

28808
DO

SERVICE DATE - JANUARY 13, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 190X)

NORFOLK SOUTHERN RAILWAY COMPANY--ABANDONMENT
EXEMPTION--IN FAYETTE COUNTY, AL

OFFER OF FINANCIAL ASSISTANCE

Decided: January 12, 1998

By decision served December 29, 1997, the Board granted the Norfolk Southern Railway Company (NSR) 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 Berry-Belk Line, extending from milepost 862.8 at Berry, AL, to milepost 884.9 at or near Belk (Covin), AL, a distance of 22.1 miles in Fayette County, AL. The exemption was scheduled to become effective on January 28, 1998, unless an offer of financial assistance (OFA) was filed with NSR and the Board by January 8, 1998. On January 8, 1998, the City of Fayette, AL (City), filed an OFA to purchase a 7.2-mile segment of the line, from milepost 884.9 to milepost 877.7.

In its petition, NSR estimated the net liquidation value (NLV) of the entire line at \$1,663,532. In its offer, the City states that a fair price for the section of line between mileposts 884.9 and 877.7 is approximately \$350,000.

An OFA need not be detailed, but an offeror must show that it is financially responsible. The City, as a governmental entity, is presumed to be financially responsible under 49 U.S.C. 10904(d)(1).

Because the City, a financially responsible entity, has offered financial assistance, the effective date of the exemption authorizing abandonment of the segment from milepost 884.9 to milepost 877.7 will be postponed, pending completion of the OFA process. Unless otherwise ordered, the exemption authorizing abandonment of the remainder of the line will become effective as scheduled on January 28, 1998.

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 the conservation of energy resources.

It is ordered:

1. The effective date of the exemption authorizing abandonment of the segment from milepost 884.9 to milepost 877.7 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 February 9, 1998, 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 for the entire line 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

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