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SERVICE DATE - DECEMBER 18, 1998

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-103 (Sub-No. 14)]

The Kansas City Southern Railway Company—Adverse Discontinuance Application—A
Line of Arkansas and Missouri Railroad Company

On November 30, 1998, Arkansas and Missouri Railroad Company (AMR) filed an application under 49 U.S.C. 10903 requesting that the Surface Transportation Board (Board) find that the public convenience and necessity require and permit the discontinuance of trackage rights held by The Kansas City Southern Railroad Company (KCS) over a line of railroad owned by AMR, extending from AMR milepost 417.0 near the crossing of Navy Road in Fort Smith, AR, to AMR milepost 422.5 near the overpass of Arkansas Highway 540 in Fort Smith, AR, a distance of approximately 5.5 miles, in Sebastian County, AR, and LeFlore County, OK. The line includes the station of South Fort Smith, AR, at milepost 422.5 and traverses United States Postal Service Zip Codes 72901 and 74901.

AMR states that it is filing this application because it contends that KCS has breached the terms of their trackage rights agreement by failing to properly maintain the line. It argues, however, that no service will be lost and that there will be no adverse impact on overhead shippers or communities because all bridge traffic formerly handled by KCS can be handled by AMR crews. In a decision served November 24, 1998, AMR was granted a waiver of certain filing requirements in 49 CFR 1152.22, except to the extent the filing requirements concern information about service to overhead shippers. In a separate decision

served December 14, 1998, AMR's motion for a protective order covering certain traffic data and contractual terms was granted.

In an application by a third party for a determination that the public convenience and necessity permits the discontinuance of operations over a line, the issue before the Board is whether the public interest requires that the service in question be retained.

The line does not contain federally granted rights-of-way. Any documentation AMR's possession will be made available promptly to those requesting it. AMR's entire case for adverse discontinuance was filed with the application.

The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

Persons opposing the proposed adverse discontinuance who wish to participate actively and fully in the process should file a protest by January 14, 1999. Persons who may oppose the discontinuance but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments by January 14, 1999. Parties seeking information concerning the filing of protests should refer to section 1152.25. AMR's reply to any opposing statements is due January 29, 1999. Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use requests are not appropriate. Likewise, the proceeding is exempt from environmental reporting requirements under 49 CFR 1105.6(c)(6) and from historic reporting requirements under 49 CFR 1105.8(b)(3).

Written comments and protests must indicate the proceeding designation STB Docket No. AB-103 (Sub-No. 14) and must be sent to: (1) Surface Transportation Board,

STB Docket No. AB-103 (Sub-No. 14)

Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) Mark H. Sidman, 1350 New York Avenue, N.W., Suite 800, Washington, D.C. 20005-4797. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the adverse discontinuance proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning the adverse discontinuance procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. [TDD for the hearing impaired is available at (202) 565-1695.]

A copy of the application will be available for public inspection at 306 E. Emma, Springdale, AR 72764 and 1301 N. 4th Street, Fort Smith, AR 72901.

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

Decided: December 14, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary