

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 288X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
BERGEN COUNTY, NJ

Decided: July 30, 2007

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 1.40-mile line of railroad between milepost UQ 8.80 and milepost UQ 10.20, in Rutherford, Bergen County, NJ. Notice of the exemption was served and published in the Federal Register on May 31, 2007 (72 FR 30432-33). The exemption was scheduled to become effective on June 30, 2007, unless stayed by the Board or a formal expression of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(2) was filed by June 11, 2007.

On June 11, 2007, BP Rail Corporation (BPR) filed a formal expression of intent to file an OFA to purchase NSR's line proposed for abandonment. This filing automatically stayed the effective date of the exemption for 10 days, until July 10, 2007.¹ In the filing, BPR requested that NSR provide it with the information set forth in 49 CFR 1152.27(a), including the minimum purchase price required to acquire the line. BPR also requested that NSR provide the most recent report on the physical condition of the line and traffic, revenue and other data necessary to determine NSR's estimate on the net liquidation value (NLV) of the line, with supporting data reflecting available real estate appraisal, assessments of quality and the quantity of track material in the line, and removal cost estimates used to obtain the NLV. By decision served on June 29, 2007, the time period for filing an OFA was tolled for an additional 30 days, until July 30, 2007, and the effective date of the exemption was extended until August 9, 2007.

By pleading filed on July 23, 2007, BPR requests a further extension until September 30, 2007, for NSR to provide the requested information to BPR, and that the time period for BPR to file its OFA be extended until 30 days from the date that NSR provides the requested information and informs the Board that NSR has done so. In support of its request, BPR states that it has not received the requested information from NSR and that it will not have sufficient data to prepare or file an OFA by July 30, 2007. On July 27, 2007, NSR filed a request to modify its request in this proceeding so that it would be authorized only to discontinue service over, but not abandon, the 1.40-mile line at issue in this proceeding. NSR also asks that the

¹ See 49 CFR 1152.27(c)(2)(i).

Board declare BPR's notice of intent to file an OFA and its request for valuation information moot.

Under the circumstances, the due date for BPR to submit an OFA will be extended for 60 days (until September 28, 2007), to allow the Board time to consider NSR's modification request and any replies to it that may be filed. The effective date of the exemption will be extended until October 8, 2007.

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

It is ordered:

1. The time period for BPR to file an OFA is tolled for 60 days (until September 28, 2007).
2. The effective date of the exemption is postponed until October 8, 2007.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary