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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-556 (Sub-No. 2X)]

Railroad Ventures, Inc.--Abandonment Exemption--Between Youngstown, OH, and
Darlington, PA, in Mahoning and Columbiana Counties, OH, and Beaver County, PA

[STB Docket No. AB-555 (Sub-No. 2X)]

The Ohio & Pennsylvania Railroad Company--Adverse Discontinuance of Service Exemption--
Between Youngstown, OH, and Darlington, PA, in Mahoning and Columbiana Counties, OH,
and Beaver County, PA

On May 19, 1999, Railroad Ventures, Inc. (RVI), filed a petition under 49 U.S.C. 10502 for an exemption from the provisions of 49 U.S.C. 10903 for RVI to abandon 35.7 miles of railroad line from milepost 0.0 at Youngstown, OH, to milepost 35.7 at Darlington, PA, and a connecting 1-mile spur near Negley, OH. RVI also petitioned for an exemption under 49 U.S.C. 10502 from the provisions of 49 U.S.C. 10903 for The Ohio & Pennsylvania Railroad Company (OPRC) to receive discontinuance authorization for OPRC's service obligations over the line. OPRC has a lease with RVI to provide service over this line, but has not provided service since shortly after RVI purchased the line in 1996.¹

¹ Although the proposed discontinuance is styled as an adverse discontinuance because it was filed by RVI, the owner of the line, instead of by OPRC, the carrier authorized to operate over the line, the interests of the parties are not adverse because OPRC agrees that its lease and service obligations should be discontinued and, in fact, had previously sought on its own behalf a discontinuance exemption, which was rejected.

RVI's acquisition of the subject line, formerly part of the Youngstown & Southern Railroad Company (Y&S), OPRC's lease to operate over the line, and their subsequent attempts to abandon the line and discontinue service have a long and tortuous history.² Most recently, on January 4, 1999, OPRC filed a notice of exemption under 49 CFR 1152.50 to discontinue service over the line, and RVI filed a notice of exemption to abandon the line. RVI stated in its verified notice of exemption that it should be allowed to abandon the line and either salvage it or permit other interested parties to acquire the line through the offer of financial assistance (OFA) procedures under 49 U.S.C. 10904 and 49 CFR 1152.27. Both notices were rejected because use of the out-of-service class exemption was deemed to be inappropriate for this line in that it would deprive the Board of the opportunity to review the merits of the abandonment and discontinuance. Railroad Ventures, Inc.--Abandonment Exemption--Between Youngstown, OH, and Darlington, PA, in Mahoning and Columbiana Counties, OH, and Beaver County, PA, STB Docket No. AB-556 (Sub-No. 1X) et al. (STB served Jan. 22, 1999). The rejections were without prejudice to the filing of either a petition for exemption or a formal application, provided that, if a petition for exemption were filed, it must contain sufficient information for the Board to determine what rehabilitation is required to restore service, what the costs of rehabilitation would be, and an accurate estimate of the line's revenue potential.³ Then, if the Board determines that the abandonment of the line is

² See Railroad Ventures, Inc.--Acquisition and Operation Exemption--Youngstown & Southern Railroad Company, STB Finance Docket No. 33385 et al. (STB served July 15, 1997), wherein the Board imposed a bi-weekly reporting requirement on RVI in order to monitor the restoration of service and the specific causes of any delays in restoring service.

³ RVI, with OPRC's cooperation, has filed a petition for exemption in response to this requirement. Publication of this notice, however, does not constitute acceptance of RVI's data. (continued...)

warranted by its economics, RVI's willingness to sell to the line through the OFA procedures might be an acceptable approach for resolving the service issues surrounding the line.

The line traverses U.S. Postal Service ZIP Codes: 44501, 44512, 44452, 44408, 45042, 44455, 44441, and 16115. The line does not contain federally granted rights-of-way. Any documentation in RVI's and OPRC's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting exemption proceedings pursuant to 49 U.S.C. 10502(b). Official notice will be taken of the records developed in Docket Nos. AB-556 (Sub-No. 1X) and AB-555 (Sub-No. 1X).⁴ A final decision will be issued by September 3, 1999.⁵

³(...continued)

The data submitted for projected revenue, maintenance costs, and net liquidation value appear reasonable (although the value of the land may be overstated). Rehabilitation costs were not stated with any certainty. RVI submitted three estimates ranging from approximately \$800,000 to approximately \$4.5 million, but did not explain the discrepancies among them. Also, several rehabilitation items appear questionable (e.g., the need for extensive replacement of cross ties and tie plates, a new bridge, and drainage work at an overpass).

⁴ RVI has asked that the environmental reports filed in the previous proceedings be used here. Because those reports are still current, this request is acceptable. Additionally, RVI has asked to be exempted from the notice requirements of 49 CFR 1152.20 and 1152.21. Because RVI complied with these notice requirements in its previous abandonment request, has served copies of its petition on the parties of record in the previous proceedings, and has stated that it will serve a copy of its petition on any other interested party requesting it, RVI will not be required to republish notice of the proposed abandonment and discontinuance.

⁵ Because the parties and issues in these proceedings are the same, they will be considered on a consolidated basis.

STB Docket No. AB-556 (Sub-No. 2X) et al.

Any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the exemptions. Each offer must be accompanied by a \$1,000 filing fee. See 49 CFR 1002.2(f)(25).

All interested parties should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than June 28, 1999. Each trail use request must be accompanied by a \$150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket Nos. AB-556 (Sub-No. 2X) and AB-555 (Sub-No. 2X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) Richard R. Wilson, Vuono & Gray, L.L.C., 2310 Grant Street, Pittsburgh, PA 15219. Comments on the proposed abandonment and discontinuance are due June 28, 1999.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1545. [TDD for the hearing impaired is available at (202) 565-1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally

STB Docket No. AB-556 (Sub-No. 2X) et al.

will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: June 2, 1999

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

Vernon A. Williams

Secretary