

3071

RECEIVED
IRRC

From: Wamrail1@aol.com [mailto:Wamrail1@aol.com]

Sent: Monday, September 29, 2014 3:13 PM

To: Fauver, Toby L

Cc: Gulick, Sarah; wamrail1@aol.com

Subject: RBMN Comments on Draft Regulations

2014 OCT -1 AM 9: 47

Toby

Reading & Northern thanks you for the opportunity to submit comments in regards to the proposed rail freight grant procedures.

I offer these comments based on my experiences in selling branchlines to shortlines, running the industrial development and shortline groups at Conrail, and now managing the Reading & Northern. These experiences have shown me how invaluable these programs are. But these experiences have also taught me that there needs to be a greater focus on projects that support economic development, especially in the RFAP program. Towards that end, I am recommending a lessening of the importance on adherence to long-range planning assumptions and a more flexible funding period.

1. § 511.8. Grant selection process and criteria

Subsections (a)(2) and (3). These selection criteria are much too focused on bureaucratic planning similar to the way the old Soviet Union tried to manage its economy. The fact is you cannot plan for economic development in the railroad business. For example, NO ONE foresaw the Marcellus Shale boom and NO ONE saw the crude oil by rail boom. And both of these developments required shifts in where investments were needed by the railroads. Identifying criteria that rely on the statewide long-range plan or the plans of MPOs or their equivalents will lead to favoring projects that reflect old notions of where the need exists for rail investments. In addition, my experience indicates that most shortlines do not have the resources to participate in meetings to develop long-range rail plans or to work with MPOs. The fact is that the railroads that get involved in these efforts fall into three categories, Class 1s, county-owned railroads with their built-in taxpayer paid bureaucracies, and shortline conglomerates that can afford government affairs departments. The truth is very few shortlines have the time or manpower to participate at these meetings. As a result their projects, whether worthwhile or not, will be less likely to get on these lists.

Accordingly we strongly recommend that the requirements related to the Statewide rail long-range plan or being part of the plan of the MPO be deleted.

2. § 429.5 Application Period and Deadlines.

Related to the point above is the need for the state programs to be more flexible. We recommend that a portion of the funds be set aside and kept available for worthwhile economic development projects that arise during the year. We believe that there should be at least two grant periods during a calendar year, especially for RFAP projects. However, since RFAP is limited in spending on new construction, we recommend that both RFAP and RTAP have funds set aside for a second funding cycle during the year.

3. § 511.8. Grant selection process and criteria

RBMN believes that grants are a privilege and not a right. Accordingly we believe PennDOT should use these grants as a means of supporting good government policies. We think that compliance with State law should be a critical requirement for any recipient.

At this time RBMN is pursuing a lawsuit against a rail authority that we believe has been flouting Commonwealth law for years. The Municipality Authorities Act is very clear that contracts for rail operations must be bid out. And the bid process must allow the highest responsible bidder to be selected. At least two rail authorities are openly ignoring this law. In addition, the law is clear that municipal authorities may not compete against private enterprise. Yet both of these authorities make clear that they compete directly against RBMN and other rail carriers in their regions.

We think that rail authorities that do not follow the bid requirements of state law should not be eligible for any state funding.

Thank you for the opportunity to comment on these regulations. If you have any questions concerning my comments please do not hesitate to contact me.

Respectfully submitted,

Wayne

Wayne A. Michel
President
Reading & Northern Railroad
Work phone (610) 562-0227
Cell phone (484) 332-1007