of this letter.

The purpose of this letter is to address Greenville County Economic Development Corporation's ("GCEDC") opposition, assertions and concerns expressed in its reply of October 5, 2005 (STB File No. 214813) regarding Western Carolina Railway Service Corporation's ("WCRS") October 3, 2005 filing (STB File No. 214802) of its Motion for Protective Order and Motion for Expedited Handling ("MPO").

In opening, WCRS desires to express its willingness to compromise on, if required by the Board, the specific wording contained in its MPO. As a result, WCRS pleads with the Board to recognize the confidentiality concerns outlined in the body of this letter, should the Board choose to modify the proposed MPO.

For the record, WCRS wishes to clarify that its October 3, 2005 Offer of Financial Assistance ("OFA") was filed with the Board, and simultaneously served on all Parties of Record, with both Exhibit J and Exhibit K omitted, pending a Board decision on WCRS's MPO. Thus, GCEDC's supposition that the OFA filing was improper is incorrect. Additionally, given that WCRS has until October 22, 2005 to file with the Board an OFA in its entirety, WCRS is correct in awaiting a Board decision on its requested MPO before submitting to the "required parties" the balance of the exhibits which will constitute WCRS's complete OFA.

GCEDC asserts that it does not know for certain what material is to be contained in Exhibit J. WCRS very clearly stated in its MPO that Exhibit J contains "all encroachments and their related fee schedules" and that this material was provided entirely by GCEDC under 49 CFR 1152.27(1). For further clarification, WCRS wishes to assure GCEDC that Exhibit J is, in its entirety, nothing more than the same 13-page document provided by GCEDC to WCRS in July 2005.

With further regard to Exhibit J, WCRS wishes to express to the Board that it has no objection to

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providing this redundant material in return to GCEDC; however, WCRS is of the opinion that, should the Board require this material to be made a part of the public record, disclosure of the contracts and agreements contained therein could be potentially harmful to the parties listed in the document. The restrictive nature of that part of WCRS's MPO was designed to protect those parties and not to prejudice GCEDC in any way, nor to restrict GCEDC from providing the same material to other parties of its choosing. Given GCEDC's "ownership" of that document, WCRS recognizes GCEDC's inherent right of disclosure.

49 CFR 1152.27(e)(2) states in part, "The Board will review each offer submitted to determine if a financially responsible person has offered financial assistance." Nowhere in the CFR does it state that potential Offeror is required to reveal its financial information to the Carrier. Financial ability should be a determination to be made solely by the Board.

WCRS submits that its initial financial support is based on the condition of anonymity and that any requirement on WCRS and its backer to provide financial statements and the like to GCEDC could create prejudice toward, and harm to, WCRS and its financing provider. WCRS wishes to assure the Board that it will gladly provide any and all documentation required to satisfy the Board in the matter of determining WCRS's financial responsibility, but WCRS pleads with the Board to protect the confidential nature of the information by not requiring WCRS to provide any of the materials contained in Exhibit K to any party other than the Board.

WCRS hereby petitions the Board to determine a satisfactory and appropriate wording for a Protective Order for WCRS's OFA that:

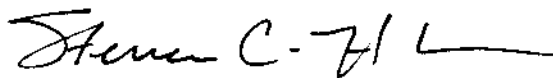
- 1) Requires Exhibit J to be submitted a) solely to the Board, or b) to the Board and GCEDC only. Such wording should not restrict GCEDC from providing this material to other parties, at its discretion.
- 2) Requires Exhibit K to be submitted solely to the Board.

WCRS is confident that the Board will make a fair and judicious determination in this matter and stands prepared to comply with the Board's determination in full.

Should you have any questions or concerns regarding this filing, please do not hesitate to contact me.

Thank you for your time and consideration.

Sincerest regards,



Steven C. Hawkins,  
President

I hereby certify that on this 8<sup>th</sup> day of October 2005, a copy of the foregoing document was served by:

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