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SERVICE DATE - LATE RELEASE JULY 9, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 170)

UNION PACIFIC RAILROAD COMPANY — ABANDONMENT — IN
POLK COUNTY, IA

IN THE MATTER OF A REQUEST TO SET TERMS AND CONDITIONS

Decided: July 9, 2002

By decision served on January 16, 2002, Union Pacific Railroad Company (UP) was granted authority to abandon a 3.72-mile line of railroad extending from milepost 221.10 near SE 18th Street to milepost 217.38 near SW 30th Street in Des Moines, Polk County, IA (the line). On January 25, 2002, Mid-America Railroad, L.L.C. (MAR), timely filed an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27. MAR did not, however, make the required demonstration that it was financially responsible and, accordingly, its OFA was rejected in a decision served on January 30, 2002. On February 8, 2002, MAR appealed the decision, and by decision served on March 22, 2002 (March 22 decision), the Board granted the appeal¹ and set April 22, 2002, as the deadline for either party to file a request that the Board establish the terms and conditions for the purchase if MAR and UP could not agree on the purchase price. The deadline for filing requests for the establishment of terms and conditions was extended through May 20, 2002, by decisions served on April 19, 2002, and May 3, 2002.

On May 20, 2002, as amended on May 22, 2002, MAR filed a timely request for the Board to set the terms and conditions for the sale of a segment of the line between milepost 217.38 and milepost 219.05² because the parties were unable to agree on the sale price and other terms of sale for the line segment. On May 24, 2002, as amended on May 30, 2002, UP replied.

¹ MAR is a wholly owned subsidiary of Mid-America Development Company (Mid-America), which is part of Mid-America Group, LTD (MAG). MAR was formed by Mid-America specifically to make the OFA. Based upon supplemental information (financial statements of MAG and its subsidiaries filed under seal), the Board found that MAR was financially responsible, anticipating that MAG, through Mid-America, would financially support MAR in its endeavor to provide rail service. March 22 decision, slip op. at 2.

² UP states that milepost 219.05 has been corrected to reflect the actual milepost, which is 218.90.

In a decision served on June 19, 2002, the Board set the purchase price for the line at \$611,046, and established terms for transfer of the line. MAR was given until June 29, 2002, to accept the terms and conditions. On July 2, 2002, MAR notified the Board that it was withdrawing its OFA.

When an entity offering to purchase a line later notifies the Board that it is withdrawing its OFA and is not willing to accept the terms and conditions set out, the Board will serve a decision vacating the decision postponing the effective date of the decision that granted the abandonment. See 49 U.S.C. 10904 and 49 CFR 1152.27(g)(7). Accordingly, the OFA process will be terminated, and the March 22 decision will be vacated to permit the prior abandonment authorization for the line segment subject to the OFA to become effective on the service date of this decision.

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

It is ordered:

1. The OFA process in this proceeding is terminated.
2. The March 22 decision is vacated to the extent it postponed the effective date of the abandonment to permit the OFA process to proceed on the line segment located between milepost 221.10 and milepost 217.38. The abandonment authority for this line segment will be effective on the service date of this decision.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary