

Proposed Sale of Sooner Subdivision

Transportation Commission Briefing

May 5, 2014

Background

- ❑ The Department of Transportation (“ODOT”) acquired the Sooner Subdivision Railroad (“Sooner Sub”) in 1998
- ❑ The Sooner Sub is a 97.5 mile corridor being operated by the South Kansas & Oklahoma Railroad, a WATCO company, under a lease that expires in December 2017
- ❑ Beginning in 2012, ODOT received expressions of interest from a number of companies interested in purchasing the Sooner Sub
- ❑ The Railroad Revitalization Act (66 O.S. § § 302.1 et seq.) authorizes and empowers ODOT to sell state-owned railroad assets
- ❑ The Act also provided a framework for the sale process as follows:
 - Respondents are provided a minimum of 90 days to respond to the Request for Proposals
 - The Department of Commerce is to conduct an economic impact and/or activity study of all proposals
 - Cabinet Secretaries from Transportation, Finance, Commerce, Agriculture and Energy (“Selection Committee”) are required to prepare a recommendation to the Transportation Commission based on their evaluation of proposals
 - Cabinet Secretaries have up to 90 days to evaluate proposals and make a recommendation to the Transportation Commission

RFP Process

- ❑ ODOT issued a Request for Proposals on November 1, 2013
- ❑ Four non-binding proposals were received on January 31, 2014 from
 - BNSF
 - Iowa Pacific
 - Fortress
 - Stillwater Central (“SLWC”)
- ❑ Iowa Pacific and Fortress proposals were determined to be non-compliant
- ❑ BNSF and SLWC proposals were shortlisted
- ❑ A Request for Final and Binding Offers was issued by the Selection Committee on April 14, 2014
- ❑ Final and Binding Offers were received from BNSF and SLWC within the specified deadline on April 21, 2014
- ❑ The Department of Commerce prepared an economic impact and activity study for each binding offer and results were presented to the Selection Committee
- ❑ The Selection Committee completed its evaluation of proposals on April 30, 2014 and prepared a recommendation

Overview of Sale Agreement

- ❑ The Cabinet Secretaries deliberated on, and subsequently developed, a number of policy objectives to ensure that any proposed sale of the Sooner Sub would support the best interests of the State of Oklahoma :
 - The Sooner Sub line will be accessible to other rail companies.
 - Current customers will continue to be served in substantially the same way as they are served currently.
 - The Sooner Sub must be upgraded to FRA Class 3 status by the seventh year after acquisition of the line
 - Passenger rail operations must be a part of Proposer's Final and Binding Offer and by the 5th year after the sale is complete must conduct a 6 month trial service of once per day, five days per week

- ❑ To protect the best interests of the State, the Cabinet Secretaries debated the type and proper administration of penalties if commitments to the objectives are not met by the purchaser of the Sooner Sub, such as:
 - \$2.8 million penalty if passenger rail pilot service is not implemented. If the purchaser decides not to operate passenger rail service after 10 years, ODOT may take back a passenger rail easement
 - Financial penalties for failure to make committed capital improvements on or related to the Sooner Sub

Policy Objectives Comparison

□ The following table summarizes how the Shortlisted Proposers addressed the policy objectives and identifies how the no-sale option impacts such objectives.

Objectives	No Sale	BNSF	SLWC
FRA CLASS 3 UPGRADE	Unless otherwise pursued by the Current Operator (SLWC), no upgrade to Class 3 is expected to occur.	Will upgrade to FRA Class 3 within 5 years	Upgrade to FRA Class 3 within 7 years
ADDITIONAL CAPITAL IMPROVEMENTS	Additional capital improvements will depend on current lease payments from SLWC and other state budgetary constraints	\$30 million to be invested by 10th year for Positive Train Control and Cherokee Yard (Tulsa) expansion; Will pay difference of actual expenditures and \$45 million after year 10	Construction of Cushing rail spur and associated improvements at a cost of \$101 million; Invest \$2.2 million towards passenger rail service commitments.
PASSENGER RAIL	State budgets do not provide an appropriation for passenger rail service operations.	Agrees to arrange required "pilot service" in accordance with Sale Agreement* or pay a \$2.8 million fine.	Commits to provide passenger rail service in excess of Sale Agreement minimum requirements*. If pilot program is not instituted, a \$2.8 million penalty will be assessed
SERVICE TO CURRENT CUSTOMERS	Until expiration of the Current Lease (2017), SLWC will continue to provide customer service at current levels	At a minimum, will provide service to all customers currently being served from the premises in substantially the same frequency as currently provided.	SLWC will continue to provide service to current customers at the same rates.
USER & CUSTOMER ACCESS TO LINE	Until expiration of the Current Lease (2017), access to the line will be in accordance to what is provided by SLWC	Provide access to other rail carriers in substantially the same manner as they currently have access	Will continue to provide the same competitive access to all Class I carriers and short line carriers
OFFER PRICE	Over a 4 year period, the State will receive an estimated \$3.7 million in rent payments from SLWC	\$25 million cash to be paid at closing	\$75 million cash to be paid at closing

*Minimum requirement for passenger rail service is the institution of a 6 month pilot program - one train, 5 days a week - on or before the fifth anniversary of the close of sale.

Proposal Summary

- ❑ The following table summarizes the proposals received from the shortlisted Proposers

Values (\$m)	BNSF	SLWC	% Difference
Offer Price	\$25.0	\$75.0	N/A
Total Offer Price	\$25.0	\$75.0	N/A
Additional Capital Improvements	\$30.0	\$101.8	N/A
Additional Passenger Rail Implementation	N/A	\$2.2	N/A
Total Additional Capital Improvements	\$30.0	\$104.0	N/A
GDP Impact	\$13.1	\$17.2	76.3%
Employment Impact (projected # of jobs)	127.4	218.1	58.4%
Disposable Income Impact	\$7.6	\$11.7	64.5%
Total Economic Activity Impact (Average)	N/A	N/A	66.4%

- ❑ The Offer Price represents the purchase price to be paid to the State at financial close
- ❑ Additional Capital Improvements represent investments the Proposer has committed to make during the first 10 years of ownership and which will be subject to penalties if not met
- ❑ Total Economic Activity Impact was calculated by Department of Commerce

Proposal Evaluation and Recommendation

- ❑ Proposals were evaluated on the following basis:
 - 40% for Offer Price
 - 60% for Business Plan and Projected Economic Activity
- ❑ Business Plan and Projected Economic Activity included the value of Additional Capital Improvements, projected economic benefits and whether the proposal met the Selection Committee's policy objectives
- ❑ Scores were assigned on a pro-rata basis with the proposal with highest values receiving the maximum allowable points and the other proposal receiving a percentage of total points
- ❑ The following table presents the proposal evaluation results

Score Summary	BNSF	SLWC
Offer Price	13.33	40.00
Business Plan and Projected Economic Activity		
Additional Capital Improvements in Next 10 Years	5.77	20.00
Selection Committee's Policy Objectives	16.00	19.00
Projected Economic Activity	13.28	20.00
Total Score	48.38	99.00

RECOMMENDATION

Based on proposal evaluations and its separate Letter of Recommendation, the Cabinet Secretaries recommend the sale of the Sooner Subdivision to the

- ✓ Stillwater Central Railroad.