

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670
Chapter 11

LIMITED OBJECTION OF EASTERN MAINE RAILWAY COMPANY TO MOTION FOR ORDER: (A) APPROVING BID PROCEDURES FOR THE SALE OF THE DEBTOR'S ASSETS; (B) SCHEDULING AN AUCTION; (C) APPROVING ASSUMPTION AND ASSIGNMENT PROCEDURES FOR CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (D) APPROVING A BREAK-UP FEE, EXPENSE REIMBURSEMENT AND OVERBID PROTECTIONS; AND (E) APPROVING A FORM OF NOTICE OF SALE

Eastern Maine Railway Company ("EMR") hereby submits this limited objection to the Trustee's Motion for Order: (A) Approving Bid Procedures for the Sale of the Debtor's Assets; (B) Scheduling an Auction; (C) Approving Assumption and Assignment Procedures for Certain Executory Contracts and Unexpired Leases; (D) Approving a Break-Up Fee, Expense Reimbursement and Overbid Protections; and (E) Approving a Form of Notice of Sale (the "Motion") and in support thereof states as follows:

1. EMR, together with its affiliates, including New Brunswick Southern Railway Company, Limited, Maine Northern Railway Company, Irving Paper Limited, Irving Pulp & Paper, Limited, and Irving Forest Products, Inc., are substantial creditors and customers of Montreal Maine & Atlantic Railway, Ltd. ("MMA" or the "Debtor") and parties in interest in this case.

2. As recognized by the Trustee in his Motion, bid procedures should be designed to "attract higher and better offers for the sale of the Assets . . . provide certainty as to the sale

process and . . . maximize the value of the Assets.” Motion, ¶9. Several of the provisions proposed by the Trustee are not consistent with this objective.

3. The proposed bid procedures provide for the receipt of bids on five separate lots established by the Trustee: (i) all assets of MMA and its Canadian subsidiary, Montreal Maine & Atlantic Canada Co. (“MMA Canada”) (the “All Asset Lot”), (ii) all assets of MMA (the “MMA Lot”), (iii) all assets of MMA Canada (the “MMA Canada Lot”), (iv) all assets of the MMA Lot other than the Newport Subdivision (the “Modified MMA Lot”), and (v) the track and related real estate and rights applicable to the Newport Subdivision (the “Newport Subdivision Lot”). Minimum initial bid prices are designated for each Lot. Motion, ¶ 18.

4. The bid procedures provide that bids submitted by Potential Bidders will not be deemed to be Qualified Bids unless the proposed purchase price is equal to or greater than the minimum initial bid price for the applicable Lot as specified therein. With the exception of the All Asset Lot, as to which the minimum initial bid price is based upon the staking horse bid for all of the assets of MMA and MMA Canada plus overbid protection in the form of a break-up fee, expense reimbursement and a minimum overbid, no explanation is provided as to the basis for the minimum initial bid prices for the other Lots. Moreover, the restriction imposed by the Trustee on bids for Lots other than the All Asset Lot fails to take into account that a bid in an amount less than the minimum initial bid price for a particular Lot, when coupled with a bid for one or more of the other Lots that exceeds the minimum initial bid price for those Lots, could exceed the staking horse bid for the All Asset Lot. Restrictions that foreclose such opportunities are not in the best interest of the estate. Potential Bidders who submit meaningful bids for Lots other than the All Asset Lot should be permitted to participate in the bidding process, including any auction that may be conducted pursuant to the bid procedures.

5. The requirement that bids for Lots other than the All Asset Lot be equal to or greater than the minimum initial bid price for such Lots is also flawed because it fails to provide the opportunity for Potential Bidders to bid on less than all of the assets in a specific Lot. Bids for less than all of the assets in a given Lot, in conjunction with the net liquidation value of assets excluded from the bid, could under certain circumstances provide greater value than the minimum initial bid price for all of the assets within the Lot. Moreover, the public interest may weigh in favor of acceptance of bids for Lots other than the All Asset Lot notwithstanding that the highest offer received by the Trustee is for the All Asset Lot. The bid procedures should not eliminate the opportunity to consider such bids.

6. The proposed bid procedures recognize that because this case involves the sale of a railroad, the “public interest,” as that term is used in section 1165 of the Bankruptcy Code, must be considered in approving the sale. Yet the proposed bid procedures do not provide any criteria for how the public interest will be addressed. The Trustee’s motion for authority to sell the railroad to Railroad Acquisition Holdings LLC, the proposed stalking horse, provides no information about this entity, its experience in operating a railroad, or its management plans post-closing. The bid procedures should require that such information be provided as part of each bid, including the stalking horse bid, so that parties in interest will have the opportunity to evaluate such information as part of the bidding process.

WHEREFORE, EMR respectfully requests that the Court include in any order approving the proposed bid procedures, the modifications set forth herein.

Dated: December 17, 2013

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