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SERVICE DATE – SEPTEMBER 7, 2011

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1086X]

Pittsburgh & West Virginia Railroad—Abandonment Exemption—in Allegheny
County, Pa.

[Docket No. AB 227 (Sub-No. 12X)]

Wheeling & Lake Erie Railway Company—Discontinuance of Service Exemption—in
Allegheny County, Pa.

Pittsburgh & West Virginia Railroad (PWV) and Wheeling & Lake Erie Railway
Company (WLE) (collectively, applicants), have jointly filed a verified notice of
exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and
Discontinuances of Service for PWV to abandon, and for WLE to discontinue its sublease
rights over, approximately 1.82 miles of railroad (the West End Branch) between
milepost .58, near Green Tree, and milepost 2.4, near McKees Rocks, in Allegheny
County, Pa. The line traverses United States Postal Service Zip Code 15220. Currently,
PWV leases the line to Norfolk Southern Railway Company (NSR), which in turn
subleases the line to WLE, which operates it.¹

¹ Citing Wheeling Acquisition Corp.—Acquisition & Operation Exemption—
Lines of Norfolk & Western Railway, FD 31591 et al. (ICC served Dec. 28, 1990),
applicants assert that it is not necessary for NSR, as the current lessee of the line from
PWV, to seek discontinuance authority as it is no longer a common carrier on the line.

Applicants have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic that needs to be rerouted; and (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period. Applicants have further certified that the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under Oregon Short Line Railroad — Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 7, 2011, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),³

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay
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and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by September 19, 2011. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by September 27, 2011, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicants' representative: Michael J. Barron, Jr., Fletcher & Sippel LLC, 29 N. Wacker Dr., Suite 920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void ab initio.

PWV has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by September 12, 2011. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

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should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

³ Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 C.F.R. § 1002.2(f)(25).

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), PWV shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by PWV's filing of a notice of consummation by September 7, 2012, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: September 1, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.