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SERVICE DATE - AUGUST 6, 1997

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-383 (Sub-No. 3X)]

Wisconsin & Southern Railroad Co.--Discontinuance of Service

Exemption--in Milwaukee and Waukesha Counties, WI

The Wisconsin & Southern Railroad Co. (WSOR) has filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances to discontinue service over a 3.0-mile line of railroad known as the Menomonee Falls Branch, owned by the State of Wisconsin Department of Transportation,¹ between milepost 101.1 in Granville and milepost 104.05 in Menomonee Falls, WI. The line traverses United States Postal Service Zip Codes 53224 and 53051.² WSOR has certified

¹ The involved line segment is part of a group of former Chicago, Milwaukee, St. Paul and Pacific Railroad (MILW) rail lines that were purchased by the State of Wisconsin under section 5(b)(2) of the Milwaukee Railroad Restructuring Act (MRR). See State of Wisconsin--Acquisition of Certain Lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Finance Docket No. 29237, (ICC served Feb. 1, 1980). WSOR was authorized to operate this branch line as well as other former MILW lines in Wisconsin and Southern Railroad Co.--Lake, Columbia, Milwaukee, Washington, Waukesha, and Winnebago Counties, WI, Finance Docket No. 29375 (ICC served Nov. 5, 1980).

² Under 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. WSOR, in its verified notice tendered for filing on June 10, 1997, indicated a proposed consummation date of July 31, 1997. However, applicant failed to publish notice in the newspaper as required, and a new filing date of July 17, 1997, was entered when proof of publication was received. Because the verified notice was not complete until July 17, 1997, and hence was not deemed filed until then, the earliest possible consummation date is September 5, 1997. Applicant's representative has confirmed that the correct

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that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 5, 1997,³ unless stayed pending reconsideration. Petitions to stay and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁴ must be filed by August 18, 1997. Petitions to reopen must

²(...continued)
consummation date is on or after September 5, 1997.

³ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c)(6).

⁴ Each offer of financial assistance must be accompanied by the filing fee, which
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be filed by August 26, 1997, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Robert A. Wimbish, REA, CROSS, AUCHINCLOSS, Suite 420, 1920 N Street, N.W., Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Decided: July 30, 1997.

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

Vernon A. Williams

Secretary

⁴(...continued)
currently is set at \$900. See 49 CFR 1002.2(f)(25).