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SERVICE DATE - JULY 13, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-548

TACOMA EASTERN RAILWAY COMPANY—ADVERSE DISCONTINUANCE OF  
OPERATIONS APPLICATION—A LINE OF CITY OF TACOMA, IN PIERCE, THURSTON  
AND LEWIS COUNTIES, WA

Decided: July 7, 1998

On June 23, 1998, City of Tacoma, WA (City), filed a petition for waiver of certain regulations at 49 CFR 1152.22. The petition for waiver was included in and made a part of City's application for an adverse discontinuance of operations (application).<sup>1</sup> City filed the application assertedly when the tenant railroad, Tacoma Eastern Railway Company (TE), failed to satisfy its obligations under its lease agreement to operate 131.5 miles of rail line owned by the City (line) in Pierce, Thurston, and Lewis Counties, WA: (1) between milepost 2192.0, at Tacoma, and milepost 17.7, at Chehalis; and (2) between milepost 2192.0, at Tacoma, and milepost 64.2, at Morton.<sup>2</sup>

The Board will ordinarily reject an abandonment or discontinuance application which does not substantially conform to the regulations in 49 CFR Subpart C. 49 CFR 1152.24(e)(1). However, City seeks waiver of a number of the requirements of 49 CFR 1152.22 governing the contents of an application. These include: 49 CFR 1152.22(b), which requires a statement of the condition of the properties; 49 CFR 1152.22(c), which requires a statement describing the service being provided on the line; 49 CFR 1152.22(d), which requires a statement of revenue and costs; 49 CFR 1152.22(e)(3), which requires a statement of alternative sources of transportation available.

City correctly states that the requirements cited are not relevant to this adverse discontinuance application. In appropriate instances, such as situations involving adverse applications, the Board, or its predecessor agency, has waived inapplicable and unneeded portions of its abandonment regulations. See Chelsea Property Owners-Abandonment-Portion of the Consolidated Rail Corporation's West 30th Street Secondary Track in New York, NY, Docket No. AB-167 (Sub-No. 1094) (ICC served July 19, 1989).

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<sup>1</sup> A discontinuance of a railroad's service sought by a party other than the railroad is called an "adverse" discontinuance.

<sup>2</sup> TE was authorized to operate the line by lease in Tacoma Eastern Railway Co.--Lease and Operation Exemption--City of Tacoma, Washington, Finance Docket No. 32591 (ICC served Nov. 3, 1994).

Because City is not the operator of the line, it is not in possession of the data required by the regulations. Although requested, TE has failed to provide City with information pertaining to the condition of the properties, the service being provided on the line, or the line's revenue and cost data. In addition, City states that there will be no interruption or diminution in rail service on the line as a consequence of the adverse discontinuance requested in the application.<sup>3</sup> Accordingly, City's petition for waiver is granted.

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

It is ordered:

1. City's petition for waiver is granted and certain provisions of the abandonment regulations at 49 CFR 1152.22 are waived.
2. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams  
Secretary

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<sup>3</sup> Once City receives Board approval, it intends to replace TE with the Belt Line Division of the City of Tacoma Department of Public Utilities (Belt Line). Beltline will file a notice of exemption pursuant to 49 CFR 1150.31 to enable it to commence operations without any interruption in service to shippers on the line.