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SERVICE DATE – NOVEMBER 18, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-868X<sup>1</sup>

MISSISSIPPI TENNESSEE HOLDINGS, LLC–ABANDONMENT EXEMPTION–  
IN UNION, PONTOTOC AND CHICKASAW COUNTIES, MS

Decided: November 17, 2004

By decision and notice of interim trail use or abandonment served on July 26, 2004, the Board granted a petition for exemption under 49 U.S.C. 10502 permitting Mississippi Tennessee Holdings, LLC (MTH) to abandon, and Mississippi Tennessee Railroad, LLC to discontinue service over, a 43.2-mile line of railroad in Union, Pontotoc and Chickasaw Counties, MS. The line extends from milepost 324.2 near New Albany to the end of the line at milepost 281.0 near Houston, MS. The exemption was scheduled to become effective on August 25, 2004, unless an offer of financial assistance (OFA) was filed under 49 U.S.C. 10904 and 49 CFR 1152.27(c) on or before August 5, 2004.

On August 5, 2004, Hust Brothers, Inc. (HB) timely filed an OFA to purchase the entire line. On August 9, 2004, a decision was served postponing the effective date of the July 26, 2004 decision and giving the parties until September 7, 2004, to reach an agreement for the sale of the line. By decision served on August 20, 2004, the due date for requests to establish the terms and conditions for the sale of the line was extended to October 4, 2004, and the due date for replies to any request to set terms and conditions was extended to October 12, 2004.

On October 4, 2004, HB requested that the Board set terms and conditions for the sale because the parties were unable to agree on the sale price. In a decision served on November 2, 2004, the Board set the purchase price for the line at \$3,747,007 and established terms for transfer of the line. HB was given until November 12, 2004, to accept the terms and conditions. On November 12, 2004, HB notified the Board that it rejected the Board's terms and conditions.

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<sup>1</sup> Prior decisions in this proceeding have also embraced Mississippi Tennessee Railroad, LLC–Discontinuance of Service Exemption–in Union, Pontotoc and Chickasaw Counties, MS, STB Docket No. AB-869X.

When an entity offering to purchase a line notifies the Board that it is not willing to accept the terms and conditions set out, the Board will serve a decision vacating the prior decision that postponed the effective date of the decision that granted the abandonment. 49 CFR 1152.27(h)(7). Accordingly, the OFA process will be terminated, and the August 9, 2004 decision will be vacated to permit the abandonment authorization for the line to become effective on the service date of this decision.

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

It is ordered:

1. The OFA process in this proceeding is terminated.
2. The decision served August 9, 2004, is vacated to the extent it postponed the effective date of the abandonment to permit the OFA process to proceed. The abandonment authority will be effective on the service date of this decision, subject to the conditions previously imposed in this proceeding.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary