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SERVICE DATE - NOVEMBER 20, 1997

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-477 (Sub-No. 2X)

OWENSVILLE TERMINAL COMPANY, INC.—ABANDONMENT
EXEMPTION—IN GIBSON AND POSEY COUNTIES, IN

OFFER OF FINANCIAL ASSISTANCE

Decided: November 19, 1997

By decision served November 7, 1997, the Board granted the Owensville Terminal Company, Inc. (OTC) an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a line of railroad known as the Cynthiana-Owensville line, extending from railroad milepost 277.0 north of Cynthiana to railroad milepost 271.0 north of Owensville, a distance of 6.0 miles, in Gibson and Posey Counties, IN. The exemption was scheduled to become effective on December 7, 1997, unless an offer of financial assistance (OFA) was filed with the OTC and the Board by November 17, 1997.

On November 17, 1997, the Gibson County Farm Bureau Cooperative Association (Farm Bureau) filed an OFA to purchase a 2-mile segment of the line between railroad milepost 271.0 and railroad milepost 273.0 for \$42,452.¹ OTC's petition for exemption estimated the net liquidation value (NLV) for the entire 6-mile Cynthiana-Owensville line at \$127,354, consisting of the net salvage value of track materials; land was not included in OTC's NLV estimate. The Farm Bureau states that its offer for the 2-mile segment is based on one-third of OTC's NLV estimate for the entire 6-mile line.

An OFA need not be detailed, but an offeror must show that it is financially responsible and must explain any disparity between its offer, and the rail carrier's estimated value of the assets sought to be acquired under 49 U.S.C. 10904.

The Farm Bureau also submitted an independent auditor's report dated August 20, 1997, indicating that it has adequate cash and other financial resources to acquire and operate the line. The financial information submitted shows that the Farm Bureau is a financially responsible entity. Consistent with 49 U.S.C. 10904(c) and 49 CFR 1152.27(c)(1)(ii)(C), the Farm Bureau has also explained the basis for the disparity between its offer and OTC's estimated valuation.

Because the Farm Bureau, a financially responsible entity, has offered financial assistance, the effective date of the exemption authorizing abandonment of the portion between railroad

¹ We need not consider the Farm Bureau's Notice of Intent to File an Offer of Financial Assistance, which was also filed November 17, 1997.

milepost 271.0 and railroad milepost 273.0 will be postponed, pending completion of the OFA process. Unless otherwise ordered, the exemption authorizing abandonment of the remainder of the Cynthiana-Owensville line will become effective as scheduled on December 7, 1997.

Any person filing a request to set terms and conditions must pay the requisite filing fee, as set forth at 49 CFR 1002.2(f)(26), which is currently \$13,500. An original and 10 copies of the request should be submitted along with the filing 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 conservation of energy resources.

It is ordered:

1. The effective date of the exemption authorizing abandonment of the segment of the line between railroad milepost 271.0 and railroad milepost 273.0 is postponed in order to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.
2. If the railroad and the offeror cannot agree on the purchase price for the line, either party may request, on or before December 17, 1997, that the Board establish the terms and conditions of the purchase. If no agreement is reached and no request is made by that date, the Board will serve a decision vacating this decision and allowing the abandonment authorization 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