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Office of Proceedings
February 14, 2020
Part of
Public Record

February 14, 2020

BY E-FILING

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

Re: *Bessemer and Lake Erie Railroad Company – Acquisition and Operation – Certain Rail Lines of CSX Transportation, Inc. in Onondage, Oswego, Jefferson, Saint Lawrence, and Franklin Counties, New York (Docket No. FD 36347)*

Dear Ms. Brown:

Finger Lakes Railway Corporation submits the enclosed Supplemental Information in accordance with the Board's February 7, 2020 Decision No. 3. Please let me know if there are any questions regarding this filing.

Sincerely,



Justin J. Marks
Counsel to Finger Lakes Railway Corp.

Enclosure

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36347

BESSEMER AND LAKE ERIE RAILROAD COMPANY
-ACQUISITION AND OPERATION-
CERTAIN RAIL LINES OF CSX TRANSPORTATION, INC. IN ONONDAGA,
OSWEGO, JEFFERSON, SAINT LAWRENCE, AND FRANKLIN COUNTIES, NY

SUPPLEMENTAL INFORMATION
OF FINGER LAKES RAILWAY CORP.

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Counsel for Finger Lakes Railway Corp.

Dated: February 14, 2020

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36347

BESSEMER AND LAKE ERIE RAILROAD COMPANY
-ACQUISITION AND OPERATION-
CERTAIN RAIL LINES OF CSX TRANSPORTATION, INC. IN ONONDAGA,
OSWEGO, JEFFERSON, SAINT LAWRENCE, AND FRANKLIN COUNTIES, NY

SUPPLEMENTAL INFORMATION
OF FINGER LAKES RAILWAY CORP.

Finger Lakes Railway Corp. (“FGLK”) submits this Supplemental Information in accordance with the Board’s February 7, 2020 Decision No. 3. In that decision, the Board invited interested parties to address potential anticompetitive effects on shippers served by FGLK as a result of the CSX Transportation, Inc. (“CSXT”) and Bessemer and Lake Erie Railroad Company (“B&LE”) transaction as a result of the provisions of section 5.14(b) of the Purchase and Sale Agreement (“PSA”) that expressly prohibit B&LE from using the operating rights it is acquiring from CSXT to directly access FGLK.

In Decision No. 3, the Board specifically expressed concern “about the anticompetitive effects on any shippers whose traffic, post-Transaction, would originate or terminate on FGLK and move to or from points on the Massena Lines, as this traffic ostensibly would require an additional intermediate carrier as a result of the Transaction.” Decision No. 3 at 4. FGLK customers do not originate or terminate traffic on the Massena Lines, but instead move, or could move, commodities to and from eastern Canada over the Massena Lines.¹ Currently, shipments over the Massena Lines would be handled by CSXT all the way between Solway, New York and

¹ Some of the traffic to eastern Canada moving from such customers is currently routed on CSXT through Buffalo, New York.

the Canadian border, at which point the traffic would be interchanged to the Canadian National Railway (“CN”) who would provide the rail service in Canada. Once the transaction is complete, these same shipments would see an additional intermediate carrier in the route as they would need to be moved by CSXT, and B&LE between Solvay and the Canadian border.

FGLK has discussed the transaction with shippers served by FGLK that transport goods into and out of eastern Canada.² These shippers are concerned that the addition of another intermediate carrier would potentially increase total transportation costs over the Massena Lines (due to both CSXT and B&LE wanting a return on their shared service) and diminish the efficiency of rail service (given the need for CSXT to move the traffic between Solvay and DeWitt Yard for the additional intermediate interchange with B&LE). Such changes would mean that FGLK’s shippers would lose the availability of a competitive route to eastern Canada. Further, as structured, the transaction would mean that CSXT would control access of FGLK’s shippers to the Massena Lines by its pricing and service despite only handling traffic between Solvay and DeWitt Yard.

² There are currently four shippers on FGLK that ship to or from eastern Canada.

Accordingly, FGLK reiterates its request that the Board only grant its approval of the transaction with conditions that will prevent this competitive harm.

Respectfully submitted,



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Counsel for Finger Lakes Railway Corp.

Dated: February 14, 2020

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of February, 2020, I served a copy of the foregoing on the following persons by the method indicated:

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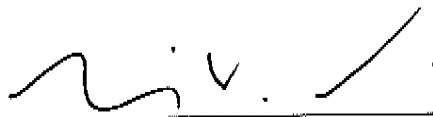


Justin J. Marks

VERIFICATION

I, Michael V. Smith, declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on February 14, 2020.

A handwritten signature in black ink, appearing to read "M.V. Smith", is written over a horizontal line.

Michael V. Smith
President
Finger Lakes Railway Corporation