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SERVICE DATE - DECEMBER 21, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 4X)¹

NEW YORK CENTRAL LINES, LLC—ABANDONMENT EXEMPTION—
IN VERMILLION AND WARREN COUNTIES, IN

Decided: December 20, 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 Discontinuances of Service for NYC to abandon and CSXT to discontinue service over approximately 6.12 miles of railroad between milepost QSO-5.18 near the Illinois/Indiana State line and milepost QS0-11.30 near Olin, in Vermillion and Warren Counties, IN. Notice of the exemption was served and published in the Federal Register on September 28, 2001 (66 FR 49741-42). The exemption was scheduled to become effective on October 30, 2001, but on October 11, 2001, Flex-N-Gate (Flex) late-filed a notice of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1) to purchase the entire line. On October 15, 2001, applicants filed a request for a 60-day extension in accordance with 49 CFR 1152.27(c)(2)(ii)(D), to develop and submit the required information requested by Flex. By decision served October 29, 2001, the proceeding was reopened, Flex's late-filed notice of intent was accepted, and the due date for Flex to file its OFA was established as December 28, 2001, and the effective date was further postponed to January 7, 2002.²

On December 18, 2001, Flex filed a petition to toll the 30-day period for submitting its OFA until January 28, 2002. Flex states that the additional time is needed because CSXT is still in the process of providing the complete information, and that, if the information is not received in time, it may not be able to meet the December 28, 2001 due date for filing its OFA. Flex states that CSXT does not oppose the extension request.

Under 49 CFR 1152.27(c)(1)(i)(C), the Board will entertain petitions to toll the 30-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 Flex cannot complete its OFA

¹ The notice of exemption served September 28, 2001, embraced STB Docket No. AB-55 (Sub-No. 597X), CSX Transportation, Inc.—Discontinuance of Service Exemption—in Vermillion and Warren Counties, IN.

² In the October 29, 2001 decision, the exemption was made subject to several environmental conditions and the requests for issuance of a notice of interim trail use and a public use condition were held in abeyance pending completion of the OFA process.

without access to the relevant data, the extension request will be granted and the time for filing an OFA will be tolled until January 28, 2002, and the effective date of the abandonment will be further postponed until February 7, 2002. Applicants are urged promptly to provide Flex 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 Flex to file an OFA is tolled until January 28, 2002.
2. The effective date of the abandonment exemption is postponed until February 7, 2002.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary