

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-1000 (Sub-No. 1X)

GEORGIA SOUTHWESTERN RAILROAD, INC.—ABANDONMENT AND  
DISCONTINUANCE EXEMPTION—IN HARRIS AND MERIWETHER COUNTIES, GA

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: December 21, 2007

Georgia Southwestern Railroad, Inc. (GSWR) filed a petition for exemption under 49 U.S.C. 10502 from the provisions of 49 U.S.C. 10903 to abandon 43 miles of rail line extending between milepost R-12.0 at Florida Rock and milepost R-55.0 at Allie, in Harris and Meriwether Counties, GA (the line). By decision served on December 10, 2007, the Board granted the exemption, subject to conditions, and issued a Notice of Interim Trail Use for the line under the National Trails System Act, 16 U.S.C. 1247(d).<sup>1</sup> The decision noted that, on October 22, 2007, Kern Valley Railroad Company (KVRC) had filed a formal expression of intent to file an offer of financial assistance (OFA) to purchase the line. The exemption was scheduled to become effective on January 9, 2008, unless stayed by the Board, or an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1) was filed by December 20, 2007.<sup>2</sup>

On December 20, 2007, KVRC timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to purchase the line for \$2,099,497.66, consisting of \$400,000 for real estate and \$1,699,497.66 for the net salvage value of the rail assets on the line.

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 Abandonments under NERSA, 365 I.C.C. 472 (1981). KVRC has submitted a letter from Wells Fargo Bank indicating that its owners have a line of credit of up to \$10 million to be used for the

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<sup>1</sup> In addition, the Board granted an exemption from the provisions of 49 U.S.C. 10903 authorizing GSWR's discontinuance of overhead trackage rights over a line owned by Central of Georgia Railroad Company between milepost R-2.0 north of Columbus and milepost R-12.0 at Florida Rock, in Harris County.

<sup>2</sup> On December 17, 2007, KVRC filed a petition to toll the deadline for submitting its OFA until after it received additional information it requested from GSWR. GSWR opposed that request in a pleading filed on December 18, 2007. By decision served on December 19, 2007, the request to toll the deadline was denied because KVRC had obtained information that fulfills the regulatory requirement at 49 CFR 1152.27(a).

acquisition of short line railroads and related short-term operating expenses of acquired railroads, which indicates that it is financially responsible. See OFA, Exhibit A, p. 3.

GSWR's appraisal values the net salvage value of the track and materials at \$3,428,905, and indicates that the total net liquidation value is \$5,555,185.<sup>3</sup> KVRC's offer is less than GSWR's estimated total purchase price for the underlying real estate and the rail, ties, and other track materials (OTM). KVRC states that GSWR's estimates for real estate and rail and OTM are not supported or explained. In its OFA, KVRC submits analyses prepared by real estate and rail materials appraisers, estimating the net liquidation value of the line at \$2,099,497.66. Consistent with 49 U.S.C. 10904(c) and 49 CFR 1152.27(c)(1)(ii)(C), however, KVRC has explained the basis for the difference between its lower estimate for the line and GSWR's estimated value for the line.

Because KVRC is financially responsible and has offered financial assistance, the effective date of the exemption authorizing the abandonment will be postponed.

The Board's regulations contemplate that the carrier and a financially responsible person will reach an agreement setting terms and conditions of purchase; but if they do not, either party may request the Board to do so. 49 CFR 1152.27(g). Any person filing a request to set terms and conditions must pay the requisite filing fee, set forth at 49 CFR 1002.2(f)(26), which currently is \$19,300. 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: Request to Set Terms and Conditions" in the lower left hand corner.

Appeals to this decision are governed by 49 CFR 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 in order to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.
2. If KVRC and GSWR 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 January 22, 2008. 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.

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<sup>3</sup> Accordingly, by subtracting the value of the track (\$3,428,905) from the net liquidation value (\$5,555,185), the land must be valued by GSWR at \$2,126,280.

3. This decision is effective on its date of service.

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

Vernon A. Williams  
Secretary