

DRAFT FOR DISCUSSION PURPOSES ONLY

EXCURSION SERVICE

The Lessor reserves the right to contract with qualified Excursion Service operators to conduct Excursion Services along the Rail Property. The Lessor shall be the contractor for such services. The Lessee shall not be required to be a party to any Excursion Service contracts or operations.

Excursion Service Operator is defined as any non-profit entity that can supply qualified railroad equipment and crews necessary to operation trains on the Panhandle Rail Line.

Any Excursion Service must comply with all state and federal laws, including but not limited to FRA standards for operations, equipment, and track.

In such review ORDC agrees that :

The ORDC will not require the C&OR to pay for or maintain the track at its expense to a higher standard than is noted in Article 10, "Maintenance and Repairs" of this Agreement.

- The C&OR will not be compelled to provide personnel, equipment, or services for the operation of passenger or excursion service by a third party.
- The C&OR will not be compelled to provide personnel, equipment, or services for the operation of passenger or excursion service by a third party.

Any entity wishing to operate an excursion service on the Panhandle Rail Line must submit a proposal to the ORDC one hundred and eighty (180) days prior to any planned excursion operation on the Panhandle Rail Line. The proposal must contain the following information:

- Detailed information regarding the identification and source of equipment including locomotives and rail cars, all necessary federal and state documentation certifying the safety of the equipment (to Amtrak or FRA standards????) in form satisfactory to the ORDC.

- Detailed information regarding crew qualifications to operate equipment proposed including a complete list of names of the individuals including a copy of their current certification card and contact information for the issuing railroad.
- Proposed Dates of service.
- Indemnification of the state of Ohio and the operating railroad in accordance with ORC 4981.033.
- Proposed level of liability insurance for the Excursion Service. The level liability required will be based on the operating history of the Excursion Service and the measures of risk mitigation that the Excursion Service Operator includes in its proposal. If agreement can not be reached then liability levels will be in accordance with ORC 4981.033. State of Ohio is the final arbitrator of the liability insurance amount.
- A pro forma detailing the expected costs and profits of the operation.
- A plan that provides for the inspection of the track used by a certified track inspector prior to each excursion service movement. That inspector must certify that the track is adequate for the service recommended.
- Agreement that any Excursion Service will abide by special operating terms and conditions concerning radios, telemetry, flagging, and other matters which the C&OR may from time-to-time bring to the ORDC's attention.
- Agreement that any Excursion Service must not unduly interfere with the freight operations. In the event that there is a conflict between freight train movement and an Excursion Service movement, the freight train movement shall have priority. All parties shall make best faith efforts to coordinate any Excursion Service with the freight movements so that the freight service is not unduly interrupted.

The Lessor will provide the proposal to the Freight Operator. Within 45 days, the Freight Operator will provide:

- Validate the qualifications of the proposed crew and develop a training schedule for Operating rules and a fee associated with this training;
- Windows of track time for the excursion operation or alternative times when the track will be available for use.
- Subject to section E (1) of this Article 26, the C&OR and the operator seeking to use the Rail Property will negotiate the compensation to be paid for allowing passenger service but such compensation shall be approximately equal to the actual costs to the C&OR caused by the passenger service on the Rail Property, including a management fee and other C&OR personnel costs. In no event will the C&OR be compelled to subsidize or otherwise underwrite expenses of the passenger or excursion service operator on the Rail Property. ORDC shall be the final arbiter in determining compensation to be paid to the C&OR in accordance with the terms and conditions of this Article 26.

Within 45 days of the Freight Operators comments, ORDC will review both the excursion proposal and the Freight operator comments. In such review ORDC will not require the C&OR to pay for or maintain the track at its expense to a higher standard than is noted in Article 10, "Maintenance and Repairs" of this Agreement.

- ORDC agrees that the C&OR will not be compelled to provide personnel, equipment, or services for the operation of passenger or excursion service by a third party.
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The total number of requests for excursion service can not exceed 10 days of service annually.

(COMMENTARY: I think it is important that we set a time limit, either in total or on individual requests. I believe the order of magnitude expected from some interested parties might be different than that envisioned by the Committee. For example, the ORDC has received requests that 40 days be set aside for excursion. Additionally, while ORDC is currently only considering one excursion service, multiple organizations have stated that they could be interested in running an excursion service on the Panhandle.)

If the Freight Operator wishes to run excursion service on the Panhandle Rail Line, it will be subject to the same requirements to the ORDC as above.