

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-55 (Sub-No. 588X)

CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–IN POLK AND McMINN  
COUNTIES, TN

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: May 9, 2002

By decision served on April 24, 2002 (April 24 decision), the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by CSX Transportation, Inc. (CSXT), of a 43.47-mile portion of its line of railroad in the Southern Region, Atlanta Division, Etowah Old Line Subdivision, between milepost OKX 339.00 in Etowah and milepost OKX 382.47 in Copperhill, in McMinn and Polk Counties, TN, subject to environmental, trail use, public use, and employee protective conditions. The exemption was scheduled to become effective on May 24, 2002, unless an offer of financial assistance (OFA) was filed on or before May 3, 2002.

On May 3, 2002, Southeast Local Development Corporation, on behalf of Old Line Coalition (Coalition) (collectively referred to as SLDC)<sup>1</sup> timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27<sup>2</sup> to purchase the entire 43.47-mile line for \$1,100,000.

---

<sup>1</sup> SLDC is a governmental entity and part of the Chattanooga Area Regional Council of Governments and the Southeast Tennessee Development District. It is a Tennessee not-for-profit, general welfare corporation established primarily to help individuals and companies obtain small business financing and to provide jobs in the Southeast Tennessee area. The Coalition is an unincorporated ad hoc organization comprised of members interested in continuation of rail service on the rail line between Etowah and Copperhill.

<sup>2</sup> On May 3 and May 6, 2002, respectively, the Georgia Northeastern Railroad Company, Inc. (GNRR) and Intertrade Holdings, Inc. (Intertrade), each filed a letter expressing an interest in acquiring segments of the CSXT rail line. In the April 24 decision, the Board stated that the offeror must comply with 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1). Although the filings submitted by GNRR and Intertrade do not comply with the filing requirements for an OFA and, therefore, cannot be  
(continued...)

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). As a governmental entity, SLDC is presumed to be financially responsible. See 49 CFR 1152.27(c)(1)(ii)(B). SLDC is thus found to be financially responsible.

SLDC's offer is less than CSXT's estimated net liquidation value (NLV) of the line. SLDC states that CSXT estimated the NLV at \$1,992,377, but later raised the value to \$2.1 million. Consistent with 49 U.S.C. 10904(c) and 49 CFR 1152.27(c)(1)(ii)(C), SLDC has explained the basis for the difference between its lower NLV estimate for the line and CSXT's estimated NLV for the line.

SLDC has stated its intention to provide rail freight service over the line. Because SLDC is financially responsible and has offered financial assistance, the effective date of the exemption authorizing the abandonment will be postponed.

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 \$16,700. An original and 10 copies of the request should be submitted along with the fee, in an envelope bearing the docket number of this proceeding, along with the words "Attention: Case Control 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 the abandonment is postponed in order to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.
2. If CSXT and SLDC cannot agree on the purchase price, either party may request the Board to establish the terms and conditions of the purchase on or before June 3, 2002. If no

---

<sup>2</sup>(...continued)  
considered, if SLDC does not acquire the line under the OFA procedures, GNRR and Intertrade are free to pursue negotiations with CSXT outside the OFA process.

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