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SERVICE DATE - SEPTEMBER 15, 1999

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-246 (Sub-No. 2X)

YREKA WESTERN RAILROAD COMPANY--
ABANDONMENT EXEMPTION--IN SISKIYOU COUNTY, CA

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: September 14, 1999

By decision served on May 4, 1999, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by Yreka Western Railroad Company (YW), of its entire 8.9-mile line of railroad, extending between milepost 0.0 in Montague and milepost 8.9 near Yreka, in Siskiyou County, CA.¹ No conditions were imposed on the abandonment authorization. The exemption was scheduled to become effective on June 3, 1999, unless an offer of financial assistance (OFA) was filed on or before May 14, 1999. By decision served May 17, 1999, the time period for filing an OFA was extended until 10 days after YW provided the shipper, Timber Products Company (TPC), with the requested information. As the May 17th decision instructed, YW notified the Board that the information was furnished to the shipper on September 2, 1999. As a consequence, the exemption was rescheduled to become effective on September 22, 1999, unless an OFA was filed on or before September 10, 1999.

On September 10, 1999, TPC timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase the 4.5-mile portion of the line extending between milepost 0.0 at Montague, CA, where it connects with the line of the Central Oregon and Pacific Railroad, and milepost 4.5 at Yreka, CA, including all switches, signals, and other devices or appurtenances.²

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).

To demonstrate its financial responsibility, TPC states that it generates sales in excess of \$400 million annually and employs over 1,300 employees. TPC provided information that indicates

¹ Notice was published in the Federal Register on February 3, 1999 (64 FR 5343-44).

² TPC notes that YW has not provided other items specified in 49 CFR 1152.27, namely, the most recent reports on the physical condition of the involved line and traffic revenue and related data.

it has a substantial line of credit with a financial institution that it has used for over 30 years. The financial information submitted shows that TPC is financially responsible.

TPC's offer of \$60,000 is less than YW's estimated net liquidation value (NLV) of \$175,710.³ Consistent with 49 U.S.C. 10904(c) and 49 CFR 1152.27(c)(1)(ii)(C), however, TPC explains that its independent appraisal study concludes that the line is in very poor condition, requiring replacement of approximately 11 out of every 12 ties, and that the value of the underlying property is grossly excessive. TPC asserts that YW has provided no basis for valuing some property as high as \$12,000 per acre, as the line runs through an undeveloped area, is not suitable for farming, and has no commercial or industrial value. TPC says that, at such time as YW provides any substantiation for any of its claimed evaluations, TPC will provide appropriate responses based on independent appraisals.

Because TPC is financially responsible and has offered financial assistance, the effective date of the exemption authorizing abandonment will be further postponed for that portion of the line between milepost 0.0 and milepost 4.5. Otherwise, the exemption for the remainder of the line between milepost 4.5 and milepost 8.9 will become effective on September 22, 1999.

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 \$14,800. An original and 10 copies of the request should be submitted along with the fee, in an envelope bearing the docket number of the proceeding, along with the words "Attention: Application Unit, 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 action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The September 22, 1999 effective date of the exemption authorizing abandonment is postponed for that portion of the line between milepost 0.0 and milepost 4.5 in order to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.
2. If YW and TPC cannot agree on the purchase price of the line, either party may request the Board to establish the terms and conditions of the purchase on or before October 12, 1999. If no

³ YW's estimated NLV is purported to be based on a 4.75-mile segment of the line.

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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.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary