

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 314 (Sub-No. 7X)

CHICAGO CENTRAL & PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN POTTAWATTAMIE COUNTY, IOWA, AND DOUGLAS COUNTY,
NEB.

Decided: May 29, 2015

By decision served on May 12, 2015, the Board, under 49 U.S.C. § 10502, exempted from the prior approval requirements of 49 U.S.C. § 10903, the abandonment by Chicago, Central & Pacific Railroad Company (CC&P) of approximately 2.56 miles of interconnected track across and adjacent to the Missouri River in Iowa and Nebraska (the Missouri River Bridge Line or Line), subject to certain conditions. The Line consists of: (1) approximately 2.12 miles of rail line extending from milepost 510.62 in Council Bluffs, Pottawattamie County, Iowa, across the Missouri River to milepost 514.80 near North 25th Street E in Omaha, Douglas County, Neb.,¹ and (2) the south leg of its wye track at Council Bluffs, extending from milepost 511.17 on CC&P's main line near Avenue K to the connection with the first line segment at North 16th Street, an additional distance of approximately 0.44 miles.

The exemption was scheduled to become effective on June 11, 2015, unless an OFA was filed on or before May 22, 2015, subject to the time extensions authorized under 49 C.F.R. § 1152.27(c)(1)(i)(C).

By letter dated May 11, 2015, and filed on May 20, 2015, Omaha Bridge and Terminal Railway, LLC (OBTR) submitted a notice indicating its intent to file an OFA and requesting that the Board toll for 30 days the period to submit an OFA under 49 C.F.R. § 1152.27(c)(1)(i)(C).² In the filing, OBTR requests that CC&P provide the information set forth in 49 C.F.R. § 1152.27(a). That information includes, among other requests, the minimum purchase price required to acquire the Line, the most recent reports on the physical condition of the Line, and an estimate of the net liquidation value (NLV) of the Line, together with supporting data reflecting available real estate appraisals, assessments of the quality and quantity of track material in the Line, and removal cost estimates.

¹ According to CC&P, the Line includes a milepost equation (adjustment), which accounts for what might otherwise be perceived as a mileage discrepancy based on calculations applying the terminal milepost numbers.

² Requests to toll the OFA due date were due by May 15, 2015. CC&P does not indicate any objection to the late-filed request.

On May 26, 2015, CC&P filed a letter indicating it has no objection to tolling the OFA deadline until 10 days after OBTR receives the information needed to prepare its OFA filing. According to the May 26 letter, CC&P and OBTR have agreed that the only information OBTR still needs from CC&P is: (1) valuation maps for the pertinent line segment;³ (2) corresponding deeds for the right-of-way, (3) the most recent bridge report for the bridge spanning the Missouri River, and (4) clarification of the location of milepost 511.20 (either by way of map or suitable geographic point of reference).

The Board will consider requests to toll the period for filing an OFA when a petitioner has failed to provide a potential offeror with the information necessary to the development of an OFA and that information is not contained in the petition. See 49 C.F.R. § 1152.27(c)(1)(i)(C). In this case, the petitioner and the potential offeror agree that the OFA deadline may be tolled and that not all of the information necessary to formulate the OFA has been provided. Accordingly, the Board will toll the OFA deadline. Although OBTR has requested a 30-day tolling period, given the ongoing communications between CC&P and OBTR regarding the informational demands for the OFA, a tolling period based upon delivery of the requested information appears best suited to this situation. The due date for OBTR to submit an OFA will be tolled until 10 days after OBTR has received the requested information. CC&P will also be directed to notify the Board that it has provided the requested information. The effective date of the abandonment will be postponed until 10 days after the due date for the filing of the OFA.

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

It is ordered:

1. CC&P is directed to provide to OBTR the requested information as described above and to notify the Board that it has done so.
2. The time period for OBTR to file an OFA is tolled until 10 days after OBTR's receipt of the requested information.
3. The effective date of the exemption is postponed until 10 days after the due date for the filing of an OFA.
4. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

³ CC&P states that OBTR will seek to acquire only a portion of the Line.