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SERVICE DATE – LATE RELEASE APRIL 14, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 239X)

UNION PACIFIC RAILROAD COMPANY – DISCONTINUANCE EXEMPTION –
IN OKLAHOMA CITY, OK

Decided: April 14, 2006

On February 24, 2006, Union Pacific Railroad Company (UP) filed a notice of exemption under 49 CFR 1152 Subpart F – Exempt Abandonments and Discontinuances to discontinue service over a 0.42-mile line of railroad, known as the Old Rock Island Main, from Stiles Avenue to the point of connection with the BNSF Railway Company line near Second Street in Oklahoma City, Oklahoma County, OK (the line). The Oklahoma Department of Transportation (ODOT) owns the line and leased it to UP to provide freight service. Notice of the exemption was served and published in the Federal Register on March 16, 2006 (71 FR 13673) (March 16 notice), and the exemption is scheduled to become effective on April 15, 2006.

On April 13, 2006, CPN Railroad Corporation, a noncarrier subsidiary of Citizen Potawatomi Nation, a Federal Tribal Corporation (CPN), filed a notice of intent to file an offer of financial assistance (OFA), under 49 U.S.C. 10904 and 49 CFR 1152.27, to purchase the leasehold interest, and any other UP assets related to the line. UP opposes CPN's notice and asks that it be rejected.

Under 49 CFR 1152.27 (c)(2)(i), persons with a potential interest in providing financial assistance must file and serve a formal notice of intent to file an OFA no later than 10 days after publication in the Federal Register of the relevant notice of exemption. Accordingly, the March 16 Federal Register notice stated that expressions of intent to file an OFA for continued rail service were due by March 27, 2006. CPN did not file its notice of intent to file an OFA until April 13, 2006, seventeen days late, and has provided no explanation as to why it could not have complied with the 10-day deadline. Congress' intent in limiting the time for filing OFAs was to protect carriers from involuntary protracted proceedings. See Staggers Rail Act of 1980, H.R. Rep. No. 96-1430, 96th Cong., 2d Sess. at 125 (1980). CPN's notice of intent will accordingly be rejected. CPN may, of course pursue acquisition of whatever rights it seeks directly from the line's owner (ODOT) outside of the OFA process.

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

It is ordered:

1. CPN's notice of intent to file an OFA is rejected.
2. This decision is effective on its date of service.

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

Vernon A. Williams
Secretary