COMPARATIVE REPORT ON THE SHORTLISTED PROPOSERS SUBMITTED FINAL & BINDING OFFERS

The content in this report consists of verbatim statements from the final and binding offers submitted by both proposers respectively. The extracted statements that are provided in the sections of this report should in no way be viewed as an intentional manipulation or misrepresentation of a proposer's response to the goals and objectives of the Official RFP, the policy objectives of the Selection Committee, or as an attempt to advantage one proposer over the other. The sections of this report restate the goals and objectives while providing a comparative look at how the two shortlisted proposers, in their own words, addressed each goal and objective. The Transportation Commission will determine, based on a recommendation, if it is in the State's best interests to sell the line to either proposer or no-sale.[1]

Business Plan

(All content will be elaborated on in following sections of this report)

<u>BNSF</u>:

The BNSF offers a purchase price of $70 million of which $25 million is paid at closing and $45 million shall be paid after Closing, as described below, regardless of the volume of traffic or revenue from the Sooner Sub. The BNSF will pay the remaining $45 million of the Purchase Price by investing in improvements to the Premises, BNSF's line connecting the Premises to Tulsa, and/or BNSF's Cherokee Yard, as follows:

On or before the 5th Anniversary of Closing:

BNSF will invest a minimum of $15 million on improvements to the Premises. These improvements include upgrading the track to Federal Railroad Administration ("FRA") Class 3 condition. Subject to a mutually agreeable arrangement with the tenant under the Current Lease, BNSF will upgrade the Premises to FRA Class 3 prior to the expiration of the Current Lease.[2]

On or before the 10th Anniversary of Closing:

BNSF will invest an additional $30 million in improvements to include: i) Installation of PTC if crude oil unit trains or any other trains moving TIH/PIH continue to move over the line, ii) Staging/arrival/departure tracks at Cherokee Yard to increase throughput capacity and velocity, further increasing the efficiency and service to and from the Sooner Sub.

Additional improvements could include: i) Upgrading of communications facilities and control systems to improve safety, efficiency and capacity of train operations, to include telecommunications towers where required to allow full radio communications and dispatching coverage, ii) Bridge

[1] The figures used to illustrate the outlook in each section for the "no-sale" option is based on data provided from an independent source, which closely resembles forecasts provided by each proposer. The "no-sale" option assumes all factors associated within the confines of the current Lease Agreement between the State and SLWC.

[2] As part of the Sale Agreement, a proposer is required to upgrade the track. Associated costs for the upgrade, whatever the estimate, are not expected to be included as a part of a proposers offer price.

rehabilitation or replacement and highway crossing track and surface work, based on findings during detail inspections of current conditions, iii) Additional improvements to Cherokee Yard and the connecting line to the Sooner Sub, iv) Proactive inspection/defect detection equipment along the line.

Contingent on type, quantity and location of traffic moving on the line, BNSF will install: i) Premium fastening systems or concrete ties on curves of 4 degrees or greater to increase the durability and longevity of the track and ii) New siding(s) or siding extension(s) to increase capacity of the line, iii) additional tie, rail and surfacing work to further increase the quality and durability of the line.

Any future passenger operation will benefit from BNSF's capital commitments to the Sooner Sub, particularly upgrading of the track to a robust FRA Class 3 standard, installation of PTC and improved dispatching systems, and any installation of additional sidings or other capacity improvements. If at the end of 10 years, BNSF has not expended $45 million as described above then BNSF will pay to Seller within ninety days thereafter the difference between the amount it has spent during such ten year period and $45 million.

STILLWATER CENTRAL:

The Stillwater Central Railroad (SLWC) is pleased to respond to the State of Oklahoma's (State) Request for Final and Binding Offer of the Sooner Subdivision (Sooner Sub) Railroad. The SLWC offers the State an unconditional cash offer of seventy-five million US dollars ($75,000,000) for purchase of the Sooner Sub on an as is, where is, with all faults condition. This offer price is identical to the offer submitted in SLWC's initial proposal and will be paid in cash, in full at time of closing.

SLWC Commits to Maintain Competitive Access to other Rail Carriers

SLWC will continue to allow access as currently provided to all other rail carriers. Providing competitive rates and service options between the SLWC interchange partners will ensure that Sooner Sub Customers will have more economical access to ship their products by rail thus benefiting them and the State.

SLWC Commits to Provide Outstanding Service to the Sooner Sub Customers

SLWC will continue to serve its Customers, current and future, with the same level of service as we have provided over the past 16 years. That service is based on putting the Customers' needs first and delivering a value for both our Customers and the SLWC. This model has grown the Sooner Sub from a line with few Customers to a line with 27 Customers who ship upwards of 30,000 carloads per year.

SLWC Commits to improve the Sooner Sub to FRA Class III

SLWC is committed to bringing the Sooner Sub to FRA Class III track condition within the State's timeline.

SLWC Commits to Continuing its Efforts to Establish Passenger Rail on the Sooner Sub

SLWC has partnered with Iowa Pacific Holdings (IPH) to continue the renaissance of passenger rail between Oklahoma City and Tulsa. SLWC's proposal to establish a daily passenger service is at no cost to the State and will serve the citizens between Oklahoma City and Tulsa multiple times per day.

SLWC Commits to Allow the State to Reacquire the Sooner Sub

In the event of financial distress or proposed abandonment and discontinuance of service to the Sooner Sub Customers, the SLWC agrees to allow the State to reacquire the Sooner Sub in accordance to the final terms of the Sale Agreement.

STATUS QUO:

According to crude, aggregate and overhead traffic carload projections provided by an independent party, the State will receive roughly $3,653,088.31 in rent payments from the current operator over a 4 year period (2014-2017). The existing lease agreement between the State and SLWC provides that the SLWC will pay the State 12% of gross revenues associated with activity on the Sooner Subdivision.

[Intentionally Blank]

Allowing Access to the Line For All Potential Users and Current Customer Service Assurances

<u>BNSF:</u>

In its Offer, the BNSF states that it will provide access to other rail carriers in substantially the same manner as they have access currently, but will have no obligation to allow the current operator to maintain its rights under the Current Lease beyond its current term. The BNSF offers rates and services that enhance shippers' competitive position in their markets, including single carrier service to numerous locations it serves in the western United States and direct connections to eastern carriers. The BNSF would acquire the Sooner Sub subject to the Current Lease between the State and SLWC, and intends to work with SLWC to make the ownership transition seamless for SLWC and shippers, while providing the network benefits BNSF intends to bring the line in terms of financial resources and economies of scale.

After the expiration of the Current Lease, the BNSF, at a minimum, will provide service to all customers currently being served from the Premises in substantially the same frequency as they are served currently provided there is no change in traffic levels, traffic patterns on the line, changes in customer locations, or changes in customer facility design or commodities, and in accordance with BNSF common carrier obligations. If during the first 10 years following closing, a customer currently being served believes there has been a material adverse change in service, independent of the aforementioned changes, the BNSF has outlined suggested remedies on page 3 of its *Final and Binding Offer* to make a good faith effort to find a mutually agreeable solution.

<u>SLWC:</u>

The SLWC mentions that it provides fair and equitable access to the Sooner Sub for all potential direct and indirect users. The best representation of the power of competitive access for SLWC's customers is the movement of traffic from the Sooner Sub to the Gulf via KCS-SKOL-SLWC in a more competitive manner than through BNSF-SLWC. Access to the BNSF is very important for the continued growth of the SLWC, including BNSF access to North American crude oil for movements through Stroud. The SLWC states that it will continue to encourage the BNSF to have overhead trackage rights to move trains between Sapulpa and Oklahoma City.

Competitive access and competitive rates have helped grow the traffic on the Sooner Sub. Providing competitive rates between the SLWC interchange partners should ensure that customers both inside and outside of Oklahoma will have more economical access to ship on the SLWC. A suggested remedy for failing to provide competitive access or quality customer service can be found on page 6 of its *Final and Binding Offer*.

<u>"NO-SALE"</u>:

Status quo access remains, as per what is provided in the Current Lease.

Increasing Economic Activity Throughout the Region

<u>SLWC:</u>

In its Offer, the SLWC's states that its track structure plays an extremely important role in executing the Customer First Foundation Principles. By providing a durable, dependable and safe structure that ensures the ability of safe and timely train operations, the SLWC can confidently execute a Customer service plan designed to meet the needs of our Customers. SLWC has served Customers on and over the Sooner Sub for almost 16 years and has invested millions of dollars to upgrade the Sooner Sub in order to grow the volumes to approximately 30,000 carloads per year. SLWC is committed to expanding the Sooner Sub not only for the benefit of energy Customers, but for all Customers of the Sooner Sub by increasing the rail capacity of the line. This commitment includes building a railroad line into or near Cushing, OK, and or adding to the terminal and pipeline capacity for energy Customers on the Sooner Sub or on the new railroad line into or near Cushing, OK which is projected to create 212 jobs in toto. SLWC will fund or cause these improvements to be funded with the benefits accruing to all Customers of the Sooner Sub, now and in the future. As examples are provided for on page 4 of its *Offer*, the SLWC is working with several Customers who plan to locate and or expand on the Sooner Sub. These opportunities require significant investments which will be funded or caused to be funded by the SLWC to build the infrastructure necessary to ship additional volume by rail.

<u>BNSF:</u>

The BNSF states that the acquisition of the Sooner Sub will add to BNSF's already sizeable investment in Oklahoma over 1,200 employees and 1,037 mile of owned track. More specific, the BNSF anticipates that a) its incremental workforce should be 20 FTE with a payroll of about $1.5 million/year, b) additional incremental jobs should result from BNSF's plan to invest $45 million over the first 10 years in the Sooner Sub and also to the line connecting the Sooner Sub to the Cherokee Yard in Tulsa (to be addressed in more detail in the "Direct Capital Improvements" section), c) investment in the line will allow BNSF to improve service and handle higher levels of freight traffic, d) through the utilization of its marketing and development forces, BNSF is committed to locating new customers in the State and growing business of existing customers and believes that jobs, in addition to the direct ones stated above, will likely result from these efforts, and e) with the expansion of the Cherokee Yard, the BNSF believes this will result in fluidity of rail operations throughout Oklahoma accommodating economic benefits and additional jobs.

<u>"NO-SALE"</u>

Economic activity along the line is best represented by the number of carloads moving over or along a rail line. In 2013, independent analysis provides that 37,706 carloads moved along or over the Sooner Subdivision. Forecasts show that total carloads along the Sooner Sub will increase 2% per year, taking into account the expected volume increase in oil shipments.

Line Upgrade to Class 3 (40 mph)

BNSF:

As a part of its offer, the BNSF commits during the first 5 years to invest a minimum of $15 million to upgrade the track to Federal Railroad Administration (FRA) Class 3 condition – 40 mph maximum freight speed where not restricted to lower speeds due to curvature or other operational or safety considerations. Subject to a mutually agreeable arrangement with the tenant under the Current Lease, BNSF will upgrade the track to FRA Class 3 prior to the expiration of the Current Lease.

SLWC:

In order to continue to grow with the Sooner Sub Customers, the SLWC commits, as a part of its offer, to bringing the Sooner Sub to FRA Class 3 track within the State's timeline at an estimated cost of investment at $2.35 million.

Projected Annual Tax Revenue to the State and Municipalities Due to Private Ownership

SLWC:

Included as a section and an appendix of its *Final and Binding Offer,* the SLWC provides two analysis on the annual tax revenue that accrue to "government agencies" as a result of its acquisition of the Sooner Sub.[3] Taxes payable to the State of Oklahoma over a 15 year forecast period are expected to total $19,213,592 or $1,280,906 per year.[4] This IMPLAN model estimates that taxes payable to all government entities within the State of Oklahoma (State, County and Local level) over the 15 year forecast period will total approximately $16,046,000 or $1,069,733 per year.[5]

BNSF:

As provided in its *Final and Binding Offer* submission, the BNSF states that projected tax revenues, paid directly by the BNSF, will be approximately $450,000 per year, on average, during the first 10 years of ownership. This figure, however, does not include additional tax revenues to the state and municipalities from the indirect jobs and economic development created as a result of its plan to invest $45 million, its increased presence in Oklahoma and additional economic development in the state as a result of its ownership and improved conditions on the line.

"NO-SALE":

As owner of the line, the Department of Transportation - the State Agent with jurisdiction over the property – is exempt from paying property taxes. Tax revenue to the Counties where

[3] In its attached tax projections, the SLWC provides projected taxes associated with the "Stroud 2" facility. However, it is unclear if the SLWC intends to commit to the Stroud 2 project or if associated revenues should be a part of its projected total. Please consult the Department of Commerce economic impact analysis for actual figures on tax revenue.

[4] Ibid

[5] Ibid 2

the line is located (Creek, Lincoln and Oklahoma) is generated from the utility taxes paid by current operator on the line. The estimated tri-county sum is $68,000 per year.

Passenger Rail Operations

BNSF:

The BNSF believes it has a proven record of working with and assisting communities and states with the development of passenger operations at a number of locations on its network. As stated in its *Final and Binding Offer*, the BNSF will arrange for pilot passenger service to be provided between Oklahoma City and Tulsa, at least once per day, at least 5 days per week, for a period of at least six (6) months. Such pilot passenger service will commence on or before the fifth (5th) anniversary of the Closing. If it fails to commence a pilot passenger service on or before the fifth (5^{th}) anniversary of the Closing, then the BNSF states it shall pay to the State $2.8 million and shall have no further obligation with respect to such pilot passenger service.

SLWC:

Though significant details, including train schedule, are provided in its *Offer* on pages 6 through 8, SLWC and Iowa Pacific Holdings (IPH) will used a phased approach to implement passenger service that could begin as early as November of 2014 with an inaugural run marking the return of daily passenger service between Oklahoma City and Tulsa. SLWC and IPH will assume the responsibility of establishing this service. SLWC and IPH will take all revenue risk for operation of these services, and there will be no purchase-of-service cost to the State. SLWC and IPH will be responsible for all costs to develop, operate and maintain trains stations along the route. The passenger service will be provided aboard IPH's fleet of railcars that will match demand for service.

"NO-SALE":

If this option is determined best, no new money will come into the State if the current operator pursues a passenger rail operation. (Three excursion train trips, not to be confused with passenger rail operations, occurred along the line in February and April of 2014. The State will only receive revenue from such operations if it applies to "gross revenue" of the current operator, in accordance with the existing lease agreement between the State and SLWC.

Enhancing Customer Service and Opportunities Along the Sooner Sub Corridor: Business Development and Marketing Plans

SLWC:

As stated in its *Final and Binding* Offer, SLWC acquisition of the Sooner Sub will provide no negative impact on Customers on the Sooner Sub, or any railroad. Customers on the SLWC will continue to receive the same rates and service if SLWC is awarded the Sooner Sub. The SLWC provides that the BNSF will continue to have overhead trackage rights to move trains between Sapulpa and Oklahoma City. As a penalty for failing to provide quality Customer service, SLWC suggests to implement a mutually agreed upon audit system to determine whether

SLWC has provided quality Customer service. Should the State determine that SLWC has not provided quality Customer service SLWC will sell the railroad back to the State at market value.

The SLWC provides that the Sooner Sub will continue to be marketed as the heart of Oklahoma's regional railroad connecting its customers from the southwest corner of the State to Oklahoma's two largest cities. SLWC Marketing Managers work on a continuous basis to enhance customer service and opportunities for the varying needs of SLWC by way of its rigorous and institutionalized operating philosophy of "Plan-Do-Check-Act". The process of continuous improvement on this four-pronged philosophy should ensure that the customer's satisfaction is being met and continually improved upon on a daily basis. It believes that providing the right service, at the right time, in the right condition and at the right price is what provides customer satisfaction and distinguishes it from other service providers.

<u>BNSF:</u>

In its *Final and Binding* Offer, The BNSF's vision for the Sooner Sub is a faster, more reliable and more efficient main line, fully integrated into the BNSF network and global supply chain, enabling both increased through freight activity and increased origin/destination traffic, primarily associated with State's important role in the nation's energy sector. The BNSF intends to achieve this vision by way of a four pronged approach of upgrade, integrate, development and sustainability. This vision, according to BNSF, can only be realized by a Class I railroad with financial strength, a long term view, strong interests in Oklahoma and a proven record of working with the State to foster new economic development and bring the substantial benefits of rail to its stakeholders.

Increasing maximum speed to 40 mph, removing existing slow orders, plus potential siding additions or extensions, should increase train handling capacity and fluidity of the Sooner Sub. Improving local service to customers and reduced disruptions to communities from road blockages enhances the experience along the line and provides a means for more opportunities to customers and development. Once upgraded and integrated, the Sooner Sub should be faster and more reliable, improving transit times and the velocity of railroad and shipper owned equipment. With an improved "product," the BNSF intends to then focus its efforts on business development through connecting Sooner Sub customers to more than 14,000 industrial and distribution facilities on its system and thousands more served indirectly through rail transloading facilities and connections with shortline and other Class I railroads.

Comprised of nearly 300 full time professionals, BNSF's marketing [Economic Development] teams actively promote its rail freight services to customers in various product sectors. These teams will identify and develops new and expanded rail served facilities across all industry sectors. The BNSF believes its marketing network can bring new business opportunities to Sooner Sub customers through participation in the major national and international industry trade and professional organizations in economic development, transportation and logistics, warehousing and distribution, and other industrial arenas. The BNSF's marketing and development efforts should be initiated within 90 days of closing.

“NO-SALE”:

The current operator’s marketing and business development model (see above) applies in the event of a “no-sale”. Since 2011, the current operator services the needs of thirteen customers that utilize the Sooner Sub.

Re-Acquisition

BNSF:

As stated in its *Offer*, if BNSF decides to abandon or discontinue operations on and over the Premises within 21 years, per STB guidelines, after Closing then prior to filing for STB authorization, BNSF shall give the State 120 calendar days' notice of its plan to seek such authorization, and the State shall have the right at their sole discretion to purchase the Premises for net liquidation value determined under the STB's standards at that time.

SLWC:

SLWC provides that it has no plans to abandon the property. However, should the SLWC have an unfortunate event of financial distress or proposed abandonment and discontinuance, SLWC will give the State first right of refusal to re-acquire the Sooner Sub in accordance with the final terms of the Form of Sale Agreement.

Direct Capital Improvements to the Sooner Sub

(Defined as those improvements that are to occur on the asset [railroad and right-of-way])

SLWC:

Other than what is described in its *Offer* – the commitment to upgrading the line to Class 3, the SLWC states that no additional upgrades to the Sooner Sub are planned. As future business requirements demand additional investments, SLWC provides that it will continue to make the capital improvements necessary to serve its customers. As a part of its capital expenditure plan, it will pursue an aggressive capital and maintenance program and will spend between $2.4 and $2.6 million per year over the next 10 years.

BNSF:

As stated in its RFP response, the BNSF will spend at least $45 million for rehabilitation and upgrade of track, structures, and train control system on the Sooner Sub. This direct capital spending is intended to help increase the maximum track speed to 40 mph, where such speeds are not precluded by curvature or other local considerations, and for the installation of safety systems and communications facilities. The first $15 million of this $45 million investment will be used over a five year period to upgrade the line to FRA Class 3 (40 mph). The additional $30 million will be used for additional capital improvements on or before the 10th anniversary of closing for additional track and structure improvements – including bridges, improvements to communications and control systems, and installation of PTC and sidings. If at the end of 10 years, BNSF has not expended $45 million, BNSF will pay the difference between the amount it has spent and $45 million to the State.

"NO-SALE":

Under the current lease between the State and SLWC, the current operator (SLWC) is required to replace 10,000 railroad ties per year – a direct capital improvement. The funds that are used for this tie replacement requirement could possibly include state funds, as the Department does budget for tie replacement as part of its larger line maintenance budget for the Sooner Subdivision. It appears that Department funds are coupled with expenses contributed by the current operator for railroad tie replacement. Other maintenance expenses by current operator contribute to direct capital improvements, though the actual degree is uncertain.

Indirect Capital Project Related to the Sooner Sub

(Defined as those improvements that will not occur on the asset [railroad and right-of-way])

BNSF:

As stated in its RFP response, the BNSF intends to expand its Cherokee Yard facility, providing it the means to become one of the most robust Classification Yards on its system, resulting in improved fluidity of rail operations throughout Oklahoma, economic benefits to the State, and additional jobs in Tulsa. No precise figure related to economic impacts of this indirect capital project was provided as part of the RFP response. The BNSF provides that its increased presence in the State, due to its increased investment in the Cherokee Yard should result in additional economic development in the State and as a result of having the line owned and improved by the BNSF.

SLWC:

As previously mentioned in the "Increasing Economic Activity" section of this report, the SLWC, in accordance with its agreement with Enbridge, is committed to building a railroad line into or near Cushing, OK, and or adding to the terminal and pipeline capacity for energy Customers on the Sooner Sub or on the new railroad line into or near Cushing, OK. The SLWC will fund or cause these improvements to be funded with the benefits accruing to all Customers of the Sooner Sub, now and in the future. Estimated cost of Energy Customers Infrastructure Investments: $101.8 million. The SLWC commits to making the Energy Customers Infrastructure Investment within the State's timeline. SLWC will notify the State when construction begins and expects the process to take approximately 24 months to complete as described in the timeline below.

Additional investments in infrastructure projects are provided on page 4 of its *Offer*, though it is unclear if commitments to such projects are dependent on the SLWC acquiring the line.

"NO-SALE":

The provisions contained in the Current Lease between the State and SLWC will dictate how such indirect capital projects can be achieved.