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SERVICE DATE - SEPTEMBER 11, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (sub-No. 3X)¹

NEW YORK CENTRAL LINES, LLC—ABANDONMENT
EXEMPTION—IN BERKSHIRE COUNTY, MA

Decided: September 10, 2001

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) (collectively applicants) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinues of Service for NYC to abandon and CSXT to discontinue service over approximately 1.91 miles of railroad between milepost QBH-0.59 and milepost QBY-2.50 in Pittsfield, in Berkshire County, MA. Notice of the exemption was served and published in the Federal Register on August 13, 2001 (66 FR 42582-83). The notice stated that the exemption will be effective on September 12, 2001, unless stayed by the Board or unless a formal expression of intent to file a formal offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1) was filed by August 23, 2001. On August 27, 2001, Housatonic Railroad Company (Housatonic) late-filed a formal expression of intent to file an OFA in order to purchase the entire line and requested that the Board waive its regulations at 49 CFR 1152.27(c)(2) and accept its late-filed notice of intent to file an OFA. By decision served September 7, 2001, the proceeding was reopened, Housatonic's late-filed notice of intent was accepted, the exemption was made subject to several environmental conditions, and the due date for Housatonic to file its OFA was set for September 12, 2001.² As a result of the acceptance of Housatonic's notice of intent, the effective date of the exemption was automatically stayed until September 22, 2001.³

On September 6, 2001, Housatonic filed a petition to toll the period for submitting an OFA for 30 days (until October 12, 2001). Housatonic states that it needs additional time to file its OFA because it has formally made a request for CSXT to provide it with the financial data prescribed in 49 CFR 1152.27(a) and it has not yet received the requested information.

¹ This decision embraces STB Docket No. AB-55 (Sub-No. 595X), CSX Transportation, Inc.—Discontinuance of Service Exemption—in Berkshire County, MA.

² Under 49 CFR 1152.27(c)(2)(ii)(B), OFAs are due 30 days after publication of the notice of exemption in the Federal Register.

³ On August 24, 2001, the Berkshire Regional Planning Commission filed a request that the Board stay the effectiveness of the exemption for 6 months. By decision served September 5, 2001, the petition for stay was denied.

Housatonic states that CSXT has advised that it is in the process of assembling the requested information and it will be forwarded as soon as it becomes available.

Under 49 CFR 1152.27(c)(1)(i)(C), the Board will entertain petitions to toll the 10-day period for filing OFAs when a railroad has failed to provide a potential offeror promptly with the information necessary to the development of its OFA. Because Housatonic cannot complete its OFA without access to the relevant data, the extension request will be granted and the time for filing an OFA will be tolled until October 12, 2001, and the effective date of the abandonment will be further stayed until October 22, 2001. CSXT is urged promptly to provide Housatonic with the necessary information.

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

It is ordered:

1. The time period for Housatonic to file an OFA is tolled until October 12, 2001.
2. The effective date of the abandonment exemption is postponed until October 22, 2001.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary