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SERVICE DATE - AUGUST 12, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No. 3X)

NEW YORK CENTRAL LINES, LLC—ABANDONMENT EXEMPTION—IN BERKSHIRE  
COUNTY, MA

Decided: August 8, 2002

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) filed a notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonments and Discontinuances of Service for NYC to abandon and CSXT to discontinue service over approximately 1.91 miles of railroad between milepost QBY-0.59 and milepost QBY-2.50 in Pittsfield, Berkshire County, MA. Notice of the exemption was served and published in the Federal Register on August 13, 2001 (66 FR 42582-83).<sup>1</sup> Before the exemption became effective, Housatonic Railroad Company (Housatonic) filed an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase the line.

By decision served on February 22, 2002, Housatonic was found financially responsible and the effective date of the exemption authorizing abandonment was postponed in order to permit the OFA process to proceed. Subsequently, in a decision served on July 12, 2002, the Board authorized Housatonic to substitute Coltsville Terminal Company, Inc. (Coltsville), its corporate affiliate, as the purchaser of the line.<sup>2</sup> By decision served on August 1, 2002, the Board authorized, under 49 U.S.C. 10904, Coltsville to acquire the line and Housatonic to operate it. In the August 1 decision, the Board also dismissed the notice of exemption, effective on the date the sale is consummated.

In the August 13, 2001 notice, the Board stated that, if consummation had not been effected by NYC's filing of a notice of consummation by August 13, 2002, the authority to abandon would automatically expire. By letter filed on August 2, 2002, NYC requests an extension, until December 13, 2002, for the time to consummate the abandonment and file its notice of consummation. NYC states that it anticipates that it will sell the line but requests an extension of the consummation date in the event that Coltsville decides not to follow through with the agreed-upon purchase.

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<sup>1</sup> The notice embraced STB Docket No. AB-55 (Sub-No. 595X), CSX Transportation, Inc.—Discontinuance of Service Exemption—in Berkshire County, MA.

<sup>2</sup> Coltsville and Housatonic are wholly owned subsidiaries of Housatonic Transportation Company.

Under 49 CFR 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings. NYC's request to extend the time to consummate the abandonment and for filing a notice of consummation in this proceeding is reasonable and will be granted.<sup>3</sup> Accordingly, the deadline for filing the notice of consummation will be extended to December 13, 2002.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. NYC's request for an extension of time to exercise the abandonment authority is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before December 13, 2002.
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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<sup>3</sup> The request will be granted but it is not altogether clear that it is necessary under the circumstances of this proceeding. NYC will not have the right to consummate the abandonment as of August 13, 2002, because of the Board's approval of the OFA sale. Even if that sale were not to occur for some reason, a trail use request filed earlier in the proceeding (which could not be addressed during the pendency of the OFA process) would need to be considered, and imposition of a trail use condition would further postpone any authority to consummate (and hence any deadline to consummate) the abandonment of the line.