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SERVICE DATE - AUGUST 1, 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: July 31, 2002

New York Central Lines, LLC (NYC) and CSX Transportation, Inc. (CSXT) (collectively referred to as CSX) 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).¹ 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. The February 22 decision also set March 21, 2002, as the deadline for either party to request the Board to establish the terms and conditions for the purchase if CSXT and Housatonic could not agree on the purchase price. Subsequently, Housatonic requested that the Board establish the terms and conditions of the sale pursuant to 49 U.S.C. 10904(e) and (f). Thereafter, in a decision served on April 19, 2002, the Board set the purchase price for the line at \$215,053, and established terms for transfer of the line. By petition filed on April 29, 2002, CSX sought reopening of the proceeding to correct computation errors. As a result, by decision served on July 12, 2002, the Board adjusted the purchase price to \$342,361.

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

By letter filed on July 19, 2002, Housatonic advised the Board that the parties have reached an agreement on the terms and conditions for the purchase of the line. It also indicated that Coltsville Terminal Company, Inc. (Coltsville) will be substituted as purchaser of the line.²

When a carrier and a person offering to purchase a line enter into an agreement for continued rail service, the Board is required to approve the transaction and dismiss the abandonment notice of exemption. See 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2). Accordingly, the sale will be approved and the notice of exemption will be dismissed.³

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

It is ordered:

1. Under 49 U.S.C. 10904, Coltsville is authorized to acquire the rail line described above and Housatonic is authorized to operate it.⁴
2. Under 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2), the notice of exemption is dismissed effective on the date the sale is consummated.

² In the July 12, 2002 decision, the Board authorized Housatonic to substitute Coltsville, its corporate affiliate, as the purchaser of the line. Coltsville and Housatonic are wholly owned subsidiaries of Housatonic Transportation Company (HTC). Coltsville was created for the purpose of acquiring the line and has reached an agreement with Housatonic under the terms of which Coltsville will acquire and Housatonic will operate the line.

³ A request for imposition of a public use condition and issuance of a notice of interim trail use was filed on April 15, 2002, by the Berkshire Natural Resources Council, Inc. The financial assistance process under 49 U.S.C. 10904 takes priority over interim trail use/rail banking and public use. Because the line is being sold under the OFA procedures, and the abandonment exemption is being dismissed, trail use and public use are precluded.

⁴ It appears that HTC would need to obtain Board authority or an exemption to permit it to control Coltsville once Coltsville becomes a carrier by virtue of its purchase.

3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary