

**THE NEW ORLEANS PUBLIC BELT RAILROAD COMMISSION  
FOR THE PORT OF NEW ORLEANS  
MINUTES OF THE REGULAR BOARD MEETING  
THURSDAY, AUGUST 26, 2021**

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**A REGULAR MEETING OF THE NEW ORLEANS PUBLIC BELT RAILROAD  
COMMISSION FOR THE PORT OF NEW ORLEANS, PROPERLY NOTICED AND  
AUTHORIZED IN ACCORDANCE WITH PROCLAMATION 145 JBE 2021,  
CONVENED REMOTELY VIA ZOOM VIDEOCONFERENCE ON THURSDAY,  
AUGUST 26, 2021 AT 2:25 P.M.**

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**MEMBERS  
PRESENT:** William H. Langenstein, III, Chairman  
Charles H. Ponstein, Vice-Chairman  
Darryl D. Berger, Secretary-Treasurer  
Joseph F. Toomy, Member  
Walter J. Leger, Jr., Member

**MEMBERS  
ABSENT:** Tara C. Hernandez, Member

**STAFF:** B. Christian, Chief Executive Officer  
M. Stolzman, General Manager  
C. Kocur, Vice President, Engineering  
A. Ferrand-Rodgers, Director, Organizational Development  
T. Bryant, Manager, Marketing & Sales  
J. Escudier, Executive Counsel  
M. Scelson, General Counsel

**GUESTS:** M. Ganon, Port of New Orleans  
R. Wendel, Port of New Orleans  
A. Evett, Port of New Orleans  
T. Rives, Port of New Orleans  
R. Aragon Dolese, Port of New Orleans  
C. Coats, Port of New Orleans  
E. Pansano, Port of New Orleans  
M. Verderame, Port of New Orleans  
G. Brown, Port of New Orleans  
C. Labat, Port of New Orleans  
C. Gilmore, Port of New Orleans  
D. Cordell, Port of New Orleans  
S. Gauthier, Port of New Orleans  
G. Palermo, Port of New Orleans  
J. Crist, Port of New Orleans  
E. Federer, Port of New Orleans  
B. McManus, Port of New Orleans  
J. Mansour, Port of New Orleans  
G. Rose, Port of New Orleans  
C. Alfonso, Port of New Orleans  
J. Ragusa, Port of New Orleans

C. Falgoust, Port of New Orleans  
M. Cloos, Port of New Orleans  
M. Sulser, Port of New Orleans  
A. Taylor, Port of New Orleans  
J. Woodward, Port of New Orleans  
E. Bordelon, Port of New Orleans  
M. Singley, Port of New Orleans  
Chief R. Hecker, Harbor Police Department  
Andrea  
A. Wondolowski  
B. Landry  
K. Landry  
Bryce  
C. Sepulveda  
Carolos  
Christy's S21  
D. Kaufman  
E. Potts  
Eugene  
E. Gilligan  
J. Martin  
J. Difatta  
J. Robin  
K. Landy  
L David, New Orleans Business Alliance  
Maddy  
M. McCormack, St. Bernard Economic Development Foundation  
M. Nunez Airhart, Southern Services & Equipment  
N. Reins  
P. Marquez  
Ragdar  
Randy  
R. Islam  
Robby  
S. Stryd  
T. McCauley  
W. West

**I. Roll Call & Determination of Quorum**

Following a roll call of Commission members, Chairman Langenstein confirmed a quorum and called the meeting to order at 2:25 p.m.

**II. Approval of Meeting Minutes for July 2021**

Chairman Langenstein called for a motion to approve the public meeting minutes for July 2021, as previously circulated.

Commissioner Leger moved to approve the minutes and Commissioner Toomy seconded.  
**MOTION CARRIED UNANIMOUSLY**

### **III. Public Comment**

Chairman Langenstein provided an overview of the process for submitting public comment. He then called for any general or agenda-related public comment, but there was none.

### **IV. Action Items:**

#### **A. Acceptance of the Financial Statement for July 2021**

Mr. Wendel presented the Commission's July financial statement, a copy of which is made a part of these minutes. He provided an overview of the monthly and fiscal year-to-date revenues and expenses for the period ending July 30, 2021. He reported that switching and storage revenue exceeded expectations resulting in total operating revenue \$272,000 over budget and \$629,000 over last year's revenue for the same month. Expenses remain controlled, bringing the total operating income for the month \$274,000 over budget.

Chairman Langenstein echoed that the Commission's positive revenue for July was indicative of a positive start for the new fiscal year.

Commissioner Leger moved to accept the financial statement and Commissioner Ponstein seconded. **MOTION CARRIED UNANIMOUSLY**

#### **B. Consider Approval Consider Approval of a Resolution Authorizing the Chief Executive Officer to Enter into Contracts Above Designated Authorization Limits, in an Amount Not to Exceed \$500,000 as Necessary for Re-Railing and Related Services for Fiscal Year 2022.**

Mr. Kocur presented and recommended approval of the resolution. He stated that, when an incident involving a derailment or mechanical failure exceeds the Commission's in-house capabilities, it is necessary to retain third-party contractors with specialized training and equipment in order to expediently restore operations. Specialized services required in these instances include re-railing, removing, dismantling, cleaning, unloading, and/or repairing railcars and locomotives. Authorizing the Chief Executive Officer to enter into contracts above the designated authorization limit of \$131,250, would provide staff with the flexibility to respond expeditiously to major incidents and efficiently restore operations. When required, the Chief Executive Officer will secure the Commission Chairman's approval in advance and notify other Board members within 48 hours after entering such contracts. This authorization will be effective for the duration of Fiscal Year 2022, and will not exceed the value threshold of \$500,000 for entirety of the fiscal year.

Chairman Langenstein asked if any contracts for these services had ever reached the \$500,000 limit, and if this anticipated amount was based on needs of previous years. Mr. Kocur responded that this dollar threshold amount has not been reached in the last few years, and is intended only as a safeguard to ensure expedient response. Ms. Christian

added that this authorization to enter into as-needed contracts emulates the Board of Commissioners of the Port of New Orleans' ("Port") annual authorization to enable the President and Chief Executive Officer to respond efficiently to dredging situations beyond the Port's in-house capabilities.

Chairman Langenstein and Commissioner Leger asked for confirmation that the total amount spent for all contracts is limited to \$500,000 for the fiscal year. Mr. Kocur and Ms. Christian confirmed, adding that, if there are no incidents requiring these services, no contracts will be executed.

Chairman Langenstein asked to clarify that the resolution language specify that the \$500,000 authorization limit was the total not-to-exceed for the entirety of Fiscal Year 2022.

Commissioner Ponstein moved to approve the resolution and Commissioner Leger seconded. **MOTION CARRIED UNANIMOUSLY**

**C. Consider Approval of a Resolution Ratifying Action Taken by the Chief Executive Officer in Enacting Supplement 2 to Freight Tariff NOPB 9000-A.**

Ms. Bryant presented and recommended approval of the resolution. Supplement No. 2 modifies the Commission's NOPB Freight Tariff 9000-A ("Tariff") by amending Note 6 of Item 95 to address the need for charter train service for interchanges to or from the Norfolk Southern Railway Company. Charter train service is required when cars over a certain length are interchanged, and the length restriction is being adjusted from 73' to 74' for the benefit of local customers and shippers.

Supplement 2 was enacted on an interim basis by the Commission's Chief Executive Officer on July 28, 2021. In accordance with the Commission's Bylaws, any amendment to the Tariff must be ratified or repealed by the Commission within 45 days.

Chairman Langenstein asked if additional railcar volume was anticipated as a result of this amendment and Ms. Bryant confirmed.

Mr. Leger asked for specifications on the location of the track curvature impacted by the revised terms. Ms. Bryant stated the curvature is located in the Bywater neighborhood, near the New Orleans Center for Creative Arts.

Commissioner Leger moved to approve the resolution and Commissioner Toomy seconded. **MOTION CARRIED UNANIMOUSLY**

**V. Closed Executive Session to Discuss the Matter of *Zurich American Insurance Company v. New Orleans Public Belt Railroad Corporation, et al.*, United States District Court for the Eastern District of Louisiana, Case No. 20-1412.**

Chairman Langenstein called for a motion to enter into a closed executive session, in accordance with La. R.S. 42:17A(2), to discuss the litigation matter of *Zurich American*

*Insurance Company v. New Orleans Public Belt Railroad Corporation, et al.*, United States District Court for the Eastern District of Louisiana, Case No. 20-1412.

Commissioner Leger moved to enter into closed executive session and Commissioner Ponstein seconded. The **MOTION CARRIED UNANIMOUSLY** and the Board entered into a closed teleconference session.

Following the conclusion of the discussion, Commissioner Leger moved to end the closed executive session and return to the open meeting. Commissioner Toomy seconded. **MOTION CARRIED UNANIMOUSLY** and the closed executive session concluded.

**VI. Consider Approval of a Resolution Authorizing the Chief Executive Officer to Enter into a Settlement Agreement in the Matter of *Zurich American Insurance Company v. New Orleans Public Belt Railroad Corporation, et al.*, United States District Court for the Eastern District of Louisiana, Case No. 20-1412.**

Mr. Escudier presented and recommended approval of the resolution. Commissioner Leger moved to approve the resolution and Commissioner Ponstein seconded. **MOTION CARRIED UNANIMOUSLY**

**VII. Report of the General Manager**

Mr. Stolzman presented the General Manager's Report. He stated that local customer and Class I switching volumes have continued to remain strong through July, while railcar storage achieved a record high volume this month, averaging over a thousand (1,000) cars a day. Intermodal numbers were down for the month of July, but are expected to increase in the following weeks. Dwell numbers increased in July due to peak traffic across the rail network. However, dwell time still remains well below the industry standard and is expected to decrease in August and September.

Productivity for cross-tie replacements were above expectations for the month of July, and bridge-tie replacements were aligned with monthly goals. Track surfacing performed well, but tie mill production was below projected productivity due to continued lumber supply shortages.

**VIII. Adjournment**

There being no further business to come before the Commission, Chairman Langenstein called for a motion to adjourn. Commissioner Ponstein moved and Commissioner Berger seconded. **MOTION CARRIED UNANIMOUSLY** and Chairman Langenstein adjourned the meeting at 2:59 p.m.