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SERVICE DATE - JANUARY 6, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-487 (Sub-No. 4X)

PITTSBURG & SHAWMUT RAILROAD, INC.--ABANDONMENT
EXEMPTION--IN ARMSTRONG COUNTY, PA

Decided: January 2, 1998

By petition filed on September 18, 1997, Pittsburg & Shawmut Railroad, Inc. (PSRR) seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a 3.14-mile line of railroad known as the Widnoon Branch, extending from railroad milepost 0.00 (milepost 60.42 on the mainline of the Shawmut Subdivision) near Dee, to milepost 3.14, near Widnoon, in Armstrong County, PA. Notice of the institution of an exemption proceeding was published in the Federal Register at 62 FR 52617 on October 8, 1997. We will grant the petition, subject to labor protective conditions.

BACKGROUND

PSRR acquired the line proposed for abandonment in April 1996.¹ PSRR has not provided any service on the line since it was purchased and states that its predecessor last provided service in the late 1980s. According to the petitioner, there have been no active shippers on the line for the past 10 years and there is no expectation of a need for service in the future.

The line was constructed in the early 1900s and is in generally poor condition due to its being inactive for many years. Because of the absence of traffic to generate revenue, PSRR maintains that there is no justification for it to incur the costs necessary to maintain the line. The Pennsylvania Game Commission has expressed an interest in acquiring the portion of the right-of-way that traverses State Game Lands No. 287 in Madison Township.

¹ See Pittsburg & Shawmut Railroad, Inc.--Acquisition and Operation Exemption--Rail Lines Controlled by Arthur T. Walker Estate Corporation (The Pittsburg & Shawmut Railroad Company, Red Bank Railroad Company and Mountain Laurel Railroad Company), STB Finance Docket No. 32903 (STB served May 7, 1996), and Genesee & Wyoming Inc.--Continuance in Control Exemption--Pittsburg & Shawmut Railroad, Inc., STB Finance Docket No. 32904 (STB served June 21, 1996).

DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. 10903, a rail line may not be abandoned without our prior approval. Under 49 U.S.C. 10502, however, we must exempt a transaction or service from regulation when we find that: (1) continued regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

Detailed scrutiny under 49 U.S.C. 10903 is not necessary to carry out the rail transportation policy. By minimizing the administrative time and expense of the application process, an exemption will reduce regulatory barriers to exit [49 U.S.C. 10101(7)]. Moreover, by allowing PSRR to avoid the expenses of owning an unused line of railroad and to apply its assets more productively elsewhere on its rail system, an exemption will promote safe and efficient rail transportation, foster sound economic conditions, and encourage efficient management [49 U.S.C. 10101(3), (5), and (9)]. Other aspects of the rail transportation policy are not affected adversely.

Because there are no shippers located on or currently using the line that would lose rail service, we find that regulation is not necessary to protect shippers from an abuse of market power. Given our market power finding, we need not determine whether the proposed transaction is limited in scope.

Under 49 U.S.C. 10502(g), we may not use our exemption authority to relieve a carrier of a statutory obligation to protect the interests of its employees. Accordingly, we will impose the employee protective conditions in Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979), as a condition to granting this exemption.

PSRR has submitted an environmental report with its petition and has notified the appropriate Federal, state, and local agencies of the opportunity to submit information concerning the energy and environmental impacts of the proposed abandonment. See 49 CFR 1105.11. Our Section of Environmental Analysis (SEA) has examined the environmental report, verified its data, and analyzed the probable effect of the proposed action on the quality of the human environment. SEA served an environmental assessment (EA) on November 21, 1997, recommending that no environmental or historic conditions be imposed on the abandonment. No comments were filed in response to the EA. Based on SEA's recommendation, we conclude that the proposed abandonment, if implemented, will not significantly affect either the quality of the human environment or conservation of energy resources. Although the right-of-way may be suitable for other public use under 49 U.S.C. 10905, no one has sought a public use condition, and none will be imposed.

It is ordered:

1. Under 49 U.S.C. 10502, we exempt from the prior approval requirements of 49 U.S.C. 10903 the abandonment by PSRR of the above-described 3.14-mile rail line, subject to the employee protective conditions in Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91

(1979).

2. An offer of financial assistance (OFA) under 49 CFR 1152.27(c)(1)² to allow rail service to continue must be received by the railroad and the Board by January 16, 1998, subject to time extensions authorized under 49 CFR 1152.27(c)(1)(i)(C). The offeror must comply with 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1). Each OFA must be accompanied by a \$900 filing fee. See 49 CFR 1002.2(f)(25).

3. OFAs and related correspondence to the Board must refer to this proceeding. The following notation must be typed in bold face on the lower left-hand corner of the envelope: "**Office of Proceedings, AB-OFA.**"

4. Provided no OFA has been received, this exemption will be effective on February 5, 1998. Petitions to stay must be filed by January 16, 1998. Petitions to reopen must be filed by January 26, 1998.

5. Pursuant to the provisions of 49 CFR 1152.29(e)(2), PSRR 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 PSRR's filing of a notice of consummation by January 6, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire. If any legal or regulatory barrier to consummation exists at the end of the 1-year period, the notice of consummation must be filed not later than 60 days after satisfaction, expiration or removal of the legal or regulatory barrier.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary

² See Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903, STB Ex Parte No. 537 (STB served Dec. 24, 1996, and June 27, 1997).

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The line was constructed in the early 1900s and is in generally poor condition due to its being inactive for many years. Because of the absence of traffic to generate revenue, PSRR maintains that there is no justification for it to incur the costs necessary to maintain the line. The Pennsylvania Game Commission has expressed an interest in acquiring the portion of the right-of-way that traverses State Game Lands No. 287 in Madison Township.

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Detailed scrutiny under 49 U.S.C. 10903 is not necessary to carry out the rail transportation policy. By minimizing the administrative time and expense of the application process, an exemption will reduce regulatory barriers to exit [49 U.S.C. 10101(7)]. Moreover, by allowing PSRR to avoid the expenses of owning an unused line of railroad and to apply its assets more productively elsewhere on its rail system, an exemption will promote safe and efficient rail transportation, foster sound economic conditions, and encourage efficient management [49 U.S.C. 10101(3), (5), and (9)]. Other aspects of the rail transportation policy are not affected adversely.

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It is ordered:

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