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SERVICE DATE – LATE RELEASE APRIL 8, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 384 (Sub-No. 3X)

DELTA SOUTHERN RAILROAD, INC.–ABANDONMENT EXEMPTION–IN DESHA AND
CHICOT COUNTIES, ARK.

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: April 8, 2011

By decision served on March 25, 2011, the Board, under 49 U.S.C. § 10502, exempted from the prior approval requirements of 49 U.S.C. § 10903, the abandonment by Delta Southern Railroad, Inc. (DSR), of a 24.1-mile line of railroad (the Line) between milepost 408.9 at or near McGehee and milepost 433.0 at or near Lake Village, in Desha and Chicot Counties, Ark., subject to environmental and standard employee protective conditions. The decision authorizing abandonment and discontinuance was scheduled to become effective on April 24, 2011, unless an offer of financial assistance (OFA) was filed on or before April 4, 2011.

On April 4, 2011, Lake Providence Port Commission (Port Commission) and Arkansas Shortline Railroads, Inc. (ASR) as guarantor for its wholly owned subsidiary, North Louisiana & Arkansas Railroad, Inc. (NLA), a newly formed noncarrier (collectively, Offerors), jointly filed a timely OFA under 49 U.S.C. § 10904 and 49 C.F.R. § 1152.27 to purchase the entire line for \$778,791, the net liquidation value (NLV) set forth in the NLV estimate submitted by DSR in its Petition at 8.

An OFA to acquire a line for continued rail service need not be detailed, but an offeror must show that it is financially responsible and that the offer is reasonable. See Conrail Abans. Under NERSA, 365 I.C.C. 472 (1981). There is a presumption in the Board's regulations that governmental entities, such as the Port Commission, are financially responsible. 49 C.F.R. § 1152.27(c)(1)(ii)(B). Offerors anticipate that all of the funding for the purchase will initially be provided by the Port Commission. While the Port Commission and ASR/NLA have not finalized their agreement on the details of ownership and operation of the Line, ASR/NLA states that it will fund its ultimate portion of the purchase through a commercial loan with its bank, and repay the Port Commission for its share once the loan has been finalized.¹ On April 5, 2011, ASR submitted a redacted and a confidential version under seal of ASR's 2010 consolidated

¹ Because the Port Commission and ASR/NLA are joint offerors, any transfer among them would not trigger the restrictions set forth in 49 C.F.R. § 1152.27(i).

income statement, showing that it and, in turn due to ASR's financial guarantee, NLA, are financially responsible.

Because the Port Commission and ASR/NLA are financially responsible and have offered financial assistance, the effective date of the exemption authorizing the abandonment will be postponed.

Any person filing a request to set terms and conditions must pay the requisite filing fee set forth at 49 C.F.R. § 1002.2(f)(26), which currently is \$22,600. An original and 10 copies of the request should be submitted along with the fee, in an envelope bearing the docket number of this proceeding, along with the words "Attention: Office of Proceedings, Request to Set Terms and Conditions" in the lower left hand corner.

Appeals to this decision are governed by 49 C.F.R. § 1011.2(a)(7). Any appeal must be filed within 10 days of the service date of this decision and will be heard by the entire Board.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The effective date of the exemption is postponed to permit the OFA process under 49 U.S.C. § 10904 and 49 C.F.R. § 1152.27 to proceed.
2. If the Offerors and DSR cannot agree on the purchase price, either party may request the Board to establish the terms and conditions of the purchase price on or before May 4, 2011. If no agreement is reached and no request is submitted by that date, the Board will serve a decision vacating this decision and allowing the abandonment exemption to become effective.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.