

21551 SERVICE DATE - LATE RELEASE JANUARY 31, 1997  
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SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-43 (Sub-No. 163)

ILLINOIS CENTRAL RAILROAD COMPANY--ABANDONMENT--  
BETWEEN ABERDEEN JUNCTION AND KOSCIUSKO, IN  
HOLMES AND ATTALA COUNTIES, MS

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: January 31, 1997

By decision served and notice published in the Federal Register (62 FR 2711) on January 17, 1997, the Board found that the public convenience and necessity permitted abandonment by Illinois Central Railroad Company (Illinois Central) of its 21.70-mile rail line between milepost H-0.20 at Aberdeen Junction and milepost H-21.90 at Kosciusko, in Holmes and Attala Counties, MS. The decision authorizing abandonment was scheduled to become effective on February 12, 1997, unless an offer of financial assistance (OFA) was filed with Illinois Central and the Board on or before January 28, 1997.

On January 28, 1997, the Mississippi Department of Transportation (MSDOT) timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to purchase the entire line for \$500,000.

In the Board's decision served January 17, the Board noted that Illinois Central had advised MSDOT that it would accept an offer of \$500,000 under four conditions: (1) the sale would be to the State of Mississippi, (2) the State would have to commit to operating the line for at least 2 years, (3) the sale would be based on Illinois Central's standard purchase terms (those the parties previously had agreed on in connection with a certain "Varnado Switch to Prentiss" line purchase), and (4) Illinois Central would have the right to recover the difference between the line's net liquidation value and the \$500,000 if the State ultimately abandoned the line. MSDOT had found terms (3) and (4) unacceptable.

In its offer here, MSDOT renews its objections to the last two conditions. It indicates that, while it can foresee no significant problems with using the terms agreed to in connection with the previous purchase, it believes that it would be irresponsible to agree to such terms without reviewing them in light of the specific purchase at issue. Accordingly, MSDOT wants to reserve the right to negotiate terms specific to the line at issue. As before, MSDOT includes no "right to recoup" in its offer. Instead, MSDOT wants to further negotiate the fourth condition noted in view of the facts that it would be acquiring a line that operates at a loss of in excess of \$1 million a year, that MSDOT would have to spend \$2 million to rehabilitate the line, and that the Board found that the line's net liquidation value to be some \$176,000 less than the railroad had claimed.

The Board has determined that an OFA need not be detailed, but that an offeror must show that it is financially responsible and that the offer is reasonable. Conrail Abandonments Under NERSA, 365 I.C.C. 472 (1981).

MSDOT is a governmental entity and, as such, is presumed financially responsible. 49 U.S.C. 10904(d)(1).

Consistent with 49 U.S.C. 10904(c) and 49 CFR 1152.27(c)(1)(ii)(C), MSDOT has explained the basis for the disparity between its offer and the Illinois Central's estimated valuation.

Because MSDOT, a financially responsible entity, has offered financial assistance, the effective date of the decision authorizing abandonment of the line will be postponed.

Any person filing a request to set terms and conditions must pay the requisite filing fee, set forth at 49 CFR 1002.2(f)(26), which currently is \$12,700.<sup>1</sup> An original plus 10 copies of the request should be submitted along with the fee, in an envelope bearing the docket number of the proceeding, along with the words "Attention: Application Unit, Request to Set Terms and Conditions" in the lower left hand corner.

Appeals to this decision are governed by 49 CFR 1011.2(a)(7). Any appeal must be filed within 10 days of the service date of this decision and will be heard by the entire Board.

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

It is ordered:

1. The effective date of the decision authorizing abandonment of the line is postponed in order to permit the OFA process under 49 U.S.C. 10904 and 49 CFR 1152.27 to proceed.

2. If the railroad and the offeror cannot agree on the purchase price for the line, either party may request, on or before February 27, 1997, that the Board establish the terms and conditions of the purchase. If no agreement is reached and no request is made by that date, the Board will serve a decision vacating this decision and allowing the abandonment authorization to become effective.

3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

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<sup>1</sup> In Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services--1997 Update, STB Ex Parte No. 542 (Sub-No. 1) (STB served Jan. 23, 1997), the Board increased this fee to \$13,500. The new fee becomes effective February 24, 1997.