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SERVICE DATE – JUNE 24, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 254 (Sub-No. 10)

PROVIDENCE AND WORCESTER RAILROAD COMPANY—ADVERSE
ABANDONMENT—TRACK OF HOUSATONIC RAILROAD COMPANY IN
FAIRFIELD AND NEW HAVEN COUNTIES, CONN.

Decided: June 23, 2011

By petition filed on September 15, 2010,¹ Providence and Worcester Railroad Company (P&W), a Class II railroad, sought exemptions from certain statutory provisions and waivers of certain Board regulations in connection with its intent to seek a third-party or “adverse” abandonment of a 12.8-mile portion of the Danbury Secondary Line, extending between milepost 92.0 near Newtown in Fairfield County and milepost 104.8 in Derby in New Haven County, Conn. (the Line). Housatonic Railroad Company, Inc. (Housatonic), the owner of the Danbury Secondary Line, filed a reply on October 8, 2010.

The Danbury Secondary Line extends 33.6 miles between milepost 104.8 in Derby, where it connects with the Connecticut Department of Transportation’s (CDOT) Waterbury Branch, and milepost 71.2 at the New York State line near Danbury, where it connects with Metro North Commuter Railroad’s (Metro North) Beacon Line. P&W has overhead trackage rights on approximately 28 miles of the Danbury Secondary Line between milepost 104.80 in Derby and milepost 76.9 in Danbury.²

P&W filed the petition for waivers and exemptions because Housatonic had allegedly placed the Line out of service and CDOT had announced its intention to schedule outages for track rehabilitation over the alternate route P&W was using to serve the Danbury shipper. P&W has trackage rights over the alternative route but claimed

¹ P&W submitted the petition on September 10, 2010, but it was not treated as filed until September 15, 2010, when the filing fee was paid.

² Housatonic’s predecessor, Danbury Terminal Railroad Company, granted the trackage rights to Connecticut Rail Systems, Inc., P&W’s predecessor, in 1993 to permit it to serve more efficiently a major, rail-served customer located in Danbury on a portion of the Danbury Secondary Line that is not on the 12.8-mile segment. See Conn. Rail Systems, Inc.—Trackage Rights Exemp.—Danbury Terminal R.R., FD 32770 (ICC served Mar. 29, 1993).

that the outages would occur during its usual operating hours, effectively precluding it from serving the Danbury customer.

On June 16, 2011, P&W filed a motion to withdraw the petition for waivers and exemptions without prejudice, asserting that no parties will be prejudiced. P&W states that it is not necessary and it does not intend to file an adverse abandonment application at this time because it has been able to serve the Danbury shipper using the time windows CDOT has made available.

P&W's motion to withdraw the petition for waivers and exemptions without prejudice will be granted.

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

It is ordered:

1. P&W's motion to withdraw the petition for waivers and exemptions without prejudice is granted.
2. This decision is effective on its service date.

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